

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
OCTOBER 22, 2013
AGENDA**

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

- II. **ANNOUNCEMENTS**

- III. **PUBLIC FORUM**

- IV. **DISCUSSION ITEMS**
 - A. **Unified Land Use Ordinance – Final Draft Review**

- 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: October 22, 2013

TO: Ashland Planning Commission

FROM: Maria Harris, Planning Manager

RE: Unified Land Use Ordinance (ULUO)
Pre-adoption process review – Parts 1 and 3

SUMMARY

The revised draft of the ULUO is scheduled for Planning Commission review in October and November. The purpose is to provide the Commission an opportunity to review and discuss the edits made since the Commission's review of the first draft prior to beginning the formal adoption process.

BACKGROUND

Attached are Parts 1 and 3 of the ULUO, and a matrix covering the substantive changes. The Commission has received a previous version of the matrix. **New or revised amendments are highlighted in yellow** in the matrix.

The changes to the current ordinance are detailed in the attached draft ULUO. The **edits that were presented in the first draft continue to be highlighted in gray**, and the **new and latest edits that were added after the Commission's review of the first draft are highlighted in yellow**. Comment boxes are retained throughout the document, and include notations about changes.

A set of new graphics will be added to the ULUO, and included for the Commission review at an upcoming meeting. There are numerous existing graphics in the current code. All graphics will be inserted into the final draft for the adoption process.

ATTACHMENTS

1. Amendment Matrix
2. Title 18 – Part 1 – Introduction and General Provisions
3. Title 18 - Part 3 – Special Districts and Overlay Zones



18-1 Introduction and General Provisions				
Code Amendment Category	Code Reference	Existing Standard	Proposed Amendment	Comment
Title, purpose and general administration	Unified: 18-1.2 Existing: 18.04	<ul style="list-style-type: none"> The purpose of the land use ordinance and enactment are covered in Ch. 18.04 General Provisions. The “enactment and effect” section excludes land uses and development that are permitted outright in commercial zones, or have Site Review, Partition, Sign Permit or Variance approval. 	<p>Chapter expanded to establishing how the ordinance relates to the comprehensive plan, zoning map and building permits.</p> <ul style="list-style-type: none"> Revises enactment and effect to say land use code applies to all land uses and development in the City. <p>Add sections addressing basic mechanics of development process:</p> <ul style="list-style-type: none"> Compliance – section added to explain that uses, lots and structures are required to comply with the ordinance. Rules of Ordinance Construction – clarifies how ordinance works. Consistency with Comprehensive Plan and Laws – clarifies relationship 	

18-1 Introduction and General Provisions				
Code Amendment Category	Code Reference	Existing Standard	Proposed Amendment	Comment
			<p>between land use ordinance and comprehensive plan, and state and federal requirements.</p> <ul style="list-style-type: none"> • Zoning Map – clarifies relationship between zoning map and land use ordinance. • Building Permits – explains coordination of land use compliance and building permits. • Official Action – explains who has the authority to approve land use actions, and clarifies the Staff Advisor’s ability to refer matters to the Planning commission. 	
Lot of record and legal lot determination	<p>Unified: 18-1.3</p> <p>Existing: 18.68.130</p>	When a lot does not meet the lot size requirements, it is allowed to be occupied by a permitted use if it complied with all the ordinances when it was	Establishes criteria and a process for determining when a lot of record exists.	Revised chapter is intended to address state law requirements for “lots of record” which are lots that were legally created in Jackson

18-1 Introduction and General Provisions				
Code Amendment Category	Code Reference	Existing Standard	Proposed Amendment	Comment
		recorded.		County, or before the City's partition and subdivision regulations. Provided for consistency with ORS 92.010 to 92.190, which was updated by the Legislature in 2009.
Nonconforming situations	Unified: 18-1.4.010 Existing: 18.68.090 and 18.68.130	Purpose and applicability not addressed.	Explains chapter addresses lawfully established situations that do not comply with current standards.	Chapter is reorganized according to the four types of nonconforming situations – uses, structures, developments and lots.
Expansion of nonconforming use	Unified: 18-1.4.020.B Existing: N/A	Expansion of a nonconforming use not addressed.	Allows a structure that houses a nonconforming use to be expanded up to 50% of the building square footage.	
Discontinuation of nonconforming use	Unified: 18-1.4.020.C Existing: 18-1.4.020.C	A nonconforming use that is discontinued for more than <u>six months</u> is considered abandoned and no longer allowed.	A nonconforming use that is discontinued for more than <u>12 months</u> is considered abandoned and no longer allowed.	Amendment made per Planning Commission discussion and comment. State model code suggests 12 to 18 months.
Nonconforming garages and sheds	Unified: 18-1.4.030.A.3 Existing: 18.68.090.A.2	A conditional use permit is required to reconstruct nonconforming structures.	Allow rebuild of garages and sheds with building permit as long as three-dimensional shape (mass, volume, height), footprint and use do not	Amendment made per Planning Commission discussion and comments. Garages and sheds in historic areas often don't meet current

18-1 Introduction and General Provisions				
Code Amendment Category	Code Reference	Existing Standard	Proposed Amendment	Comment
			change. Reconstruction of other types of nonconforming structures would continue to require a Conditional Use Permit.	zoning requirements, but serve a key function for the properties. Additionally, rebuilding to meet current standards is often difficult because of lot size or configuration. This would allow garages and sheds to be rebuilt in the historic form without having to obtain a conditional use permit approval (Type I).
Destruction of nonconforming structure	Unified: 18-1.4.030.A.3 Existing: 18.68.090.A.5	A nonconforming structure destroyed by a catastrophe (fire, flood, earthquake, etc.) may be restored or <u>replaced</u> provided the nonconformity shall not increase.	A nonconforming structure destroyed by a catastrophe (fire, flood, earthquake, etc.) may be restored or <u>reconstructed</u> provided the nonconformity shall not increase.	Change in wording for consistency with current definitions.
Nonconforming developments	Unified: 18-1.4.040 Existing: II-C-1g, Section C Commercial, Employment and Industrial Development, Site Design and Use Standards	Nonresidential , nonconforming development requiring Site Review approval must bring an equal percentage of the building or site (e.g. landscaping, parking areas)into compliance with the standards as the	<ul style="list-style-type: none"> Exempts repair and maintenance if development is not enlarged or altered in a way that brings site less in conformity with the ordinance. Conditional use 	Existing standard applies to nonresidential development whereas the proposed amendment would apply to residential and nonresidential developments.

18-1 Introduction and General Provisions				
Code Amendment Category	Code Reference	Existing Standard	Proposed Amendment	Comment
		percentage of building expansion.	permit required for enlarging or altering a nonconforming development. <ul style="list-style-type: none"> • Nonconforming access or driveway may be required to be brought into conformance as part of a planning application approval. • A nonconforming development damaged by catastrophe may be reconstructed. 	
Ordinance interpretation procedure	Unified: 18-1.5.050 and 060 Existing: 18.108.160 18.12.050	<ul style="list-style-type: none"> • Staff Advisor may interpret an unclear part of land use ordinance, or refer the provision to the Planning Commission. • The Staff Advisor's interpretation is forwarded to the Planning Commission, which in turn is forwarded to the Council. The Commission and Council have authority to 	<ul style="list-style-type: none"> • If interpretation does not require discretion, it is processed through a ministerial process. A ministerial decision is made by the Staff Advisor, and does not require a public notice and public hearing. • If interpretation does require discretion, the Type I process 	The update to the interpretation process is based on the state model code.

18-1 Introduction and General Provisions

Code Amendment Category	Code Reference	Existing Standard	Proposed Amendment	Comment
		modify an interpretation.	(administrative decision with notice) is used. The interpretation can be called up for review of the Planning Commission, who can modify the interpretation based on the criteria established in the section. <ul style="list-style-type: none"> • When interpretation may have significant citywide implications, the Staff Advisor may refer the request directly to the Planning Commission and Council using the legislative procedure. 	
Planning approval expiration	Unified: 18-1.6.030 Existing: 18.112.030 18.76.075	<ul style="list-style-type: none"> • Planning approval revoked within <u>one year</u> from date of approval, unless otherwise specified in code. • Partition approvals 	Timeline extended so all planning approvals expire <u>18 months</u> from date of approval.	Amendment made per the procedures evaluation and Planning Commission discussion and comments.

18-1 Introduction and General Provisions				
Code Amendment Category	Code Reference	Existing Standard	Proposed Amendment	Comment
	18.88.030.B.3	<p>expire if the final plat is not signed within <u>18 months</u> of the preliminary approval.</p> <ul style="list-style-type: none"> Outline plan Performance Standards Options subdivisions expires if Final Plan approval is not approved within <u>18 months</u> from date of the approved Outline Plan. 		
Planning approval extension	<p>Unified: 18-1.6.040.A</p> <p>Existing: 18.112.035</p>	One extension of any planning approval can be granted for <u>18 months</u> .	One extension of any planning approval can be granted for <u>2 years</u> .	Amendment made per the procedures evaluation and Planning Commission discussion and comments.
Recession extension	<p>Unified Code: 18-1.6.040</p> <p>Existing: 18.112.035.B</p>	Section allowed approvals that were granted at the onset of the recession to be extended an additional year.	Provision for recession extension is deleted.	Removed because window for recession extensions ended January 2012.
Revocation public hearing	<p>Unified Code: 18-1.6.070</p> <p>Existing: 18.112.050</p>	Outlines the procedure for a public hearing for a revocation of a planning approval. References Chapter 18.104 Conditional Use Permits for noticing and process.	Revises reference to Type II planning action noticing and process which requires a public hearing.	The current reference is incorrect because Chapter 18.104 does not include noticing and procedural instructions. Staff believes the original intent was to process a revocation as a

18-1 Introduction and General Provisions				
Code Amendment Category	Code Reference	Existing Standard	Proposed Amendment	Comment
				Type II public hearing.
Violations of land use ordinance	Unified Code: 18-1.6.080 Existing: 18.112.080	Establishes that a violation of the ordinance is unlawful and a public nuisance, and the Staff Advisor and City Attorney may take action to correct the situation.	Edit language for clarity, and remove repetitious language regarding actions Staff Advisor and City Attorney may take.	Amendment made per Planning Commission discussion and comment.

18-3 Special Districts and Overlay Zones				
Code Amendment Category	Code Reference	Existing Standard	Proposed Amendment	Comment
Croman Mill major amendment for zone change	Unified: 18-3.2.030.B.1.a.i Existing: 18.53.030.B.1.a.i	A major amendment is required to change the zoning of land in the Compatible Industrial (CI) and Office Employment (OE) zones.	A major amendment is required to change zoning in the Croman Mill district.	There are five zones in the Croman Mill district. The proposed amendment would require a major amendment for any zone change. This is consistent with the North Mountain Neighborhood district amendment process.
Croman Mill potable water standard	Unified: 18-3.2.060.C.8 Existing: VIII-C-8, Section C Green Development Standards, Section VIII Croman Mill District Standards, Site Design and Use Standards	Provide water efficient landscaping that reduces the use of potable water by 50% based on a water budget.	Provide water efficient landscaping that reduces the use of potable water by 50% of baseline. A definition of baseline is added to 18-6.	Amendment makes standard more measureable and consistent. Amendment suggested by the Conservation Division.
North Mountain allowable lot coverage in Neighborhood Central Zone (NM-C)	Unified: 18-3.4.040.G Existing: 18.30.030.G	Maximum lot coverage is 75%.	Maximum lot coverage is 85%.	For consistency with Commercial (C-1) and Employment (E-1) zones.
North Mountain accessory residential unit (ARU) design standards	Unified: 18-3.4.110.A. 8 Existing: Accessory Residential Units, Section A Housing,	<ul style="list-style-type: none"> ARU's shall incorporate considerate design and placement standards. When adjacent to side property line the second floor area 	When a detached ARU is adjacent to a residential property: <ul style="list-style-type: none"> Provide visual buffer using window 	

18-3 Special Districts and Overlay Zones				
Code Amendment Category	Code Reference	Existing Standard	Proposed Amendment	Comment
	Section VII North Mountain Neighborhood Design Standards, Site Design and Use Standards	<p>should be staggered and minimized.</p> <ul style="list-style-type: none"> Use of a dormer is an alternative that can be substituted for staggering and minimizing floor area. 	<p>placement, a sight obscuring fence and/or vegetation.</p> <ul style="list-style-type: none"> Second floor area shall be stepped back an additional 5 feet or contain other detailing to break up the mass of the building. The step-back standard can be met with the addition of a dormer. 	
Nonresidential land divisions in Performance Standards Options (PSO) subdivisions	<p>Unified: 18-3.8.020</p> <p>Existing: 18.88.080</p>	Allows the PSO to be used for properties not included in the overlay area which are environmentally constrained, over two acres in size, or is zoned multi-family residential or in the Croman Mill district.	Add clarification that PSO can be used to subdivide land is nonresidential zones.	
Affordable housing density bonus in PSO subdivisions	<p>Unified: 18-3.8.050.B.4</p> <p>Existing: 18.88.040.B.3.d</p>	For every percent of units that are affordable, an equivalent percentage of density bonus is allowed up to a maximum 35% bonus.	For every affordable unit provided, a density bonus of two market rate units is allowed up to a maximum 35%	Amendment made per Planning Commission input on Policy Issues and Recommendations from the 2006 Land Use

18-3 Special Districts and Overlay Zones				
Code Amendment Category	Code Reference	Existing Standard	Proposed Amendment	Comment
			bonus.	Ordinance Review.
Cottage housing density bonus in PSO subdivisions	Unified: 18-3.8.050.B.5 Existing: N/A	Issue is not addressed in code.	In the R-1 zone, two cottage housing units allowed in place of each single-family unit allowed by base density district.	Amendment made per Planning Commission input on green development evaluation. Cottage housing development standards in 18-2.
Lot coverage in PSO subdivisions	Unified: 18-3.8.070.F Existing: N/A	Issue is not clearly addressed in code.	Provides option of calculating lot coverage on individual lot basis, or for the entire site at the time of subdivision application.	
Building design standards for Hillside Lands	Unified: 18-3.9.080.E.2.c Existing: 18.62.080.E.2.c	Requires a building step back of at least 6 feet on downhill building walls greater than 20 feet in height, as measured above natural grade in Hillside Lands.	Clarify that decks projecting out from the building wall do not constitute a building step back.	
Expanding nonconforming buildings in the Water Resource Protection zones	Unified: 18-3.10.050.A.3.b.ii Existing: 18.63.00.A.3.b	Allows additional stories to be added to nonconforming structures in water resource protection zones if the footprint in the zone is not changed in size or shape.	Clarify that new additions including decks cannot project beyond the building footprint over the water resource protection zone.	
Previously approved building envelopes and driveways in water resource protection zones (riparian)	Unified: 18-3.10.050.A.3.e Existing:	<ul style="list-style-type: none"> Allows development of buildings and driveways in water resource protection zones that 	Provision deleted.	Provision expired on 1/15/2013, and therefore is removed from ordinance.

18-3 Special Districts and Overlay Zones				
Code Amendment Category	Code Reference	Existing Standard	Proposed Amendment	Comment
area and wetland buffers)	18.63.060.A.3.e	were approved prior to enactment of Chapter 18.63. <ul style="list-style-type: none"> Provision expires 36 months after effective date of ordinance. Ordinance effective on 1/15/2010. 		
Water resource protection zones - Temporary tree protection fencing	Unified: 18-3.1.050.B.3 and 18-3.1.050.C.2 Existing: 18.63.060.B 3 18.63.060.C.2	Fences can be located in the upper half of stream buffer, and in the wetland buffer.	Add provision allowing temporary tree protection fencing required in conjunction with a development project to be located in stream and wetland buffers.	
Wetland resource protection zones – mowing and thinning for fire hazard prevention	Unified: 18-3.10.050.C.1 Existing: 18.63.060.C.1	Perimeter mowing or thinning of vegetation within the wetland buffer is allowed for fire hazard prevention provided it is the minimum necessary to alleviate the threat.	Add provision allowing mowing and thinning of vegetation in the wetland itself if it is part of an approved wetland mitigation plan, or if it is demonstrated that native vegetation will not be removed.	
Purpose of residential overlay	Unified: 18-3.12.010.A Existing: N/A	Issue is not addressed in code.	Adds purpose statement saying intent of overlay is to encourage concentration and mix of businesses and housing to provide a variety of	The residential overlay allows housing units to be developed in the Employment (E-1) zone in conjunction with the permitted commercial

18-3 Special Districts and Overlay Zones				
Code Amendment Category	Code Reference	Existing Standard	Proposed Amendment	Comment
			hosing types, support resource and energy conservation , and promote walking, bicycle and transit use.	and light industrial uses. This is commonly referred to as mixed-use development. Mixed-use development is also allowed in the commercial zones (C-1) and (C-1-D).
Residential uses in multiple buildings residential overlay (E-1 zone)	Unified: 18-3.12.C Existing: 18.32.025.D 18.56.050.A	If there are multiple buildings being developed, at least 50% of the total lot area shall be designated for nonresidential permitted uses.	If there are multiple buildings on a site, at least 50% of the total lot area, including accessory uses such as parking, landscaping and public space, shall be designated for nonresidential permitted uses.	Amendment made per Planning Commission input on Policy Issues and Recommendations from the 2006 Land Use Ordinance Review.

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TITLE 18 – PART 1 – INTRODUCTION AND GENERAL PROVISIONS

- 18-1.1 Introduction
- 18-1.2 Title, Purpose, and General Administration
- 18-1.3 Lot of Record and Legal Lot Determination
- 18-1.4 Non-Conforming Situations
- 18-1.5 Ordinance Interpretations
- 18-1.6 Zoning Permit Expiration, Extension and Enforcement

Chapter 18-1.1 — Introduction

The Staff Advisor or his or her designee administers the City of Ashland Land Use Ordinance (“this ordinance”). This ordinance regulates land use and development within the City of Ashland and is organized as follows:

Part 18-1. Part 18-1 describes the title, purpose, authority, organization and general administration of this ordinance. Part 18-1 also explains how city officials interpret and enforce code requirements.

Part 18-2. Part 18-2 contains Ashland’s zoning regulations. The City of Ashland Zoning Map, consistent with the City of Ashland Comprehensive Plan, designates zoning districts, or zones. The zoning regulations specify allowed land uses, and lot and development standards that are specific to particular land uses or zones. Before commencing a new use or development, changing an existing use or development, or applying for a building permit, the property owner should verify the City’s zoning requirements.

Part 18-3. Part 18-3 contains Ashland’s special zoning districts and overlay zones. The City of Ashland Zoning Map designates special districts for distinct geographic areas based on a special area plan such as the North Mountain Neighborhood (NM) and Croman Mill (CM) districts. The zoning regulations for the special districts specify allowed land uses, and lot and development standards that are specific to particular land uses or zones. The overlay zones include special regulations and standards that supplement the base zoning district and zoning regulations.

Part 18-4. Part 18-4 contains the City’s development design standards, formerly referred to as the site design and use standards and street design standards. It includes requirements for building design; street access; pedestrian and vehicle circulation; bicycle and automobile parking; landscaping, screening, fences and walls; outdoor lighting; adequate transportation, water, sanitary sewer, and storm drainage facilities; and utility requirements. Part 18-4 applies to all development, including land divisions and projects for which no land use application or review is required.

Part 18-5. Part 18-5 contains the City’s application requirements and review procedures for land use and development decisions, including but not limited to procedures for land divisions, property line adjustments, conditional use permits, site design review, master planned developments, and variances.

Part 18-6. Part 18-6 contains definitions and other exhibits that the City uses in interpreting and administering this ordinance. For example, where Part 18-2 contains a general list of land uses allowed in each zone, Part 18-6 provides examples of uses that are consistent with each general category.

Chapter 18-1.2 — Title, Purpose, and General Administration

Sections:

Section 18-1.2.010	Title
Section 18-1.2.020	Purpose
Section 18-1.2.030	Enactment and Effect
Section 18-1.2.040	Compliance Required
Section 18-1.2.050	Rules of Ordinance Construction
Section 18-1.2.060	Land Use Ordinance Consistency with Comprehensive Plan and Laws
Section 18-1.2.070	Land Use Ordinance and Zoning Map Implementation
Section 18-1.2.080	Building Permits
Section 18-1.2.090	Official Action

Comment: Section 18-1.2 carries forward Chapter 18.04 General Provisions. The current ordinance contains the first three sections – Title, Purpose, and Enactment and Effect. The following six sections are new, and provide the foundation for how the ordinance relates to the Comprehensive Plan, the Zoning Map and building permits.

18-1.2.010 Title

This ordinance shall be known as the “Land Use Ordinance” of the City.

18-1.2.020 Purpose

The purpose of this ordinance is to encourage the most appropriate and efficient use of land; to accommodate orderly growth; to provide adequate open space for light and air; to conserve and stabilize the value of property; to protect and improve the aesthetic and visual qualities of the living environment; to aid in securing safety from fire and other dangers; to facilitate adequate provisions for maintaining sanitary conditions; to provide for adequate access to and through property; and in general to promote the public health, safety and the general welfare, all of which is in accordance with and in implementation of the Comprehensive Plan of the City of Ashland. Race, color, religion, sexual orientation, gender identity, national origin or disability shall not be an adverse consideration in making any decision under the Land Use Ordinance.

Comment: Section 18-1.2.030 replaces 18.04.030, which excludes land uses and development that are either permitted outright in commercial zones or have: final site review approval, preliminary partition or subdivision approval, PUD final approval, sign permit approval, or variance approval.

18-1.2.030 Enactment and Effect

This ordinance applies to all land uses and development in the City.

18-1.2.040 Compliance Required

Comment: Section 18-1.2.040 is new. The section is added to explain that uses, lots and structures are required to comply with the ordinance, and who is responsible for complying with the ordinance.

- A. Compliance with Land Use Ordinance.** No structure or lot shall hereinafter be used, developed, or occupied, and no structure or part thereof shall be erected, moved, reconstructed, extended, enlarged or otherwise altered except as permitted by this ordinance. A lawful use of land (“use”) is one that is permitted in accordance with this ordinance, or is allowed as a legal non-conforming use, pursuant with Chapter 18-1.4, provided State or Federal law does not prohibit the use. Amendments to the Zoning Map, Comprehensive Plan Map and other official maps, amendments to the Land Use Ordinance, and annexations shall conform to applicable provisions of this ordinance.
- B. Obligation by Successor.** The requirements of this ordinance apply to the owner(s) of record, persons undertaking the development or the use of land, and to those persons’ successors in interest.

18-1.2.050 Rules of Ordinance Construction

Comment: Section 18-1.2.050 is new. The section is added to clarify how the ordinance works: that the ordinance includes the minimum requirements, when there are conflicting sections the higher standard applies, how tenses are used, the difference between requirements and guidelines, the role of illustrations, and the concept of severability.

- A. Provisions of this Ordinance Declared to be Minimum Requirements.** The provisions of this ordinance, in their interpretation and application, are minimum requirements, adopted for the protection of the public health, safety, and general welfare.

Comment: Subsection B is currently covered in 18.112.070 Interpretation as well as throughout individual chapters.

- B. Highest Standard or Requirement Applies.** Where a requirement of this ordinance varies from another provision of this ordinance or with other applicable regulations, the highest standard or regulation shall govern.
- C. Tenses.** Words used in the present tense include the future; the singular form includes the plural; and the plural includes the singular.
- D. Requirements versus Guidelines.** Use of the word “shall,” “must,” “required,” “prohibited” or similar directive term means the ordinance provision is a requirement. Use of the word “should,” “encouraged,” “recommended,” “may,” or similar term, means the provision is a guideline. Guidelines are intended to assist City decision-making bodies where certain land use actions require the exercise of discretion.

18-1.2 – Title, Purpose, and Authority

- E. Interpreting Illustrations.** This ordinance contains illustrations and photographs, ordinance “graphics,” which are intended to serve as examples of development design that either meet or do not meet particular ordinance standards. Except where a graphic contains a specific numerical standard or uses the word “shall,” “must,” “required” or “prohibited,” strict adherence to the graphic is not required.
- F. Severability.** The provisions of this ordinance are severable; where any section, sentence, clause or phrase is judged to be invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remaining portion of the ordinance.

18-1.2.060 Land Use Ordinance Consistency with Comprehensive Plan and Laws

Comment: Section 18-1.2.060 is new. The section is added to clarify the relationship between the Land Use Ordinance, Comprehensive Plan, and the requirements of other jurisdictions.

- A. City of Ashland Comprehensive Plan.** This ordinance implements the City of Ashland Comprehensive Plan. Provisions of this ordinance shall be interpreted consistent with the Comprehensive Plan, including any Comprehensive Plan elements or public facility master plans adopted pursuant to the Comprehensive Plan.
- B. Compliance with Other Laws Required.** In addition to the requirements of this ordinance, all uses and development must comply with all other applicable City, State of Oregon, and Federal rules and regulations.
- C. References to Other Regulations.** All references to other City, State, and Federal rules and regulations are for informational purposes only and do not constitute a complete list of such requirements. The references do not imply any responsibility by the City for enforcement of State or Federal regulations. Where a proposal, permit, or approval is subject to both City of Ashland requirements and State or Federal requirements, the property owner is responsible for contacting the applicable agencies and complying with their rules and regulations.

18-1.2.070 Land Use Ordinance and Zoning Map Implementation

Comment: Section 18-1.2.070 is new. The section is added to explain the relationship between the zoning and land use control maps and ordinance, to clarify the establishment of zoning boundaries, and references to the sections that deal with boundary questions or changes.

- A. Zoning of Areas to be Annexed.** Concurrent with annexation of land, the City Council, upon considering the recommendation of the Planning Commission, shall enact an ordinance applying applicable zoning designation(s) to the subject land, pursuant with Chapter 18-5.8. The Comprehensive Plan shall guide the designation of zoning for annexed areas.

1.2 – Title, Purpose, and Authority

- B. Land Use Ordinance and Zoning Map.** The City’s official Zoning Map (“Zoning Map”), which may be published, amended, and filed separately from this ordinance, is part of this ordinance. The zoning districts depicted on the Zoning Map correspond to the zoning districts in this ordinance. In addition, this ordinance may contain zoning regulations for special areas, (i.e., overlay zones), and for certain uses or structures that do not appear on the Zoning Map.
- C. Interpreting the Zoning Map.** Except as otherwise specified by this ordinance, the City’s zoning boundaries are as designated on the Zoning Map, which is kept on file at City Hall. The City may adopt and publish supplemental zoning and land use control maps where it is impractical to illustrate all regulated features on one map; examples of regulated features include but are not limited to historical landmarks, floodplain corridor boundaries, local wetland inventories, and specific area plans. In addition, the City may require field verification and mapping (e.g., survey) of a regulated feature as part of a development application, where the feature is thought to exist on or adjacent to the subject property but its exact location is unknown.
- D. Boundary Lines.** Zoning district boundaries are determined pursuant to Section 18-2.1.030.
- E. Changes to Official Zoning Map.** Proposed changes to the Zoning Map are subject to review and approval under Chapter 18-5.6 Amendments.

18-1.2.080 Building Permits

Comment: Section 18-1.2.080 is new. This section is added to clarify the relationship between the land use ordinance and building codes, and the review of building permits for land use ordinance compliance.

- A. Land Use Approvals and Building Permits.** The City of Ashland Building Official, pursuant with Ashland Municipal Code Title 15, administers the City’s building codes and issues building permits. The Staff Advisor administers the Land Use Ordinance, processes land use approvals, and coordinates with the Building Official on development and building projects to ensure compliance with the Land Use Ordinance.
- B. Zoning Compliance Required for Building Permits.** A building permit shall not be issued until the Staff Advisor has confirmed that all applicable Land Use Ordinance requirements are met, or appropriate conditions of approval are in place to ensure compliance.

18-1.2.090 Official Action

Comment: Section 18-1.2.090 is new. This section is added to explain who has the authority to approve land use actions, the ability of the Staff Advisor to review questions or applications to the Planning Commission and clarify the general parameters for noticing requirements.

- A. Official Action.** The City of Ashland Staff Advisor, Planning Commission, and City Council are “City Officials” vested with authority to issue permits and grant approvals in conformance with this

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ordinance, pursuant to Part 18-5 Application Review Procedures and Approval Criteria. City officials shall issue no permit and grant no approval for any development or use that violates or fails to comply with conditions or standards imposed to carry out this ordinance.

- B. Void Future Actions.** Any permit or approval issued or granted in conflict with the provisions of this ordinance shall be void, unless the City modifies it in conformance with this ordinance. The Staff Advisor shall determine when an approval is void and, as applicable, he or she shall refer it back to the decision body for modification to ensure compliance.
- C. Referral to Planning Commission.** In addition to those actions that require Planning Commission approval, the Staff Advisor may refer any question or permit request to the Planning Commission, who then shall take action on the request pursuant to the applicable provisions of this ordinance. See also, Chapter 18-1.5 Ordinance Interpretations and Part 18-5 Application Review Procedures and Approval Criteria.
- D. Notices, Filing, and Validity of Actions.** The failure of any person to receive mailed notice or failure to post or file a notice, staff report, or form shall not invalidate any actions pursuant to this ordinance, provided a good faith effort was made to notify all parties entitled to such notice report, or form. See Chapter 18-5.1 General Review Procedures.

Chapter 18-1.3 — Lot of Record and Legal Lot Determination

Sections:

18-1.3.010	Purpose and Intent
18-1.3.020	Criteria
18-1.3.030	Legal Lot Determination Procedure

Comment: This is a new chapter, though the issues are partially addressed in 18.68.130 Lot Size Requirements General Exception. The new chapter is intended to address state law requirements for lots that were legally created in Jackson County, or before the City's partition and subdivision regulations ("lots of record"). Local jurisdictions may adopt local procedures for lot of record determinations, provided they are not in conflict with ORS 92.010 to 92.190.

18-1.3.010 Purpose and Intent

Comment: The following provision is intended to comply with US Constitution and case law related to regulatory takings. Owners of legal lots are entitled to reasonable economic use of their property.

The purpose of Chapter 18-1.3 is to establish criteria and a process for determining when a lot of record exists for the purpose of allowing a use or development on a non-conforming lot (e.g., substandard lot that does not meet lot area, setback, or coverage regulations). The owner of lot of record shall not be denied reasonable development on a lot of record; where the underlying zone allows residential use, one single-family dwelling per lot of record is deemed reasonable use, provided applicable building codes are met. The city may also accept a legal lot determination as sufficient evidence of a hardship for in approving a variance under Chapter 18-5.7

18-1.3.020 Criteria

Comment: The Legislature amended the land division statute in 2009. The amendment was intended to provide for regulatory relief where the legality of a lot not created through a land division is in question. The cutoff date of January 1, 2007 is contained in the statute.

A lot of record is a plot of land that meets one or more of the following criteria, pursuant to ORS 92.010 to 92.190:

- A. The plot of land was lawfully created through a subdivision or partition plat in Jackson County prior to annexation to the City of Ashland;
- B. The plot of land was created through a deed or land sales contract recorded with Jackson County prior to August 18, 1964 before the City adopted planning, zoning, subdivision or partition regulations (Ordinance 1361); or

18-1.3 – Legal Lot Determination and Validation of Lot

- C. The plot of land was created through a deed or land sales contract recorded with Jackson County prior to January 1, 2007 and the subject plot of land would have complied with the applicable planning, zoning, subdivision or partition regulations in effect at the time it was created.

18-1.3.030 Legal Lot Determination Procedure

Comment: The lot of record procedure is regulated by state statute. Local jurisdictions may adopt local procedures for lot of record determinations, provided they are not in conflict with ORS 92.010 to 92.190.

The Staff Advisor through a Ministerial procedure, shall process requests to validate a lot of record. It shall be the property owner's responsibility to demonstrate that his or her plot of land meets the lot of record criteria in Section 18-1.3.020.

Chapter 18-1.4 — Nonconforming Situations

Sections:

18-1.4.010	Purpose and Applicability
18-1.4.020	Nonconforming Uses
18-1.4.030	Nonconforming Structures
18-1.4.040	Nonconforming Developments
18-1.4.050	Nonconforming Lots

Comment: Chapter 18-1.4 carries forward and updates 18.68.090 Nonconforming Uses and Structures and 18.68.130 Lot Size Requirements – General Exception. The Purpose and Applicability and Nonconforming Developments sections are new. The chapter has been reorganized since the previous draft according to the four types of nonconforming situations – uses, structures, developments and lots.

18-1.4.010 Purpose and Applicability

Chapter 18-1.4 contains standards and procedures for the continuation of uses, structures, developments and lots that are lawfully established but do not comply with current ordinance standards (“nonconforming” situations). The chapter is intended to protect public health, safety, and general welfare, while allowing reasonable use of private property. Nonconforming situations are not necessarily looked at as a negative influence on a neighborhood; rather the benefits of continuing a nonconformity should be weighed against the detriment to the neighborhood. The chapter contains four sections as follows:

A. Nonconforming uses (e.g. commercial use in a residential zone) are subject to Section 18-1.4.020;

B. Nonconforming structures (e.g. structure does not meet setback standards) are subject to Section 18-1.4.030;

C. Non-conforming developments (e.g. site does not meet landscaping standards) are subject to Section 18-1.4.030;

D. Nonconforming lots (e.g. lot smaller than minimum area standard) are subject to Section 18-1.4.040.

18-1.4 – Non-Conforming Situations

18-1.4.020 Nonconforming Uses

Where a use of land exists that would not be permitted under the current ordinance, but was lawful at the time it was established, the use may continue, provided it conforms to the following requirements:

A. Change in Nonconforming Use. A nonconforming use may be changed to another nonconforming use of the same or a more restricted nature. A change in a nonconforming use requires approval of a Conditional Use Permit under Chapter 18-5.4.

Comment: The current code does not address the expansion of a building that houses a nonconforming use. Section B is added to address this situation. Examples: 1) a single-family residence located in a commercial zone could expand the home up to 50% of the square footage through the conditional use permit process; 2) an existing business located in a residential zone could expand the building up to 50% of the square footage through the conditional use permit process.

B. Expansion of Nonconforming Use. Expansion of a nonconforming use shall not exceed fifty (50) percent of the building square footage. Expansion of a nonconforming use requires approval of a Conditional Use Permit under Chapter 18-5.4.

Comment: The Planning Commission raised the issue of whether the time period should be lengthened for a nonconforming use to be deemed abandoned. The state model code suggests 12 to 18 months.

C. Discontinuation or Abandonment of Nonconforming Use. Except as provided by subsection 18-1.4.020.D, a nonconforming use that is discontinued for any reason other than fire or catastrophe beyond the owner's control for a period of more than ~~six (6)~~ twelve (12 months) shall be deemed abandoned and shall no longer be an allowed use pursuant to subsections 1-2 below.

1. After the City has deemed a nonconforming use abandoned, the use shall not be allowed to resume, in whole or in part, under the same or different ownership/management; any such activity is a violation of this ordinance.
2. For purposes of calculating ~~six~~ twelve-month period, discontinuance does not include a period of active reconstruction following a fire or other catastrophe beyond the owner's control, and the Planning Commission through a Type II procedure may extend the discontinuance period in the event of special unforeseen circumstances. A use is discontinued upon the first occurrence of any one of the following:
 - a. The date when the use of land is physically vacated;
 - b. The date the use ceases to be actively involved in the sale of merchandise or the provision of services; for example, as evidenced by the removal of signs, goods/stock, or office equipment, or the disconnection of telephone or utility service;
 - c. The date of termination of any lease or contract under which the nonconforming use has occupied the land;

18-1.4 – Non-Conforming Situations

- d. The date a request for final reading of water and power meters is made to the applicable utility districts; or
- e. The date of an event similar to those listed in subsections 1-5, above, as determined by the Staff Advisor.

D. Reestablishment of Nonconforming Status for Discontinued Use. Notwithstanding the provisions of subsection 18-1.4.020.C, a nonconforming use that is discontinued shall not be considered abandoned where the approval authority approves a Conditional Use Permit pursuant to Chapter 18-5.4. The applicant shall demonstrate the reestablished use is equivalent to or more restricted than the abandoned use. In evaluating whether or not to permit the reestablishment of a nonconforming use, the approval authority, in addition to applying the criteria required for Conditional Use Permit, shall apply the criteria in subsections 1-6, below:

1. Any improvements for the reestablishment of a nonconforming use on the site are limited to fifty (50%) percent of the value of the structure, except where such improvements bring the subject site, development or use into closer conformity with this ordinance. Valuation shall be determined as follows:
 - a. An independent real estate appraiser licensed in the State of Oregon shall determine the value of the structure.
 - b. The value of the improvement shall be determined based upon copies of the contractor's bid for said improvements, which shall be required with the Conditional Use permit application.
 - c. Personal property necessary for the operation of the business or site improvements not included in the structure shall not be counted as improvements under this criterion.
2. The traffic generated by the proposed use is not greater than the greatest traffic that would be generated by a permitted use. In assessing the traffic generated by the proposed use, the approval authority shall consider the average peak-hour number of vehicle trips per day, the hours of operation, and the types of traffic generated; i.e., truck or passenger vehicle. The approval authority may condition approval of the Conditional Use Permit limiting the land use so that traffic impacts are not greater than for uses permitted in the same zone.
3. The noise generated by the proposed use will comply with the Ashland Noise Ordinance, Chapter 9.08.170, and will not exceed the average ambient noise level already existing in the area, as measured pursuant to this code section.
4. There shall be no lighting of the property that would have direct illumination on adjacent uses.
5. In a residential zone, the reestablishment will further implement Goal VI, Policy 2, Housing Chapter of the Ashland Comprehensive Plan.
6. Nothing herein shall apply to nonconforming signs, which are governed by the provisions of Section 18-4.7 of this ordinance.

18-1.4 – Non-Conforming Situations

18-1.4.030 Nonconforming Structures

Section 18-1.4.030 regulates nonconforming structures, **except for nonconforming structures in water resource protection zones, subject to Section 18-3.10.050.A.3.** Nonconforming structures exist on the effective date of adoption or amendment of this ordinance, but could not be built under the terms of the ordinance today; for example, the structure(s) does not comply with current requirements for height and setbacks. If the structure or development was lawful when constructed, it may remain on site so long as it remains otherwise lawful and complies with the following regulations.

- A. Exempt Alterations.** A nonconforming structure may be altered as follows, subject to approval of required building permits. A planning application approval is not required for exempt alterations.
1. Additions and alterations are allowed if the improvement, evaluated separately from the existing structure, conforms to this ordinance.

Comment: The following provisions in a-c below are intended to establish clear and enforceable criteria for allowing nonconforming structures to be restored, rehabilitated and repaired. This is currently covered in section 18.68.090.A 3 and 4.

2. Restoration, rehabilitation, repair and maintenance of a nonconforming structure (e.g. roof repair, upgrading electrical systems, and similar work) are allowed where the criteria in subsections a-c, below, are met:
 - a. The structure is not changed in size or shape (i.e. three-dimensional building envelope must not change including but not limited to building footprint, mass, volume, roof shape and height).
 - b. Not more than 40% of any exterior building wall and not more than 50% of the building floor area is permanently removed; where a larger alteration is proposed, approval of a Conditional Use Permit is required.
 - c. Where temporary or permanent removal of a building wall or floor area is proposed, the owner shall submit with a building permit application a construction management plan that documents existing building conditions, proposed methods of construction, and proposed building plans.

Comment: The provision below allows the reconstruction of nonconforming garages and sheds with a building permit rather than a Conditional Use Permit, and was added based on the review and discussion of the previous draft. The current ordinance allows “rehabilitation and restoration” with a building permit which involve a fairly involved repair of a historic structure. This change will allow “reconstruction” which is the partial or complete replacement of the building.

3. **Reconstruction of garages and sheds if the use is not changed and the structure is not changed in size or shape (i.e. three-dimensional building envelope does not change including but not limited to building footprint, mass, volume, roof shape and height).**

Comment: The terminology below is replaced for consistency with the current definitions. Reconstruction is the replacement in form, shape and location as originally built. In contrast, restoration is more involved as it is the “process of accurately depicting the form, features and character of a property as it appeared at particular period of time...” Restoration is typically used to refer to contributing properties in the historic districts.

18-1.4 – Non-Conforming Situations

4. Destruction. A legal nonconforming structure that is damaged by means beyond the owner's control, such as fire, flood, earthquake, or similar catastrophe, to an extent of 50% or more of its replacement cost, may be restored or ~~replaced~~ **reconstructed** within the original three-dimensional building envelope (i.e., relative to coverage, height, setbacks, and other dimensions of the developed area) provided the nonconformity shall not increase. Any residential structure in a zone where residential uses are allowed that is damaged beyond 50% of its replacement cost by such catastrophe may be reconstructed at the original density, provided a Building Permit application for the reconstruction is submitted within two (2) years of the catastrophe.

B. Planning Approval Required. A nonconforming structure may be altered (i.e., reconstructed, enlarged, or modified) subject to approval of a Conditional Use Permit under Chapter 18-5.4. and approval of required building permits, except that a planning action is not required for projects described above in Section 18-1.4.030.A. A nonconforming structure may be rebuilt pursuant to this subsection, provided in a historic district the applicant must demonstrate that restoration is not practicable.

Comment: The current ordinance does not clearly address developments with nonconforming site improvements such as parking location, amount of landscaping and driveway locations. The following section is added to address these types of situations.

18-1.4.040 Nonconforming Developments

- A. Exempt Alterations.** Repair and maintenance of a nonconforming development (e.g. paved area, parking area, landscaping) are allowed subject to approval of required building permits if the development is not enlarged or altered in a way that brings the nonconforming site less in conformity with this ordinance. A planning application approval is not required for exempt alterations. See also Section 18-3.10.060 related to nonconforming uses in Water Resource Protection zones.
- B. Planning Approval Required.** A nonconforming development may be enlarged or altered subject to approval of a Conditional Use Permit under Chapter 18-5.4 and approval of required building permits.
- C. Roadway Access.** The owner of a nonconforming driveway approach or access to a public street or highway, upon receiving land use or development approval, may be required as a condition of approval to bring the nonconforming access into conformance with the standards of the approval authority.
- D. Destruction.** A legal nonconforming development that is damaged by means beyond the owner's control, such as fire, flood, earthquake, or similar catastrophe, to an extent of 50% or more of its replacement cost, may be restored or reconstructed within the original three-dimensional building envelope (i.e., relative to coverage, height, setbacks, and other dimensions of the developed area) provided the non-conformity shall not increase.

18-1.4 – Non-Conforming Situations

Comment: The section below is carried forward from 18.68.130 Lot Size Requirements – General Exception. Language is added allowing nonconforming lots to have the property lines adjusted.

18-1.4.050 Nonconforming Lots

If a lot or the aggregate of contiguous lots or land parcels held in single ownership, and recorded in the office of the County Clerk at the time of passage of the ordinance codified herein, a legal lot or lot of record, as provided by Chapter 18-1.3, with an area or dimensions that do not meet the standards of the zoning district in which the property is located, may be occupied by a use permitted in the zone subject to other requirements of the ordinance. **Lot line adjustments to nonconforming lots are allowed if the lot line adjustment brings the nonconforming lot closer in conformity with this ordinance.** See also, Chapter 18-1.3 Legal Lot Determination.

Chapter 18-1.5 — Ordinance Interpretations

Sections:

18-1.5.010	Purpose
18-1.5.020	Interpretations Authorized
18-1.5.030	Interpretation Criteria
18-1.5.040	Similar Uses
18-1.5.050	Ordinance Interpretation Procedure
18-1.5.060	Referral to Planning Commission and City Council

Comment: This chapter updates and clarifies 18.12.050 Similar Uses and 18.108.160 Ordinance Interpretations, and provides procedures for responding to requests for written code interpretations. The new procedures are intended to clarify current procedure.

18-1.5.010 Purpose

Some terms or phrases within this ordinance may have two or more reasonable meanings. This section provides a process for resolving differences in the interpretation of the ordinance text.

18-1.5.020 Interpretations Authorized

Where the intent of this ordinance, the status of a use, or the meaning of a word or phrase is unclear, the Staff Advisor may interpret the ordinance in writing through a Ministerial or Type I procedure, as applicable, pursuant to Section 18-5.1.040 or 18-5.1.050. Alternatively, the Staff Advisory may refer the question to the Planning Commission for its written interpretation through a Type II procedure, pursuant to Section 18-5.1.060. Neither the Staff Advisor's interpretation nor the Commission's interpretation shall have the effect of amending this ordinance.

18-1.5.030 Interpretation Criteria

Comment: The criteria below are reworded for clarity, but are the same content as currently included in section 18.108.160.A.

Any interpretation made through the foregoing procedures shall be based on the following criteria:

- A.** The interpretation is consistent with applicability policies of the Comprehensive Plan;
- B.** The interpretation is consistent with the purpose and intent of the ordinance provision that applies to the particular ordinance section, or sections, in question; and
- C.** The interpretation is consistent with the opinion of the City Attorney.

18-1.5 – Ordinance Interpretations

18-1.5.040 Similar Uses

Comment: Section 18-1.5.040 updates and clarifies sections 18.12.050 Similar Uses. Currently, the ordinance requires the Planning Commission to analyze and determine if a use is similar to those listed in the zone, and therefore can occur in a zone. In the following revised section, the Staff Advisor may find a uses is similar to another use, and make a determination that a use is allowed or prohibited in a zone. If discretion is required for the Staff Advisor to make the determination, a Type I procedure is required unless the Staff Advisor refers the interpretation to the Planning Commission for its review.

Where a proposed use is not specifically identified by this ordinance, or the ordinance is unclear as to whether the use is allowed in a particular zone, the Staff Advisor may find the use is similar to another use that is permitted, allowed conditionally, or prohibited in the subject zone and apply the ordinance accordingly. However, uses and activities that this ordinance specifically prohibits in the subject zone, and uses and activities that the Staff Advisor finds are similar to those that are prohibited, are not allowed. Similar use rulings that require discretion on the part of City officials shall be processed following the Type I procedure, pursuant to Section 18-5.1.050, except where the Staff Advisor refers a request for a similar use determination to the Planning Commission for its review and decision through a Type II procedure, pursuant to Section 18-5.1.060.

18-1.5.050 Ordinance Interpretation Procedure

Comment: Sections 18-1.5.050 and 060 are new, and added to clarify the procedure and application required for an ordinance interpretation.

Requests for a code interpretation, including but not limited to similar use determinations, shall be made in writing to the Staff Advisor and shall be processed as follows:

- A. The Staff Advisor within thirty (30) days of the inquiry shall respond in writing to person making the inquiry indicating whether additional information or a formal application is required.
- B. Where an application for a formal interpretation is required, the Staff Advisor shall determine whether the request will be processed through a Ministerial or Type I process. Where the interpretation does not involve the exercise of discretion, the application shall be processed using the Ministerial procedure in Section 18-5.1.040; and where an interpretation requires discretion, the application shall be processed using the Type I procedure in Section 18-5.1.050. When a code interpretation using the Type I procedure is called up for review, the Commission, following the Type II procedure in Section 18-5.1.060, shall have the authority to modify the interpretation based on the criteria in subsection 18-1.5.030.A.
- C. At a minimum, an application for code interpretation shall include a letter citing the nature and reasons for the request, and, as required, a City fee. The Staff Advisor then shall review relevant background information, including but not limited to other relevant ordinance sections and previous City land use decisions.

18-1.5.060 Referral to Planning Commission and City Council

Where a code interpretation may have significant citywide policy implications, the Staff Advisor may bypass the procedure in subsection 18-1.5.010.C and refer the request directly to the Planning Commission and City Council for its legislative review in a public hearing following the Legislative procedure in Chapter 18-5.1.060.

18-1.6 – Zoning Permits and Enforcement

Chapter 18-1.6 — Zoning Permit Expiration, Extension and Enforcement

Sections:

18-1.6.010	Zoning Permits
18-1.6.020	Duties of Officer
18-1.6.030	Permit Expiration
18-1.6.040	Permit Extension
18-1.6.050	Conditions of Approval
18-1.6.060	Revocation – Condition Violated
18-1.6.070	Revocation – Public Hearing
18-1.6.080	Violations
18-1.6.090	Complaints
18-1.6.100	Penalties

Comment: This chapter is carried forward from Chapter 18.112 Enforcement, edited, and reordered for a more logical flow. Two sections that were redundant with other chapters, 18.112.020 Maintenance of Minimum Requirements and 18.112.070 Interpretation, were removed. The content of the first section, 18-1.6.010, is unchanged from the current 18.112.010 Zoning Permits.

18-1.6.010 Zoning Permits

Zoning permits or approval shall be required for all buildings and structures, hereinafter erected, constructed, altered, repaired, or moved within or into any district established by this ordinance, and for the use of vacant land or for a change in the character of the use of land or buildings, within any district established by this ordinance. Such permit may be a part of the building permit.

18-1.6.020 Duties of Officer

Comment: The following is a revision to 18.112.060 Duties of Officer. The intent is to clearly identify one city official, the Staff Advisor, with land use ordinance enforcement responsibility. Currently, the ordinance says it is the Staff Advisor or Building Officials responsibility to enforce the land use ordinance.

All departments, officials, and employees of the City vested with the duty or authority to issue permits shall issue no permit, certificate, or license for uses, buildings or purpose in conflict with the provisions of this ordinance; the Staff Advisor in consultation with the Building Official and City Engineer is responsible for enforcing the provisions of this ordinance.

18-1.6.030 Permit Expiration

Comment: The content of the section 18-1.6.030 is from the current 18.112.030 Revocation – permit expiration. Per the procedures evaluation and planning commission feedback, the life of a planning approval has been extended from one year to 18 months.

18-1.6 – Zoning Permits and Enforcement

Any zoning permit, or planning action granted in accordance with the terms of this ordinance shall be deemed revoked if not used within ~~one year~~ **eighteen (18) months** from date of approval, unless another time period is specified in another section of this ordinance. Said permit shall not be deemed used until the permittee has obtained a building permit and commenced construction in compliance with permits and approvals for the project, or has commenced the permitted use of the premises in compliance with this ordinance. If an application for extension is deemed complete for processing prior to the timetable expiration date, the permit or action shall not expire by operation of this section unless the application is abandoned or not approved or denied within 90 days.

18-1.6.040 Permit Extension

Comment: The following is a revision to 18.112.035 Timetable Extension. The requirements in A-C are identical to the current ordinance, except that per the procedures evaluation and planning commission feedback, the extension time has been extended from 18 months to 2 years. The current section 18.112.035.B on extensions for projects that were during the recession was removed because the window for recession extensions ended January 2012.

The Staff Advisor shall grant a timetable extension of any zoning permit or planning action approval under demonstrated compliance with the following conditions:

- A. One time extension no longer than ~~eighteen (18) months~~ **two (2) years** is allowed.
- B. The Staff Advisor shall find that a change of conditions for which the applicant was not responsible prevented the applicant from completing the development within the original time limitation.
- C. Land Use Ordinance requirements applicable to the development have not changed since the original approval. An extension may be granted, however, if requirements have changed and there is no material effect upon the original approval, and the applicant agrees to comply with any new requirements, as a condition of the extension.

18-1.6.050 Conditions of Approval

Comment: The content of the section 18-1.6.050 is unchanged from the current 18.112.085 Conditions of Approval.

The Staff Advisor, the Planning Commission, the Hearings Board, or the City Council, when acting as the hearing authority, may impose conditions of approval on any planning action to modify that planning action to comply with the criteria of approval or to comply with other applicable City ordinances. Such conditions shall be binding on the approved planning action, and a violation of a condition imposed by the hearing authority shall be a violation of this ordinance, and subject to all the penalties thereof.

18-1.6.060 Revocation – Conditions Violated

Comment: The content of the section 18-1.6.060 is unchanged from the current 18.112.040 Revocation – conditions violated.

18-1.6 – Zoning Permits and Enforcement

Any zoning permit, or planning action granted in accordance with the terms of this ordinance may be revoked if any of the conditions or terms of such permit or variance are violated or if any law or ordinance is violated in connection therewith.

18-1.6.070 Revocation – Public Hearing

Comment: The content of the section 18-1.6.070 is from the current 18.112.050 Public Hearing. The existing language refers the revocation process chapter to the Conditional Use Permit (CUP) chapter. However, this is an incorrect reference as the current CUP chapter doesn't include procedural information. As a result, the highlighted references below point to the process for a Type II public hearing which staff believes was the original intention.

- A. The Planning Commission shall hold a hearing on any proposed revocation after giving written notice to the permittee and owners within two hundred (200) feet of subject property **as provided in Chapter 18-5.1.060.**
- B. The Planning Commission shall render its decision within thirty (30) days after the conclusion of the hearing.
- C. In case the permittee is not satisfied with the decision, he/she may within fifteen (15) days appeal in writing to the City Council.
- D. The City Council shall set a date for public hearing and shall give notice thereof in the manner provided in **Chapter 18-5.1.060. A report shall be submitted to the City Council setting forth the reasons for the action taken by the Planning Commission. Notice of the appeal to City Council shall also be given to the Planning Commission.—Notice shall also be given to the Planning Commission of such appeal, and a report shall be submitted setting forth the reasons for the action taken by the Planning Commission, or it shall be represented at the hearing.**
- E. The City Council shall render its decision within sixty (60) days after the filing of such appeal.

18-1.6.080 Violations

Comment: The content of the section 18-1.6.080 is from the current 18.112.080 Violations – nuisance. The section is edited for clarity per the Planning Commission feedback.

Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of this ordinance, and any use of land, building, or premise established, conducted, operated, or maintained contrary to the provisions of this ordinance, shall be and the same is hereby declared to be unlawful and a public nuisance. **and the The Staff Advisor or** City Attorney ~~of the City~~ may, or upon order of the City Council shall, immediately commence action or proceedings for the abatement and removal and enjoinder thereof in the manner provided by law., ~~and may take such other steps and apply to such courts as may have jurisdiction to grant such relief as will abate and remove such buildings or prevent any person from setting up, erecting, building, maintaining, or using any such building or structure or using property contrary to the provisions of this ordinance. The remedies provided for herein shall be cumulative and not exclusive.~~

18-1.6.090 Complaints

Comment: The content of the section 18-1.6.090 is unchanged from the current 18.112.100 Complaints.

Complaints concerning violations to this ordinance can be initiated only as provided in Ashland Municipal Code Chapter 1.08.

18-1.6.100 Penalties

Comment: The content of the section 18-1.6.100 is unchanged from the current 18.112.090 Penalties.

Any person, firm or corporation, whether as principal, agent employee, or otherwise, violating or causing the violation of any of the provisions of this ordinance has committed a Class A violation offense, and upon conviction thereof is punishable as prescribed in Ashland Municipal Code Section 1.08.020, subject to the limitations of the Ashland City Charter. Such person, firm, or corporation is guilty of a separate violation for each and every day during any portion of which any violation of this ordinance is committed or continued by such person, firm or corporation.

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TITLE 18 – PART 2 – SPECIAL DISTRICTS AND OVERLAY ZONES

Chapters:

- 18-3.1 Special District and Overlay Zone Purpose and Administration
- 18-3.2 Croman Mill District (CM)
- 18-3.3 Health Care Services District (HC)
- 18-3.4 North Mountain Neighborhood District (NM)
- 18-3.5 Southern Oregon University District (SOU)
- 18-3.6 Airport Overlay (A)
- 18-3.7 Freeway Sign Overlay (FS)
- 18-3.8 Performance Standards Options Overlay (PSO)
- 18-3.9 Physical and Environmental Constraints Overlay (PEC)
- 18-3.10 Water Resource Overlay (W)
- 18-3.11 Site Development and Design Overlays (SDD)
- 18-3.12 Residential Overlay (R)

Comments: Article 18-3 reorganizes and reformats Ashland's special zoning districts and overlays without changing the regulations.

18-3.1 – Special District and Overlay Zone Purpose and Administration

Chapter 18-3.1 Special District and Overlay Zone Purpose and Administration

Sections:

- 18-3.1.010 Purpose
- 18-3.1.020 Zoning Map and Classification of Special Districts and Overlays
- 18-3.1.030 Applicability of Special District and Overlay Regulations

Comment: Chapter 18.12 Districts and Zoning Map is carried forward specifically as it relates to the special districts and overlay zones.

18-3.1.010 Purpose

Comment: This section establishes the connection between the special districts and overlay zones, and the Ashland Comprehensive Plan.

Chapter 18-2.1 establishes zoning districts pursuant to the City of Ashland Comprehensive Plan. Every parcel, lot, and tract of land within the City of Ashland is designated with a zoning district. The use of land is limited to the uses allowed by the applicable zoning district. **The special districts are based on neighborhood planning processes for specific geographic areas. Overlay zones address special situations or site characteristics that apply across zones and supplement the base zoning regulations.**

18-3.1.020 Zoning Map and Classification of Special Districts and Overlays

Comment: This section carries forward 18.12.020 Classification of Districts.

For the purpose of this ordinance, the City is divided into zones designated and depicted on the City of Ashland Zoning Map, pursuant to the City of Ashland Comprehensive Plan Map, and summarized in Table 18-2.1.020.

18-3.1.030 Applicability of Special District and Overlay Regulations

Part 18-3 applies to properties with base zone, special district, and overlay zone designations summarized in Table 18-2.1.04

18-3.2 – Croman Mill District

Chapter 18-3.2 Croman Mill District

Sections:

18-3.2.010	Purpose
18-3.2.020	Applicability
18-3.2.030	General Requirements
18-3.2.040	Use Regulations
18-3.2.050	Dimensional Regulations
18-3.2.060	Site Development and Design Standards
18-3.2.070	Open Space Zone

Comment: The following carries forward and edits the existing provisions of 18.53 and CM Site Design and Use Standards, with no substantive changes. Definitions are relocated to 18-6. The word “overlay” replaces “zone” throughout the chapter to provide clarity and consistency in terminology throughout the ULUO. The term overlay was previously used to designate the five zones within the Croman Mill district (e.g. Neighborhood Commercial overlay, Mixed Use overlay). In the ULUO, the zone designations are changed to Neighborhood Commercial zone, Mixed Use zone, etc.

18-3.2.010 Purpose

The purpose of this section is to implement the Croman Mill Site Redevelopment Plan. The district is designed to provide an environment suitable for employment, recreation and living. The CM district is a blueprint for promoting family-wage jobs, professional office and manufacturing commerce, neighborhood-oriented businesses, mixed-use projects and community services in a manner that enhances property values by providing transportation options and preserving significant open spaces while minimizing the impact on natural resources through site and building design.

18-3.2.020 Applicability

Comment: This section replaces 18.53.070 Applicability of Other Sections of the Land Use Ordinance.

This chapter applies to properties designated as CM on the City of Ashland Zoning Map, and pursuant to the Croman Mill District Plan maps adopted by Ordinance #3031 (August, 2010). Development located within the Croman Mill (CM) district is required to meet all applicable sections of this ordinance, except as otherwise provided in this chapter; where the provisions of this chapter conflict with comparable standards described in any other ordinance, resolution or regulation, the provisions of the CM district shall govern.

18-3.2.030 General Requirements

A. Conformance with the Croman Mill District Plan. Land uses and development, including buildings, parking areas, streets, bicycle and pedestrian access ways, multi-use paths and open spaces shall be located in accordance with those shown on the Croman Mill District Plan maps adopted by Ordinance #3031.

B. Amendments. Major and minor amendments to the Croman Mill District Plan shall comply with the following procedures:

1. Major and Minor Amendments

Comment: There are five zones in the Croman Mill District. Staff suggests making a change to any zone a major amendment.

- a. Major amendments are those that result in any of the following:
 - i. A change in the land use overlay zoning to CI Compatible Industrial or OE Office Employment.
 - ii. A modification to the street layout plan that necessitates a street or other transportation facility to be eliminated.
 - iii. A change not specifically listed under the major and minor amendment definitions.
- b. Minor amendments are those that result in any of the following:
 - i. A change in the Plan layout that requires a street, access way, multi-use path or other transportation facility to be shifted more than twenty-five (25) feet in any direction, as long as the change maintains the connectivity established by the Croman Mill District Plan.
 - ii. Changes related to street trees, street furniture, fencing or signage.
 - iii. A change in the design of a street in a manner inconsistent with the Croman Mill District Standards.
 - iv. A modification of a driveway access location in a manner inconsistent with the Croman Mill District Standards.
 - v. A site layout, landscaping or building design which is inconsistent with the Croman Mill District Standards.
 - vi. A change to an area allocation for special permitted uses in section 18-3.2.040.B.
 - vii. A change in a dimensional standard requirement in section 18-3.2.050, but not including height and residential density.

2. Major Amendment – Type II Procedure. A major amendment to the Croman Mill District Plan is subject to a public hearing and decision under a Type II Procedure. A major amendment may be approved upon the hearing authority finding that:

- a. The proposed modification maintains the connectivity established by the district plan, or the proposed modification is necessary to adjust to physical constraints evident on the property, or to protect significant natural features such as trees, rock outcroppings, wetlands, or similar natural features, or to adjust to existing property lines between project boundaries;
- b. The proposed modification furthers the design, circulation and access concepts advocated by the district plan; and
- c. The proposed modification will not adversely affect the purpose and objectives of the district

18-3.2 – Croman Mill District

plan.

3. Minor Amendment – Type I Procedure. A minor amendment to the Croman Mill District Plan is subject to an administrative decision under the Type I Procedure. Minor amendments shall not be subject to the Administrative Variance from Site Design and Use Standards of chapter 18-5.2. A minor amendment may be approved upon finding that granting the approval will result in a development design that equally or better achieves the stated purpose of this chapter, objectives of specific Croman Mill District Standards, and guiding principles of the Croman Mill Site Redevelopment Plan.

18-3.2.040 Use Regulations

A. Generally. Uses and their accessory uses are permitted, special permitted or conditional uses in the Croman Mill District as listed in the Land Use Table.

Table 18-3.2.040 – Croman Mill District Land Use¹					
	Croman Mill District Zones				
	NC	MU	OE	CI	OS
A. Residential²					
Residential Uses	S	S	N	N	N
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	N	S	S	S	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
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

¹ Key to zones: NC = Neighborhood Commercial; MU = Mixed Use; OE = Office Employment; CI = Compatible Industrial; OS = Open Space.

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

18-3.2 – Croman Mill District

Table 18-3.2.040 – Croman Mill District Land Use¹

	Croman Mill District Zones				
	NC	MU	OE	CI	OS
Rail freight loading dock facilities ²	N	N	N	P	N
Rail or rapid transit passenger facilities	P	P	P	P	N
Warehouse and similar storage facilities	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 with office or space used directly by the public	C	C	C	C	C
Public and quasi public utility facilities enclosed in a building	S	S	S	S	S
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

B. 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 and Use Standards.

1. Residential Uses. Residential uses provided 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 18-3.2.050. 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. Temporary Employee Housing. Residential units for use by persons employed within the facility and their families when 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.
3. Limited Commercial Services and Retail. Stores, restaurants, shops, child/day care facilities, and ancillary employee services, when the following standards are met.
 - a. In the Compatible Industrial (CI), Mixed Use (MU) and Office Employment (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.
4. 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.
5. Kennels. Kennels when 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.

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6. 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 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.
7. 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 (10%) of ground floor area, whichever is less.
8. Warehouse and Similar Storage Facilities. Warehouse and similar storage facilities when 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.
9. Limited Outdoor Storage. Limited outdoor storage associated with a permitted or special permitted use when 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% of the employment density targets for the Croman Mill District.
10. Public and Quasi-Public Utility Service Buildings. Public and quasi-public utility service buildings when 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 18-4.14.

- c. Public and Quasi-Public utility service building shall demonstrate:
 - 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.

11. 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 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.

18-3.2.050 Dimensional Regulations

The lot and building dimensions shall conform to the standards in Table 18-3.2.050.

Table 18-3.2.050 Croman Mill District Dimensional Standards ³					
	Croman Mill District Zones				
	NC	MU	OE	CI	OS
Max. Residential Density (units per acre) ⁴					
Without bonus	30	15	-----	-----	-----
With bonus	60	30			
Minimum Lot Size (square feet)					
	-----	-----	20,000	40,000	-----
Minimum Frontage (feet)					
	50	-----	100	100	-----
Minimum Lot Width (feet)					

³ Key to zones: NC = Neighborhood Commercial; MU = Mixed Use; OE = Office Employment; CI = Compatible Industrial; OS = Open Space.

⁴ Density of the development shall not exceed the density established by this standard. Density shall be computed by dividing the total number of dwelling units by the acreage of the project, including land dedicated to the public. Fractional portions shall not apply toward the total density.

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Table 18-3.2.050 Croman Mill District Dimensional Standards³					
	Croman Mill District Zones				
	NC	MU	OE	CI	OS
	50	-----	100	100	-----
Yard Setback (feet)					
Minimum yard abutting a street	2	2	2	2/10 ⁵	-----
Maximum yard abutting a street ⁶	10	10	10	10	-----
Minimum side yard abutting a Residential zone	10	10	-----	-----	-----
Minimum rear yard per story abutting a Residential zone	10	10			
Minimum Landscaping Coverage (% site)					
	15%	15%	15%	10%	-----
Height ⁷					
Minimum number of stories	2	2	2	2 ⁸	-----
Maximum height without bonus, stories/feet	2.5/35	3/40	3/40	3/40	1/20
Maximum height with bonus, stories/feet ⁹	4/50	4/50	5/75	5/75	-----
Solar Access: The solar access setback in chapter 18-4.10 Solar Access does not apply in the Croman Mill District.					
Frontage Build Out on Active Edge Street					
minimum, percent	65	65	65	65	-----
Minimum Floor Area Ratio (FAR) ¹⁰					
	0.60	0.60	0.60	0.50	-----

⁵ Minimum yard in CI Overlay abutting an Active Edge Street is two feet, minimum yard in CI Overlay not abutting an Active Edge Street is ten feet

⁶ Maximum yard requirements shall not apply to entry features such as alcoves, and to hardscape areas for pedestrian activities such as plazas or outside eating areas.

⁷ Solar energy systems and parapets may be erected up to five feet above the calculated building height, and no greater than five feet above the height limited specified by the district.

⁸ Second story shall be a minimum of 20% of the gross floor area.

⁹ In the Residential Buffer Zone, the maximum height with a bonus is 40 feet.

¹⁰ Plazas and pedestrian areas shall count as floor area for the purposes of meeting the minimum Floor Area Ratio (FAR).

18-3.2.060 Site Development and Design Standards

Comment: The following carries forward and edits the existing Croman Mill District Design Standards with no substantive changes.

- A. Street Design and Access.** The design and construction of streets and public improvements shall be in accordance with the Ashland Street Standards, except as otherwise required for the following facilities within the Croman Mill District. A change in the design of a street in a manner inconsistent with the Croman Mill District Street Design Standards requires a minor amendment in accordance with section 18-3.2.020.B.
1. Central Boulevard. The tree-lined boulevards along Siskiyou Boulevard and Ashland Street are an easily identifiable feature of Ashland's boulevard network. Application of this street design to the Central Boulevard will create a seamless boulevard loop, linking the Croman Mill district with downtown Ashland. The Central Boulevard also serves as the front door to the Croman Mill district, creating a positive first impression when entering the district. Options addressing the street configuration and intersection geometry will be evaluated with the final design of the Central Boulevard.
 2. Phased Street Plan. Build-out of the Central Boulevard can be accommodated through a phased development plan.
 - a. Phase I implementation will require:
 - i. Maintain the existing Mistletoe Road alignment from Tolman Creek Road to the northwest corner of the Croman Mill site.
 - ii. Include developer-constructed minor improvements to the existing portion of Mistletoe Road such as a minimum six-foot wide sidewalk on the north side of the street, two 11-foot travel lanes and the addition of a left-turn pocket at the intersection with Tolman Creek Road.
 - iii. A developer-constructed three-lane Central Boulevard from the northwest corner of the district to Siskiyou Boulevard.
 - b. Phase II implementation will require:
 - i. Options addressing the street configuration and intersection geometry will be evaluated with the final design of the Central Boulevard. Final street configuration may involve a modification in the Central Boulevard cross section (e.g. delete on-street parking lanes) to address limitations to right-of-way width (e.g. existing buildings).
 - ii. The alternative Central Boulevard location and realignment of Tolman Creek Road is contingent upon property owner's consent, and future sale and relocation of the existing ODOT maintenance yard.
 3. Tolman Creek Road Realignment. Additional traffic will be generated by the redevelopment of the Croman Mill district. The alternative Central Boulevard location includes the realignment of Tolman Creek Road with the Central Boulevard to discourage non-local through traffic in the Tolman Creek neighborhood and in the Bellview School area. The modifications to the street

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network will preserve neighborhood character and address impacts to the neighborhood by directing traffic away from the neighborhood and Bellview School, and toward the Croman Mill district while maintaining access to Tolman Creek Road for neighborhood-generated trips. Key elements of the realigned Tolman Creek Road include:

- a. Two through traffic lanes and a northbound turn lane.
 - b. New traffic signal.
 - c. Bike lanes.
 - d. Sidewalks separated from auto traffic by landscaping and canopy trees.
 - e. Landscaped neighborhood gateway.
 - f. Evaluation of the intersection alignment of local streets with Tolman Creek Road including Takelma Way, Grizzly Drive and Nova Drive.
4. Local Commercial Streets. Local Commercial Streets provide district circulation to and from employment uses, the Central Park and the neighborhood center.
5. Protected Bike Lane. The protected bike lane runs parallel to the Central Boulevard and connects with the City's existing Central Bike Path in two locations – adjacent to the Central Park and at the neighborhood center. The design of the protected bike lane should include the following elements:
- a. A grade-separated two-way colored bicycle lane buffered from on-street parking by landscaping.
 - b. A sidewalk separated from the bicycle lane by striping, bollard, grade separation or other treatments.
 - c. Tabled intersections.
 - d. Elimination of auto right turns on red at intersections.
 - e. Incorporate rumble strips along the bike lane at the approaches to all intersections.
 - f. Signage, lighting or other treatments to alert drivers, pedestrians and riders approaching intersections.
 - g. Consideration of a bikes-only signal phase at signalized intersections.
6. Multi-use Paths. The multi-use paths provide pedestrian and bicycle connections between the district and adjacent neighborhood, employment and commercial areas. The plan includes extension of the Central Bike Path and establishment of the Hamilton Creek Greenway trail. The Central Bike Path extends the existing multi-use path along the southern edge of the CORP rail line within a 20-foot wide dedicated easement, and serves as a viable commuter route and link to the downtown. The Hamilton Creek Greenway trail provides access to the neighborhood center and an east/west connection across the creek.
7. Accessways. The accessways are intended to balance circulation needs of pedestrians, bicycles and vehicular access, and to preserve the grid that encourages development of a form

that is of human scale and proportion. The accessways would connect the Central Boulevard to the Central Bike Path and allow for shared bicycle, travel lanes, optional on-street parking, and temporary loading zones as necessary to serve development sites.

8. Limited Auto Access Streets. Developments abutting the Central Boulevard and the Central Park shall not have curb cuts through the sidewalk and the protected bike lane on the Limited Auto Access Streets as indicated on the Limited Access Streets map. A modification of a driveway access location in a manner inconsistent with the Croman Mill District Standards requires a minor amendment in accordance with section 18-3.2.020.B.
9. Access – General Standards. Street and driveway access points in the Croman zones shall be limited to the following.
 - a. Distance Between Driveways.
 - On Collector Streets – 75 feet
 - On Local Streets and Accessways – 50 feet
 - b. Distance from Intersections
 - On Collector Streets – 50 feet
 - On Local Streets and Accessways – 35 feet
10. Shared Access. All lots shall provide a shared driveway aisle to abutting parking areas that is at least 20 feet in width. The applicant shall grant a common access easement across the lot. If the site is served by a shared access or alley, access for motor vehicles must be from the shared access or alley and not from the street frontage.
11. On-Street Parking. On-street parallel parking may be required along the Central Boulevard and local streets as indicated on the On-Street Parking map. If on-street parking is required on streets identified on the On-Street Parking map, angled parking and loading zones are prohibited on these streets. Options addressing the street configuration will be evaluated with the final design of the streets identified on the On-Street Parking map.

B. Site and Building Design Standards. The Croman Mill District Design Standards provide specific requirements for the physical orientation, uses and arrangement of buildings; the management of parking; and access to development parcels. Development located in the Croman Mill District shall be designed and constructed consistent with the following Design Standards. Additional design standards apply and are specified for developments located adjacent to an Active Edge Street, or that are located within the NC, MU and OE zones. A site layout, landscaping or building design in a manner inconsistent with the Croman Mill District Design Standards requires a minor amendment in accordance with section 18-3.2.020.B.

Comment: The following reorganizes the building standards applicable to Active Edge Streets. The requirements currently under “Orientation” and “Streetscapes” are consolidated here.

1. Building Orientation and Scale – General Requirements. The following standards apply to all buildings, except the Staff Advisor may waive one or more of the following where a building is

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not adjacent to an Active Edge Street and is not accessed by pedestrians, such as warehouses and industrial buildings without attached offices.

- a. Buildings shall have their primary orientation toward the street rather than the parking area. Building entrances shall be oriented toward the street and shall be accessed from a public sidewalk.
 - b. All front doors must face streets and walkways. Where buildings are located on a corner lot, the entrance shall be oriented toward the higher order street or to the lot corner at the intersection of the streets.
 - d. Buildings on corner lots shall be located as close to the intersection corner as practicable.
 - e. Public sidewalks shall be provided adjacent to a public street along the street frontage.
 - f. Building entrances shall be located within ten feet of the public right of way to which they are required to be oriented. Exceptions may be granted for topographic constraints, lot configuration, designs where a greater setback results in an improved access or for sites with multiple buildings where this standard is met by other buildings. The entrance shall be designed to be clearly visible, functional and shall be open to the public during all business hours.
 - g. Automobile circulation or parking shall not be allowed between the building and the right-of-way.
 - h. Buildings shall incorporate lighting and changes in mass, surface or finish giving emphasis to entrances.
2. Building Orientation and Scale – Additional Requirements Adjacent to Active Edge Street or Within NC, MU or OE Zones. Where development is adjacent to an Active Edge Street or is within a NC, MU or OE zones, it shall conform to the following:
- a. Buildings shall be setback not more than ten (10) feet from a public sidewalk unless addition setback area is used for pedestrian entries, such as alcoves, or for pedestrian activities such as plazas or outside eating areas. This standard shall apply to both street frontages on corner lots. If more than one structure is proposed for a site, at least 65% of the aggregate building frontage shall be within ten (10) feet of the sidewalk.
 - b. Building frontages greater than 100 feet in length shall have offsets, jogs or have other distinctive changes in the building façade.
 - c. Buildings shall incorporate arcades, roofs, alcoves, porticoes and awnings that protect pedestrians from the rain and sun.
 - d. Buildings shall incorporate display areas, windows and doorways as follows. Windows must allow view into working areas or lobbies, pedestrian entrances or displays areas. Blank walls within 30 feet of the street are prohibited.
 - e. At least 50% of the first-floor façade is comprised of transparent openings (clear glass) between three and eight feet above grade.

3. Building Orientation for Within the NC, MU and OE Zones and Not Adjacent to an Active Edge

Street. Any wall that is within 30 feet of the street, plaza or other public open space shall contain at least 20% of the wall area facing the street in display areas, windows, or doorways. Up to 40% of the length of the building perimeter can be exempted for this standard if oriented toward loading or service areas.

4. Parking Areas and On-site Circulation. Except as otherwise required by this chapter, automobile parking, loading and circulation areas shall comply with the requirements of chapter 18-4 Site Development and Design Standards and the following standards:
 - a. Primary parking areas shall be located behind buildings with limited parking on one side of the building, except that parking shall be located behind buildings only where development is adjacent to an Active Edge Street or is within a NC, MU or OE zone.
 - b. Parking areas shall be shaded by deciduous trees, buffered from adjacent non-residential uses and screened from non-residential uses.
 - c. Maximum On-Site Surface Parking. After a parking management strategy for the Croman Mill District is in place, a maximum of 50% of the required off-street parking can be constructed as surface parking on any development site. The remaining parking requirement can be met through one or a combination of the credits for automobile parking in chapter 18-4.4.
5. Streetscapes. One street tree chosen from the street tree list shall be placed for each 30 feet of frontage for that portion of the development fronting the street. Street trees shall meet the standards of chapter 18-4.5 Landscaping and Screening. Developments adjacent to Active Edge Streets, or Within NC, MU and OE zones, shall utilize hardscape (paving material) to designate “people” areas. Sample materials could be unit masonry, scored and colored concrete, pavers or combinations of these materials.
6. Building Materials. Buildings may not incorporate glass as a majority of the building skin, and bright or neon paint colors used extensively to attract attention to the building or use are prohibited.
7. Building Height Standards. All buildings shall have a minimum height, as indicated in the Building Height Requirements map and Table 18-3.2.050 Croman Mill Dimensional Standards, and shall not exceed the maximum height standards in that table, except as approved under subsection 18-3.2.060.C Green Development Standards.
 - a. Street Wall Height: Maximum street wall façade height for the Croman Mill district for all structures located outside the Residential Buffer Zone is 50 feet.
 - b. Upperfloor Setback: Buildings taller than 50 feet must step back upper stories, beginning with the fourth story, by at least six feet measured from the façade of the street wall facing the street, alleyway, public park or open space.
 - c. Residential Buffer Zone: All buildings in the Croman Mill District within the Residential Buffer Zone shall meet the following height standards:
 - i. Maximum Height: The maximum height allowance without a performance standards bonus for all structures within the Residential Buffer Zone is 35 feet in the NCzone and

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- 40 feet in the MU, and the maximum height with a bonus is 40 feet in accordance with subsection 18-3.2.060.C.13.
- ii. Upper Floor Setback Requirements: Buildings taller than two stories must step back the third story by at least six (6) feet measured from the façade facing the street, alleyway, public park or open space.

8. Design of Large-Scale Buildings. Architectural Standards for Large Scale Buildings Located Adjacent to Active Edge Streets, or Within NC, MU and OE Zones: The following architectural standards will apply to all buildings with a gross floor area greater than 10,000 square feet, a façade length in excess of 100 feet or a height taller than 45 feet.
 - a. On upper floors, use windows and/or architectural features that provide interest on all four sides of the building.
 - b. Use recesses and projections to visually divide building surfaces into smaller scale elements.
 - c. Use color or materials to visually reduce the size, bulk and scale of the building.
 - d. Divide large building masses into heights and sizes that relate to human scale by incorporating changes in building masses or direction, sheltering roofs, a distinct pattern of divisions on surfaces, windows, trees and small scale lighting.
 - e. On-site circulation systems shall incorporate a streetscape containing curbs, sidewalks, pedestrian-scale light standards and street trees.

9. Landscaping. In addition to the requirements of chapter 18-4.5 Landscaping and Screening, development shall conform to the following.
 - a. Efforts shall be made to save as many existing healthy trees and shrubs on the site as possible.
 - b. Landscaping design shall utilize a variety of low water use deciduous and evergreen trees and shrubs and flowering plant species as described in subsection 18-4.4.030.H Water Conserving Landscaping.
 - c. For developments in the CI zone and not adjacent to an Active Edge Street, buildings adjacent to streets shall be buffered by landscaped areas at least ten (10) feet in width, unless the area is used for entry features such as alcoves or as hardscape areas for pedestrian activities such as plazas or outside eating areas.
 - d. Loading facilities shall be screened and buffered when adjacent to residentially zoned land.
 - e. Landscaping shall be designed so that 50% coverage occurs after one year and 90% coverage occurs after five years.
 - f. Irrigation systems shall be installed to assure landscaping success.

10. Lighting. Development shall provide adequate lighting, including pedestrian-scale lighting not greater than 14 feet in height along pedestrian pathways. All lighting shall conform to chapter 18-4.6 Light and Glare.

11. Screening Mechanical Equipment. In addition to meeting the requirements of chapter 18-4.5 Landscaping and Screening, all development shall conform to the following.
 - a. Screen rooftop mechanical equipment from public rights-of-way or adjacent residentially

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zoned property through extended parapets or other roof forms that are integrated into the overall composition of the building.

- b. Parapets may be erected up to five feet above the calculated building height, and shall be no greater than five feet above the height limit specified in the district in accordance with the Dimensional Standards Table in section 18-3.2.050.
- c. Screen ground floor mechanical equipment from public rights-of-way and adjacent residentially zoned property.
- d. Solar energy systems are exempt from the standards of a-d, above. Additionally, rooftop solar energy systems may be erected up to five (5) feet above the calculated building height, and shall be no greater than five (5) feet above the height limit specified in the district in accordance Table 18-3.2.050 Dimensional Standards.
- e. Installation of mechanical equipment requires Site Review approval, unless otherwise exempted per chapter 18-5.2.

12. Transit Facilities Standards. The location of planned transit routes within the Croman Mill District shall be defined according to the Croman Mill District Transit Framework map in collaboration with the local transit authority. Transit service facilities such as planned bus rapid transit facilities, shelters and pullouts shall be integrated into the development application consistent with the following standards.

- a. All Large Scale development located on an existing or planned transit route shall accommodate a transit stop and other associated transit facilities unless the Director of Community Development determines that adequate transit facilities already exist to serve the needs of the development; or
- b. Provide the City with a bond or other suitable collateral ensuring satisfactory completion of the transit facilities at the time transit service is provided to the development. Suitable collateral may be in the form of security interest, letters of credit, certificates of deposit, cash bonds, bonds or other suitable collateral as determined by the City Administrator.

13. Freight Rail Spur Easement – Compatible Industrial (CI)

- a. A Rail Spur easement a minimum of 500 feet in length by 25 feet in width shall be set aside at the approximate location presented on the Croman Mill District Transit Framework map.
- b. No buildings or permanent structures can be established within the spur easement so not to preclude installation of a rail spur for freight loading and unloading.
- c. Buildings adjacent to the reserve strip shall be designed and configured to permit loading and unloading.

14. Commuter Rail Platform Easement – Neighborhood Commercial (NC)

- a. A Commuter Rail Platform easement or designated railroad right-of-way a minimum of 400 feet in length and 25 feet in width shall be set-aside at the approximate location presented on the Croman Mill District Transit Plan map.

- b. No building or permanent structure shall be placed within the platform easement or in such a way as to preclude installation of a commuter rail platform or planned bus rapid transit facility.
 - c. Buildings adjacent to the reserve strip shall be designed and configured to permit loading and unloading.
15. Transit Plaza. A location for the transit plaza shall be reserved between the commuter rail platform and commercial uses along the Central Boulevard. The design of the plaza shall include the following elements.
- a. A passenger waiting, loading and unloading area.
 - b. Outdoor gathering space adjacent to commercial uses.
 - c. Accommodate the central bike path.
 - d. Conveniently located and secure bike parking.
16. Open Spaces – Central Park. The purpose of the Central Park is to serve as a public amenity and accommodate the daily needs of employees (e.g. breaks, lunch time) as well as for special events that will attract residents citywide. The Central Park design shall provide a minimum of the following elements.
- a. Circulation through and around the park.
 - b. A centrally located hardscape area to accommodate large gatherings, and of no more than 50% of the total park area.
 - c. Street furniture, including lighting, benches, low walls and trash receptacles along walkways and the park perimeter.
 - d. Simple and durable materials.
 - e. Trees and landscaping that provide visual interest with a diversity of plant materials.
 - f. Irregular placement of large-canopy trees within passive areas adjacent to the Central Boulevard.
 - g. Eight-foot minimum sidewalk width and seven-foot minimum park row width.
 - h. Landscaped swales to capture and treat runoff.
 - i. Porous solid surfacing for at least 50% of the hardscape area, and paving materials that reduce heat absorption (Solar Reflective Index (SRI) of at least 29).
17. Compact Development. New development shall provide a compact development pattern. This standard is met where the site layout enables future intensification of development and changes to land use over time, as applicable. The following measures shall be used to demonstrate compliance with this standard.
- a. The development achieves the required minimum floor area ratio (FAR) and minimum number of stories, or shall provide a shadow plan that demonstrates how development may be intensified over time for more efficient use of land and to meet the required FAR and

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minimum number of stories; and

- b. Opportunities for shared parking are utilized.

C. Green Development Standards. The Croman Mill District Green Development Standards provide specific requirements for the management of stormwater run-off, use and collection of recycled materials, solar orientation and building shading, and conserving natural areas. Development located in the Croman Mill District shall be designed and constructed consistent with the following Green Development Standards. A site layout, landscaping or building design in a manner inconsistent with the Croman Mill District Green Development Standards requires a minor amendment in accordance with section 18-3.2.020.B.

1. Conserve Natural Areas. Development plans shall preserve water quality, natural hydrology and habitat, and preserve biodiversity through protection of streams and wetlands. In addition to the requirements of chapter 18-3.10 Water Resources, conserving natural water systems shall be considered in the site design through application of the following standards.
 - a. Designated stream and wetland protection areas shall be considered positive design elements and incorporated in the overall design of a given project.
 - b. Native riparian plant materials shall be planted in and adjacent to the creek to enhance habitat.
 - c. Create a long-term management plan for on-site wetlands, streams, associated habitats and their buffers.
2. Create Diverse Neighborhoods. Development plans shall use the following measures to encourage diversity in the district by providing a balanced range of housing types that compliment a variety of land uses and employment opportunities.
 - a. Differentiate units by size and number of bedrooms. For developments including more than four dwelling units, at least 25% of the total units shall be designated as rental units.
 - b. Affordable purchase housing provided in accordance with the standards established by section 18-2.5.080 Affordable Housing (Resolution 2006-13) for households earning at or below 80% of the area median income shall apply toward the required percentage of rental housing per subsection 'a', above.
 - c. Units designated as market rate or affordable rental units shall be retained as one condominium tract under one ownership.
3. Design Green Streets. Development plans shall conform to the following standards for Green Streets.
 - a. New streets shall be developed to capture and treat stormwater in a manner consistent with the Croman Mill District Stormwater Management Plan map, the City of Ashland Stormwater Master Plan and Ashland Green Streets Standards.
 - b. All development served by planned Green Streets as designated on the Croman Mill District

Green Street map shall accommodate said facilities by including the same in the development plan; and/or

- c. Provide the City with a bond or other suitable collateral ensuring satisfactory completion of the Green Street(s) at the time full street network improvements are provided to serve the development. Suitable collateral may be in the form of security interest, letters of credit, certificates of deposit, cash bonds, bonds or other suitable collateral as determined by the City Administrator.
4. Design Green Surface Parking. Development of parking areas shall conform to the standards of chapter 18-4.4 Parking and Loading, chapter 18-4.5 Landscaping and Screening, and the applicable provisions of this chapter. In addition, a maximum 25% of the project area shall be used for surface parking to minimize the adverse environmental and microclimatic impacts of surface parking through design and material selection.
5. Stormwater Management. Development shall reduce the public infrastructure costs and adverse environmental effects of stormwater run-off by managing run-off from building roofs, driveways, parking areas, sidewalks and other hard surfaces through implementation of the following standards.
 - a. Design grading and site plans to capture and slow runoff.
 - b. Use pervious or semi-pervious surfaces that allow water to infiltrate the soil.
 - c. Direct discharge storm water runoff into a designated green street and neighborhood storm water treatment facilities.
 - d. Retain rainfall on-site through infiltration, evapotranspiration or through capture and reuse techniques.
6. Recycling Areas. All developments in the Croman Mill District shall provide an opportunity-to-recycle site for use of the project occupants, pursuant to the following standards.
 - a. Commercial developments having a solid waste receptacle shall provide a site of equal or greater size adjacent to or with access comparable to the solid waste receptacle to accommodate materials collected by the local solid waste franchisee under its on-route collection program for purposes of recycling.
 - b. All newly constructed residential units, either as part of an existing development or as a new development, shall provide an opportunity-to-recycle site in accord with the following standards.
 - i. Residential developments not sharing a common solid waste receptacle shall provide an individual curbside-recycling container for each dwelling unit in the development.
 - ii. Residential developments sharing a common solid waste receptacle shall provide a site of equal or greater size adjacent to or with access comparable to the common solid waste receptacle to accommodate materials collected by the local solid waste franchisee under its residential on-route collection program for purposes of recycling.
 - c. Both opportunity-to-recycle sites and common solid waste receptacles shall be screened by

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fencing or landscaping, such as to limit the view of such facilities from adjacent properties or public rights-of-way. Such screening shall consist of placement of a solid wood, metal, or masonry wall from five (5) to eight (8) feet in height. All refuse and recycle materials shall be contained within the refuse area.

7. Minimize Construction Impacts. Construction activity shall minimize pollution and waste generation through the following measures.
 - a. Develop and implement an erosion and sediment control plan to reduce pollution from construction activities by controlling soil erosion, waterway sedimentation and airborne dust generation in accordance with Ashland Public Works Standards. The erosion and sediment control plan shall be submitted with the final engineering for public improvements and building permits.
 - b. Recycle and/or salvage non-hazardous construction and demolition debris in accordance with the Building Demolition Debris Diversion requirements in 15.04.216.C.

Comment: Staff recommends the following edits in consultation with the Water Conservation Analyst to make the potable water reduction standard more measurable. A definition of baseline will be added to the 18-6.

8. Potable Water Reduction for Irrigation. Development plans shall provide water-efficient landscape irrigation designs that reduces ~~by 50%~~ the use of potable water ~~by at least 50% of the baseline~~ after the initial period for plant installation and establishment. Calculations for the reduction shall be based on the water budget, and the water budget ~~Landscape and irrigation design, along with irrigation schedules~~ shall be developed for landscape irrigation that conforms to the mandatory policies in section 18-4.4.030.H Water Conserving Landscaping. Methods used to accomplish the requirements of this section may include, but are not limited to, plant species selection, irrigation efficiency, ~~proper scheduling~~, and use of captured rainwater, recycled water, graywater, and/or water treated for irrigation purposes and conveyed by a water district or public utility.
9. Solar Orientation. In addition to complying with the applicable provisions of section 18-3.2.060.B Building and Site Design, development plans shall incorporate passive and active solar strategies in the design and orientation of buildings and public spaces. When site and location permit, orient the building with the long sides facing north and south.
10. Building Shading. In order to promote energy conservation, development plans shall incorporate shade features as follows.
 - a. Provide horizontal exterior shading devices for south-facing windows to control solar gain during the peak cooling season.
 - b. Provide vertical exterior shading devices for east- and west-facing windows to control solar gain and glare due to low sun angles during the peak-cooling season.
 - c. A combination of horizontal and vertical exterior shading devices may be necessary to control solar gain on southwest- and southeast-facing windows.
11. Recycled Content in Infrastructure. For new streets, driveways, parking lots, sidewalks and curbs, the aggregate materials shall be at least 50% by volume recycled aggregate materials

such as crushed Portland cement concrete and asphalt concrete. Above-ground structured parking and underground parking are exempt from this requirement.

12. Outdoor Lighting. Outdoor lighting, in addition to complying with chapter 18-4.4 Light and Glare, shall use down-shielded light fixtures that do not allow light to emit above the 90-degree plane of the fixture. Lighting fixtures provided to implement Federal Aviation Administration mitigation measures to enhance safe air navigation are exempt from this standard.
13. Performance Standard Bonuses. The permitted building height or base residential density, whichever is applicable, shall be increased by the number of stories or percentage residential density as outlined below. In no case shall the building height or residential density exceed the height and density bonus maximums in the Table 18-3.2.050 Croman Mill Dimensional Standards.
 - a. *Green Building Bonus.* Projects that achieve a high performance green building standard and significantly improve energy performance beyond the current minimum Oregon requirements are eligible for a building height bonus as follows.
 - i. In the event that a building or structure is determined to be meet the standard for LEED® Certified building, the building height may exceed the maximum height specified for the CM zones within the Table 18-3.2.050 Dimensional Standards, through application of a height bonus as follows.
 - (A) A building obtaining LEED® Certification as meeting the LEED® Silver Standard may be increased in height by up to one story.
 - (B) A building obtaining LEED® Certification as meeting the LEED® Gold Standard may be increased in height by up to two stories.
 - (C) A building in the Residential Buffer overlay obtaining LEED® Certification as meeting the LEED® Silver or Gold Standard may be increased in height by ½ story up to a maximum height of 40 feet.
 - (D) Applications to increase the building height in excess of the maximum permitted height through the application of a height bonus shall address any conditional determination by the Federal Aviation Administration requesting air navigation safety mitigation measures.
 - ii. *Demonstration of Achieving LEED® Certification.* Projects awarded a height bonus pursuant to this section, shall provide the City with satisfactory evidence of having completed the following steps in the process toward demonstrating achievement of LEED® certification.
 - (A) Hiring and retaining a LEED® Accredited Professional as part of the project team throughout design and construction of the project.
 - (B) Developments seeking a height bonus shall provide documentation with the planning application, and prior to issuance of a building permit, that the proposed development as designed and constructed will meet or exceed the equivalent

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LEED® standard relating to the height bonus awarded.

(C) A final report shall be prepared by the LEED® Accredited Professional and presented to the City upon completion of the project verifying that the project has met, or exceeded, the LEED® standard relating to the height bonus awarded.

(D) The report shall produce a LEED® compliant energy model following the methodology outlined in the LEED® rating system. The energy analysis done for the building performance rating method shall include all energy costs associated with the building project.

- b. *Structured Parking Bonus.* A building may be increased by up to one story in height when the corresponding required parking is accommodated underground or within a private structured parking facility, subject to building height limitations for the zoning district.
 - c. *Affordable Housing Bonus.*
 - i. For every percent of units that are affordable, an equivalent percentage of density bonus shall be allowed up to a maximum bonus of 100%.
 - ii. Affordable housing bonus shall be for residential units that are affordable for moderate-income persons in accordance with the standards established by section 18-2.5.080 Affordable Housing (Resolution 2006-13), and guaranteed affordable through procedures contained therein.
14. Employment Density. To promote transit supportive development, efficient use of employment zoned lands and local economic vitality, it is recommended that developments within the Croman Mill District are planned to accommodate employment densities as follows.
- a. 60 employees per acre in the Office Employment (OE) zone.
 - b. 25 employees per acre in the Compatible Industrial (CI) zone.
 - c. 25 employees per acre in the Mixed Use (MU) zone.
 - d. 20 employees per acre in the Neighborhood Center (NC) zone.

18-3.2.070 Open Space Zone

All projects containing land identified as Open Space on the Croman Mill District Land Use Zoning map shall dedicate those areas as common areas or public open space. It is recognized that the master planning of the properties as part of the Croman Mill Site Redevelopment Plan imparted significant value to the land, and the required dedication of those lands within the Croman Mill district for open space and conservation purposes is proportional to the value bestowed upon the property through the change in zoning designation.

Chapter 18-3.3 – Health Care Services

Sections:

18-3.3.010	Purpose
18-3.3.020	Applicability
18-3.3.030	Permitted Uses
18-3.3.040	Conditional Uses
18-3.3.050	General Regulations
18-3.3.060	Other Regulations

Comment: The provisions of 18.54 HC zone are carried forward.

18-3.3.010 Purpose

This district is designed to provide the type of environment suitable for the development of health related services and residential uses, and related activities, while reducing the conflicts between uses through appropriate design.

18-3.7.020 Applicability

This chapter applies to properties designated as HC on the City of Ashland Zoning Map.

18-3.3.030 Permitted Uses

The following uses and their accessory uses are permitted outright:

- A. Residential 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, dietitians, 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 of Ashland by ordinance.

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18-3.3.040 Conditional Uses

The following uses and their accessory uses are permitted when authorized in accordance with the chapter on Conditional Use Permits:

- A. Limited personal service providers in the home, such as beauticians and masseurs.
- B. Travelers' accommodations, subject to the requirements of the R-2 zone.
- C. Professional offices for an accountant, architect, attorney, designer, engineer, insurance agent or adjuster, investment or management counselor or surveyor.
- D. Any medically related use, located on City-owned property that is not specifically allowed by the Ashland Community Hospital Master Facility Plan.
- E. Wireless Communication Facilities authorized pursuant to chapter 18-4.14.

18-3.3.050 General Regulations

- A. Minimum lot area: Minimum lot area shall be 5,000 square feet.
- B. Minimum lot width: Minimum lot width shall be 50 feet.
- C. Minimum lot depth: All lots shall have a minimum depth of 80 feet. No lot depth shall be more than two and one-half times its width.
- D. Standard yard requirements:
 - 1. Front yard, twenty (20) feet
 - 2. Side yards (interior), six (6) feet
 - 3. Street-Side yard/side yard abutting a public street, ten (10) feet.
 - 4. Rear yard, ten (10) feet, plus ten (10) feet for each story in excess of one story.
- E. Special Yards - distances between buildings.
 - 1. The distance between any principal building and accessory building shall be a minimum of ten (10) feet.
 - 2. An inner court providing access to a double-row dwelling group shall be a minimum of twenty (20) feet.
- F. Maximum height: No structure shall be over thirty-five (35) feet in height.
- G. Maximum coverage: Maximum lot coverage shall be 65%.
- H. Solar Access. In addition to the above minimum requirements, compliance with chapter 18-4.10 Solar Access is required.

18-3.3.060 Other Regulations

Where other Ashland Municipal Code regulations do not refer to the HC zone, the standards for the R-2

18-3.3 – Health Care Services District

zone (chapter 18-2) shall apply.

18-3.4 – NM - North Mountain Neighborhood

Chapter 18-3.4 – North Mountain Neighborhood

18-3.4.010	Purpose
18-3.4.020	Applicability
18-3.4.030	General Regulations
18-3.4.040	Neighborhood Central Zone NM-C
18-3.4.050	Neighborhood Core Zone NM-MF
18-3.4.060	Neighborhood General Zone NM-R-1-5
18-3.4.070	Neighborhood Edge Zone NM-R-1-7.5
18-3.4.080	Civic Spaces Zone NM-Civic
18-3.4.090	Open Spaces Zone NM-O
18-3.4.100	North Mountain Greenway Zone NM-G
18-3.4.110	Site Plan and Architectural Review Procedure
18-3.4.120	Site Development and Design Standards

Comment: The following carries forward and edits the existing provisions of 18.50 and the NM Site Design and Use Standards, with no substantive changes. Definitions are relocated to 18-6. The word “overlay” replaces “zone” throughout the chapter to provide clarity and consistency in terminology throughout the ULUO. The term overlay was previously used to designate the seven zones within the North Mountain district (e.g. Neighborhood Central overlay, Neighborhood Core overlay). In the ULUO, the zone designations are changed to Neighborhood Central zone, Neighborhood Core zone, etc.

18-3.4.010 Purpose

This district is designed to provide an environment suitable for traditional neighborhood living, working, and recreation. The NM district and Neighborhood Plan is a blueprint for promoting a variety of housing types, mixed-use developments, neighborhood oriented businesses and community services in a manner which enhances property values and preserves open spaces and significant natural features.

18-3.4.020 Applicability

Comment: This section replaces and updates 18.30.110 Applicability of Other Sections of the Land Use Ordinance.

This chapter applies to properties designated as NM on the City of Ashland Zoning Map, and pursuant to the North Mountain Neighborhood Plan adopted by Ordinance #2800 (April, 1997). Development located within the NM district is required to meet all applicable sections of this ordinance, except as otherwise provided in this chapter; where the provisions of this chapter conflict with comparable standards described in any other ordinance, resolution or regulation, the provisions of the North Mountain Neighborhood district shall govern.

18-3.4.030 General Regulations.

A. Conformance with North Mountain Neighborhood Plan. Land uses, streets, alleys and pedestrian/bicycle access ways shall be located in accordance with those shown on the North Mountain Neighborhood Plan adopted by Ordinance No. 2800.

B. Amendments. Major and minor amendments to the North Mountain Neighborhood Plan shall comply with the following procedures:

1. Major and Minor Amendments.

a. Major amendments are those that result in any of the following:

- i. A change in land use.
- ii. A change in the street layout plan that requires a street to be eliminated or to be located in such a manner as to not be consistent with the neighborhood plan.
- iii. A change in the North Mountain Neighborhood Design Standards.
- iv. A change in planned residential density.
- v. A change not specifically listed under the major and minor amendment definitions.

b. Minor amendments are those that result in any of the following:

- i. Changes related to street trees, street furniture, fencing, or signage.
- ii. A change in the street layout that requires a local street, alley, easement, pedestrian/bicycle accessway or utility to be shifted more than 50 feet in any direction, as long as the change maintains the connectivity established by the neighborhood plan.

2. Major Amendment Type II Procedure. A major amendment to the neighborhood plan shall be processed as a Type II planning action concurrently with specific development proposals. In addition to complying with the standards of this section, findings must demonstrate that:

- a. The proposed modification maintains the connectivity established by the neighborhood plan;
- b. The proposed modification furthers the design and access concepts advocated by the neighborhood plan, including but not limited to pedestrian access, bicycle access, and de-emphasis on garages as a residential design feature;
- c. The proposed modification will not adversely affect the purpose, objectives, or functioning of the neighborhood plan;
- d. The proposed modification is necessary to adjust to physical constraints evident on the property, or to protect significant natural features such as trees, rock outcroppings, wetlands, or similar natural features, or to adjust to existing property lines between project boundaries.

3. Minor Amendment Type I Procedure. A minor amendment to the neighborhood plan may be approved as a Type I planning action concurrently with specific development proposals. The request for a minor amendment shall include findings that demonstrate that the change will not adversely affect the purpose, objectives, or functioning of the neighborhood plan.

C. Utilities. Utilities shall be installed underground to the greatest extent feasible. Where possible, alleys shall be utilized for utility location, including transformers, pumping stations, etc.

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- D. Lots With Alley Access.** If an alley serves the site, access and egress for motor vehicles shall be to and from the alley. In such cases, curb openings along the street frontage are prohibited.
- E. Streets, Alleys and Pedestrian/Bicycle Accessways.** Streets, alleys, and pedestrian/bicycle accessways shall be improved as designated in the North Mountain Neighborhood Design Standards.
- F. Minimum Density.** Proposals resulting in the creation of additional parcels or greater than three units on a single parcel shall provide for residential densities between 75 to 110 percent of the base density for a given zone, unless reductions in the total number of units is necessary to accommodate significant natural features, topography, access limitations or similar physical constraints. (Proposals involving the development of neighborhood commercial businesses and services shall be exempt from the above requirements).
- G. Density Transfer.** Density transfer within a project from one zone to another may be approved if it can be shown that the proposed density transfer furthers the design and access concepts advocated by the neighborhood plan, and provides for a variety of residential unit sizes, types and architectural styles.
- F. Drive-Up Uses.** Drive-Up uses are not permitted within the North Mountain Neighborhood Plan area.
- G. Performance Standards Overlay.** All applications involving the creation of three or more lots shall be processed under chapter 18-3.8 Performance Standards Option.
- H. Fencing.** No fencing exceeding three feet in height shall be allowed in the front lot area between the structure and the street. No fencing shall be allowed in areas designated as Floodplain Corridor.
- I. Adjustment of Lot Lines.** As part of the approval process for specific development proposals, adjustments to proposed lot lines may be approved consistent with the density standards of the applicable zone, as designated by the North Mountain Neighborhood Plan.

18-3.4.040 Neighborhood Central Zone NM-C

- A. Permitted Density.** The density shall be computed by dividing the total number of dwelling units by the acreage of the project, including land dedicated to the public. Fractional portions of the answer shall not apply towards the total density. Base density for the Neighborhood Central zone shall be 20 units per acre, however, units of less than 500 square feet of gross habitable area shall count as 0.75 units for the purposes of density calculations.
- B. Off-Street Parking.** In all areas within the Neighborhood Central zone, all uses are not required to provide off-street parking or loading areas, except for residential uses where one space shall be provided per residential unit. All parking areas shall comply with the Off-Street Parking chapter and the Site Review chapter.
- C. Area, Yard Requirements.** There shall be no minimum lot area, lot coverage, front yard, side yard or rear yard requirement, except as required under the Off-Street Parking chapter or where required by the Site Review chapter.

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- D. Solar Access.** Chapter 18-4.10 Solar Access shall not apply in the Neighborhood Central zone.
- E. Permitted Uses.** The following uses are permitted in the NM-C zone subject to conditions limiting the hours and impact of operation.
1. Residential Uses, subject to the above density requirements
 2. Home Occupations
 3. Parks and Open Spaces
 4. Agriculture
 5. Neighborhood Oriented Retail Sales and Personal Services, with each building limited to 3,500 square feet of total floor area.
 6. Professional Offices, with each building limited to 3,500 square feet of total floor area
 7. Restaurants
 8. Manufacturing 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
 9. Basic Utility Providers, such as telephone or electric providers, with each building limited to 3,500 square feet of total floor area
 10. Community Services, with each building to 3,500 square feet of total floor area
 11. Churches or Similar Religious Institutions, when the same such use is not located on a contiguous property, nor more than two such uses in a given zone
 12. Neighborhood Clinics, with each building limited to 3,500 square feet of total floor area
- F. Conditional Uses.** The following uses are allowed subject to approval of a conditional use permit.
1. Temporary Uses
 2. Public Parking Lots

Comment: Staff suggests increasing the lot coverage in the commercial core to 85% which is comparable to the commercial (C-1) and employment (E-1) zones in other areas of the city.

- G. Lot Coverage.** Maximum lot coverage shall be ~~seventy-five~~ **eighty-five (85) percent**.

18-3.4.050 Neighborhood Core Zone NM-MF

- A. Permitted Density.** The density shall be computed by dividing the total number of dwelling units by the acreage of the project, including land dedicated to the public. Fractional portions of the answer shall not apply towards the total density.
1. Base density for the Neighborhood Core zone shall be 12.0 units per acre; however, units of less than 500 square feet of gross habitable area shall count as 0.75 units for the purposes of density calculations.
 2. Subdivisions or multi-family developments shall be developed, or shall not preclude further

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development, in accordance with the minimum density standard in subsection 18-3.4.020.D.

B. Off-Street Parking. In all areas within the Neighborhood Core zone, off-street parking shall be provided in accordance with chapter 18-4.4 Parking and Loading.

C. Yard Requirements

1. **Front Yards.** Front yard setbacks shall be a minimum of ten (10) feet and a maximum of twenty-five (25) feet, excluding garages. Front yards may be reduced to five (5) feet for unenclosed porches with a minimum depth of six (6) feet and a minimum width of eight (8) feet. Garages shall be setback a minimum of fifteen (15) feet from the front building facade and twenty (20) feet from the sidewalk. No greater than 50 percent (50%) of the total lineal building facade facing the street shall consist of garage, carport or other covered parking space.
2. **Side Yards.** Side yard setbacks shall be a minimum of five (5) feet for the first story, excluding half-stories and upper floor dormer space, five (5) feet for each additional story, and ten (10) feet when abutting a public street. Single story, detached garages and accessory structures shall have a minimum three (3) foot side yard, except that no side yard is required for accessory buildings sharing a common wall.
3. **Rear Yards.** Ten (10) feet per story, with the exception of upper floor dormer space, which may be setback fifteen (15) feet. Single story, detached garages and accessory buildings, and two story accessory buildings adjacent to an alley shall have a minimum rear yard of four feet.

D. Lot Coverage. Maximum lot coverage is seventy-five (75) percent

E. Permitted Uses. The follow uses are permitted:

1. Residential Uses, subject to the above density requirements.
2. Home Occupations.
3. Parks and Open Spaces.
4. Agriculture.

18-3.4.060 Neighborhood General Zone NM-R-1-5

A. Permitted Density. The density shall be computed by dividing the total number of dwelling units by the acreage of the project, including land dedicated to the public. Fractional portions of the answer shall not apply towards the total density. Base density for the NM-R-1-5 zone shall be 5.0 units per acre. Accessory Residential Units shall not be included in base density calculations.

B. Off-Street Parking. In all areas within the Neighborhood General zone, off-street parking shall be provided in accordance with the General Regulations of this chapter and the Off-Street Parking chapter.

C. Yard Requirements

1. **Front Yards.** Front yard setbacks shall be a minimum of ten (10) feet and a maximum of twenty-

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five (25) feet, excluding garages. Front yards may be reduced to five (5) feet for unenclosed porches with a minimum depth of six (6) feet and a minimum width of eight (8) feet. Garages shall be setback a minimum of fifteen (15) feet from the front building facade and twenty (20) feet from the sidewalk. No greater than 50 percent (50%) of the total lineal building facade facing the street shall consist of garage, carport or other covered parking space.

2. **Side Yards.** Side yard setbacks shall be a minimum of five (5) feet for the first story, excluding half-stories and upper floor dormer space, five (5) feet for each additional story, and ten (10) feet when abutting a public street. Single story, detached garages and accessory structures shall have a minimum three (3) foot side yard, except that no side yard is required for accessory buildings sharing a common wall.
3. **Rear Yards.** Ten feet per story, with the exception of upper floor dormer space, which may be setback fifteen (15) feet. Single-story, detached garages and accessory buildings, and two story accessory buildings adjacent to an alley shall have a minimum rear yard of four (4) feet.

D. Permitted Uses. The following uses are permitted:

Comment: This draft consolidates permitted and special permitted uses, and incorporates by reference the ARU standards of section 18-2.3.040.

1. Residential Uses, subject to the above density requirements.
2. Home Occupations.
3. Parks and Open Spaces.
4. Agriculture.
5. Accessory Residential Units, subject to the standards in section 18-2.3.040, except that the maximum gross habitable floor area (GHFA) of the accessory residential unit not exceed 50% of the GHFA of the primary residence on the lot, and shall not exceed 750 sq. ft. GHFA, and second story accessory residential units constructed above a detached accessory building shall not exceed 500 sq. ft. GHFA.
6. Community Services, with each building limited to 2,500 square feet of total floor area.

E. Lot Coverage. Maximum allowed lot coverage is fifty (50) percent

18-3.4.060 Neighborhood Edge Zone NM-R-1-7.5

- A. Permitted Density.** The density shall be computed by dividing the total number of dwelling units by the acreage of the project, including land dedicated to the public. Fractional portions of the answer shall not apply towards the total density. Base density for the Neighborhood Edge zone shall be 3.6 units per acre. Accessory Residential Units shall not be included in base density calculations.
- B. Off-Street Parking.** In all areas within the Neighborhood Edge zone, off-street parking shall be provided in accordance with the General Regulations of this chapter and the Off-Street Parking chapter.

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C. Yard Requirements

1. **Front Yards.** Front yard setbacks shall be a minimum of ten (10) feet and a maximum of twenty-five (25) feet, excluding garages. Front yards may be reduced to five (5) feet for unenclosed porches with a minimum depth of six (6) feet and a minimum width of eight (8) feet. Garages shall be setback a minimum of fifteen (15) feet from the front building facade and twenty (20) feet from the sidewalk. No greater than 50 percent (50%) of the total lineal building facade facing the street shall consist of garage, carport or other covered parking space.
2. **Side Yards.** Side yard setbacks shall be a minimum of five (5) feet for the first story, excluding half-stories and upper floor dormer space, five (5) feet for each additional story, and ten (10) feet when abutting a public street. Single story, detached garages and accessory structures shall have a minimum three (3) foot side yard, except that no side yard is required for accessory buildings sharing a common wall.
3. **Rear Yards.** Ten feet per story, with the exception of upper floor dormer space, which may be setback 15 feet. Single story, detached garages and accessory buildings, and two story accessory buildings adjacent to an alley shall have a minimum rear yard of four feet.

D. Permitted Uses. The following uses are permitted:

Comment: This draft consolidates permitted and special permitted uses, and incorporates by reference the ARU standards of section 18-2.3.040.

1. Residential Uses, subject to the above density calculations.
2. Home Occupations.
3. Parks and Open Spaces.
4. Agriculture
5. Accessory Residential Units, subject to the standards in section 18-2.3.040, except that the maximum gross habitable floor area (GHFA) of the accessory residential unit not exceed 50% of the GHFA of the primary residence on the lot, and shall not exceed 750 sq. ft. GHFA, and second story accessory residential units constructed above a detached accessory building shall not exceed 500 sq. ft. GHFA.

F. Floodplain Corridor. Developments including lands within the identified floodplain corridor, including street development, shall comply with the following requirements:

1. A hydrologic study prepared by a geotechnical expert shall be submitted concurrently with specific development proposals indicating the impact of the development on the floodplain corridor, and all efforts to be taken to mitigate negative impacts from flooding in the area of the floodplain corridor and areas of historic flooding.
2. The design of Greenway Drive, as indicated on the neighborhood plan, shall incorporate flood protection measures, as determined by a geotechnical expert, in the overall design of the new street. Such protection measures shall address flooding in the floodplain corridor and in areas of historic flooding.
3. A grading plan for the overall development, indicating grade relationships between the

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development and the floodplain corridor, shall be included with the specific development proposal. A statement shall be included, prepared by a geotechnical expert or licensed surveyor, indicating that the finish grade for all buildable areas outside of the floodplain corridor shall be at or above the Ashland floodplain corridor elevations indicated on the officially adopted city maps.

G. Lot Coverage. Maximum lot coverage is forty-five percent (45%).

18-3.4.070 Civic Spaces Zone NM-Civic

A. General Requirements. Civic spaces identified on the Neighborhood Plan map shall be developed as part of a specific project approval. If the project is proposed to be developed in phases, fifty (50) percent of the area of the Civic Space shall be developed in the first phase with the remainder of the area to be developed prior to building permit issuance for two-thirds (2/3) of the project's units.

B. Permitted Uses of Civic Spaces. The following uses are permitted:

1. Community Services.
2. Recreation and Open Space.
3. Agriculture, including community garden space.

18-3.4.080 Open Spaces Zone NM-O

A. General Requirements. Open spaces identified on the Neighborhood Plan map shall be developed as part of a specific project approval. If the project is proposed to be developed in phases, fifty (50) percent of the area of the Open Space shall be developed in the first phase with the remainder of the area to be developed prior to building permit issuance for two-thirds 2/3 thirds of the project's units.

18-3.4.090 North Mountain Greenway Zone NM-G

A. Applicability. All projects containing land identified on the North Mountain Neighborhood Plan map as part of the North Mountain/Bear Creek Greenway shall dedicate that area so designated to the City of Ashland for park purposes. It is recognized that previous zone changes allowing increases in allowable development density (up-zoning) as part of the North Mountain Neighborhood Plan imparted significant value to properties, and the required dedication of those lands within the North Mountain/Bear Creek Greenway for park purposes is both necessary based on the impacts of planned development and proportional to the value bestowed upon the property through the change in zoning designation.

B. Dedication on Final Survey Plat. The dedication of lands within the North Mountain/Bear Creek Greenway shall be indicated on the final survey plat accompanying all partitions, subdivisions and Performance Standards developments.

C. Development Restrictions. It is recognized that lands within the North Mountain/Bear Creek

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Greenway are identified as part of Ashland's Floodplain Corridor Lands, and are prohibited from further development, except as outlined in the Physical and Environmental Constraints chapter.

- D. Prohibition of Density Transfer.** No transfer of density from lands identified within the North Mountain/Bear Creek Greenway shall be permitted. It is recognized that the up-zoning associated with the North Mountain Neighborhood Plan accommodated such transfers.
- E. Greenway Drive.** The design of Greenway Drive, as indicated on the neighborhood plan, shall incorporate flood protection measures, as determined by a geotechnical expert, in the overall design of the new street. Such protection measures shall address flooding in the floodplain corridor and in areas of historic flooding.

18-3.4.100 Site Plan and Architectural Review Procedure

Comment: The applicability and approval sections are revised for clarity and enforceability.

- A. Applicability.** The following planning applications shall comply with applicable North Mountain Neighborhood Design Standards and all other requirements outlined in the Site Design and Use Standards chapter 18-5.2.
1. Developments Requiring Site Plan Approval under the chapter 18-5.2.
 2. Performance Standards Option Developments. In addition to the submittal requirements for Final Plan approval, per chapter 18-3.8, the applicant shall provide typical elevations incorporating the architectural elements described in the North Mountain Neighborhood Design Standards for all proposed buildings.
 3. Partitions.
- B. Review and Approval Procedure.** All land use applications shall be reviewed and processed in accordance with the applicable procedures of Part 18-5.
- C. Supplemental Approval Criteria.** In addition to the criteria for approval required by other sections of this ordinance, applications within the NM district shall also meet the following criteria:
1. The application demonstrates conformity to the general design requirements of the North Mountain Neighborhood Plan, including density, transportation, building design, and building orientation.
 2. The application complies with the specific design requirements as provided in the North Mountain Neighborhood Design Standards.

18-3.4.110 Site Development and Design Standards

Comment: The following carries forward and revises the existing North Mountain Neighborhood Design Standards. The housing standards are revised to make them clear and objective – changes in the content of the standards is noted in comment boxes below. The background narrative and non-regulatory text has been removed. Definitions will be relocated to 18-6.

- A. Housing.** The following design standards apply to residential developments. While the standards are specific, the intent is not to limit innovative design, but rather provide a framework for clear direction and minimum standards.
1. Architectural Design. The street-facing elevations of residential buildings shall be broken with reveals, recesses, trim elements and other architectural features to avoid the appearance of a blank wall. In addition, at least two (2) of the following design features must be provided along the front of each residence.
 - a. Dormers
 - b. Gables
 - c. Recessed entries

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- d. Covered porch entries
 - e. Cupolas
 - f. Pillars or Posts
 - g. Bay window (min. 12" projection)
 - h. Eaves (min. 6" projection)
 - i. Off-sets in building face or roof (min. 16")
2. Orientation. Dwellings shall be designed with a primary elevation oriented towards a street. Such elevation shall have a front door, framed by a simple porch or portico, porch, or other design feature clearly visible from the street to promote natural surveillance of the street.
 3. Repetitive Elevations. Excessive repetition of identical floor plans and elevations shall be discouraged.
 4. Supplemental Setback Requirements for Garages and Accessory Structures. In addition to the setback requirements of section 18-3.4.020 through 18-3.4.090, the following garage and accessory structure setbacks are required, in order to promote an attractive streetscape where garages and accessory structures are visually subordinate to primary dwellings:
 - a. Where no alleys are present, garages shall be located a minimum of fifteen (15) feet behind the primary façade and a minimum of twenty (20) feet from the sidewalk.
 - b. Garages and accessory structures adjacent to an internal property line (i.e., neighbor's residence) shall maintain a minimum first floor side yard setback of four (4) feet and a second floor setback of six (6) feet, excluding dormers.
 - c. No side yard setback is required ~~where when two (2) or more garages adjoin along are attached by a common wall between the property lines.~~
 - d. Garage or accessory structures accessed from the alley shall have a minimum rear yard setback of four (4) feet. (See Illustration A-6 & 7).
 - e. The maximum allowed width of a garage opening is twenty-two (22) feet. Expansion of the garage's depth is allowed should be considered for additional storage needs.
 - f. Common wall garages (i.e., adjacent garage openings), and dwellings with more than one garage openings, where the total width of adjacent garage openings exceeds twenty-two (22) feet, shall have at least one garage opening recessed behind the other(s) by not less than three (3) feet.

Comment: The following terracing standard is revised to say "shall be minimized" (instead of should be minimized), with the qualified "to the extent practicable."

5. Terracing. Grading for new homes and accessory structures shall be minimized and building designs shall respond to the natural grade, to the extent practicable, pursuant to the following

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guidelines:

- a. Terracing, as shown in Illustration A-8 to the right, should be incorporated into the design of each lot's development. "Terraces" help ease transition between the public and private space.
 - b. In determining whether grading is minimized and building designs are practicable, this standard shall not be interpreted so as to preclude permitted housing at planned densities.
6. Porches. Where practicable, porches shall be incorporated into building designs within the North Mountain Neighborhood, in order to promote a sense of place, socialization, and natural surveillance of the street. Porches shall be large enough to allow at least one person to sit facing the street – eight (8) feet wide – and deep enough to allow a person to stand while the door is opening – six (6) feet deep. Porches with dimensions less than 8' X 6' are often used as storage areas for bike, barbecues, etc., and do not realistically function as "outdoor rooms" (see Illustration A-9).

Comment: The following driveway width standard is revised to say "shall be no greater" (instead of should be no greater), and to state "measured at sidewalk" (instead of at street) because driveway aprons typically extend driveway width at the roadway.

7. Driveways. In order to minimize impervious surfaces, increase opportunities for on-street parking and street trees, and provide a visually attractive streetscape that comfortably accommodates pedestrians, driveways for single dwellings shall be no greater than nine (9) feet wide, measured at the sidewalk. Where no alley is present and garages for multiple dwellings share a common wall (e.g., townhomes), a common driveway twelve (12) feet in width may be used but shall serve as a shared drive for paired garages.

Comment: The current standard for detached accessory residential units (e.g. backyard cottages or garage apartments) is somewhat ambiguous.

"Considerate design and placement standards shall be incorporated into the development of accessory residential units. When adjacent to side property line, the second floor area should be staggered and minimized. However, with the addition of a dormer, this point could be achieved without an additional setback or minimizing the floor area."

The standard below is revised for clarity.

8. Accessory Residential Units. When a detached accessory dwelling unit is adjacent to a residential property:
- a. A visual buffer shall be provided using window placement, a sight obscuring fence and/or vegetation; and
 - b. Within five (5) feet of a side property line, the second floor area of the unit shall be staggered and step-back an additional five (5) feet or contain other detailing, in order to break up the mass of the building. With the addition of a dormer, this standard can be met without the step-back or reduced floor area.

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B. Neighborhood Central. In addition to the following, refer to the site design and development standards of chapter 18-3.

Comment: The following SDUS guidelines are revised for clarity.

1. Transitional Architectural Design. Buildings developed for residential use shall be designed and constructed in a way that allows a simple transition to commercial use, for example, through appropriate floor-to-ceiling heights and location of HVAC and other building systems.
2. Architectural Character. The architectural character of commercial buildings should reflect their importance as a focus of the North Mountain Neighborhood. Rather than taking on a residential appearance, these buildings should emulate a traditional storefront appearance. Ashland has many storefront buildings, which should be looked at for reference but not duplication. These building have a simple and flexible form, yet have a strong architectural identity.
3. Building Setbacks & Height. Buildings shall be built up to the front and side property lines. Along the front, exceptions will be allowed to create courtyards, seating areas for cafes, or other special uses (see Illustration B-3). These areas should be designed to further the activity along the streets. Arcades, awnings, bays, and balconies shall extend over walkways to form a continuous covered walk. In only rare cases should the façade of the second story extend beyond the first floor's front setback.
4. Side Setbacks. A side yard setback should only be considered where the building is adjacent to a residential zone or a pedestrian accessway connects to a rear parking area. A side yard setback accommodating a rear parking area shall only occur at mid-block between two buildings (see Illustration B-4).
5. Transit Facilities. The neighborhood central area will need a transit shelter. The general design of the facility should be consistent with the City's adopted bus shelter design. While transit service is not presently available to the neighborhood, the overall density of the area will ultimately support it, and the integration of the transit shelter within the neighborhood central area will further its use.
6. Mixed Uses. Second story apartments over ground floor shops are encouraged wherever practicable. Bays and balconies are encouraged to provide outlooks and create an articulated rhythm and visual interest (see Illustration B-7).

C. Street Types and Design. Several types of residential streets are planned for in the North Mountain Neighborhood. These streets would extend through the planned area to accommodate not only multi-modal movement, but also a variety of circulation options.

1. Greenway Drive. The Greenway Drive, as shown in Illustration C-1, has a 49-foot right-of-way, which provides for a travel surface of 28 feet, an 8-foot planting strip, and sidewalks on each side. The sidewalk on the residential side is 5 feet and on the side of the Bear Creek Greenway an 8-foot sidewalk is shown. In cases where medians are identified on the North Mountain Neighborhood Plan, the median width shall be 8 feet and the two travel lanes 10 feet.
2. Neighborhood Access Street. The primary type of street traversing the neighborhood is the Neighborhood Access Street. This street has a 48-foot right-of-way, which provides for a 15-foot

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travel surface, 7-foot parking bays, and 8-foot planting strips and 5-foot sidewalks on each side (see Illustration C-2).

3. Alleys. One of the most important features making up the neighborhood is the alley. Alleys allow parking to be located at the property's rear and diminish the negative impact of garages proliferating along street frontages, reduces pedestrian and vehicle conflicts at curb-cuts, and reduces impervious hard surface. In addition, homes, instead of garages, fill the street frontages, providing maximum opportunity for social interaction. The alley cross section (C-3), within a 20-foot right-of-way, contains a 12-foot wide improved alley with 4-foot planted or graveled strips or shoulders. The minimum rear setback for garages and accessory structures, including accessory residential units, fronting an alley is 4 feet.
4. Pedestrian Accessways. The Pedestrian Accessway, separate from the Bear Creek multi-use path, provides a direct and convenient alternative route. The accessway, which is contained in a 12-foot right-of-way (C-3) is intended to be similar to the Alice Peil Walkway located off Granite Street.
5. Neighborhood Commercial Street. As a focal point of the North Mountain Neighborhood, the commercial street area should portray a strong "sense of place." This is the place where neighbors will comfortably socialize on the sidewalk or plaza area before and after they patronize neighborhood businesses. The neighborhood's commercial street cross section (C-5) provides for an improved 45-foot wide right-of-way with a 10-foot wide sidewalk, a 17-foot deep parking space (angled 60 degrees), and an 18-foot, one way, travel lane. Street trees planted within the sidewalk and between the parking area and the pedestrian path are also included. The appropriate tree spacing should be no greater than 30 feet.
6. North Mountain Avenue. As the entrance to the neighborhood and the primary access route, North Mountain Avenue shall have significant design components that evoke a welcome and inviting feeling. Illustration C-6 identifies a tree-lined street, which provides, not only an efficient vehicle, bicycle and pedestrian thoroughfare, but also creates an attractive environment.
7. Planter Strips. All development fronting on streets shall be required to plant street trees in accordance with the Street Tree Standards of chapter 18-4.5 Landscaping and Screening. Large stature street trees should be used to provide a canopy effect for residential streets, while smaller stature trees may be more appropriate along alley frontages. The planting strips will also be planted with low lying ground cover and street trees that cantilever over the travel lanes and sidewalks.
8. Street Lighting. North Mountain, East Nevada, Greenway Drive (new), and streets within the Neighborhood Commercial zone shall incorporate pedestrian scaled lighting as shown in the Illustration C-8. Light poles and illuminating fixtures shall be decorative in design and shall be similar in design to the lights on Oak Street, between "A" and "B" Streets. Wherever possible, light poles shall be centered within the planter strips and between street trees to increase illumination cast on the sidewalk and street, and light bollards shall be used to illuminate pedestrian accessways. Lighting fixtures for pedestrian use along residential streets and alley may be attached to building walls, porches, carports or patio walls.
9. Street Furniture. Outdoor hardscape elements such as benches, bollards, trash receptacles, mailboxes, light poles, etc. shall be consistent throughout the project area. The use of treated, stained wood, indigenous stone or rock, exposed aggregate concrete and painted steel is

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acceptable for the construction of street furniture.

D. Open Space and Neighborhood Focal Point.

1. Open Space. A variety of open space types are located within the North Mountain Neighborhood and each type should be designed based upon its environmental impact and benefiting attributes. Open space types within the area include the Bear Creek Floodplain, pocket parks, pedestrian access ways, a commercial common (plaza) and street medians. Each type of open space shall be accessible to the general public at all times. Development of open spaces shall be as follows.
 - a. Except for pedestrian accessways and a small picnic area, use of the Bear Creek Floodplain shall be kept to a minimum. No buildings shall be permitted the area except for a small gazebo type structure associated with the picnic area.
 - b. Whenever possible, pocket parks and pedestrian access ways shall be linked to formulate a more interesting and inevitable alternative. Each should be designed around natural features minimizing their impact, but increasing their appeal. Developments fronting these areas are encouraged as long as vehicular access is from an alley.
 - c. Street medians or small pocket medians shall be designed with large stature trees, shrubs and perennial flowers as an accent (see Illustration D-2). Use of turf shall be minimized wherever possible. An irrigation system shall be installed at the time of plant installation.
 - d. A plaza or commons area, similar to the plaza in the downtown shall be incorporated within the Neighborhood Commercial Zone. The area shall be designed to provide adequate shading for comfortable midday summer use and sunny areas for winter use. Hardscape areas shall be centrally located, but minimized whenever possible. Benches, news racks, kiosks and other street furniture shall be located within the area.
 - e. The area shall enclose and define the central space of the commercial core. The relationship of the maximum height of the surrounding buildings to the width of the plaza area should fall between a 1:1 and 1:5 ratio to assure special definition (see Illustration D-3).
2. Neighborhood Focal Point. The intersection of Greenway Drive and North Mountain Avenue should serve as a neighborhood focal point. Special right-of-way design considerations shall be incorporated into the development of these streets, including but not limited to landscaping, special paving patterns, and a neighborhood monument or gateway. (See Illustration D-4.)

18-3.5 – Southern Oregon University District

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Sections:

18-3.5.010	Purpose
18-3.5.020	Applicability
18-3.5.030	Permitted Uses
18-3.5.040	Conditional Uses

Comment: The following carries forward and edits 18.64. An “Applicability” section is added for consistency with other chapters. The definition of SOU Plan is relocated to 18-6.

18-3.5.010 Purpose

This district is designed to provide for the unique needs of Southern Oregon University (SOU) as a State educational institution functioning within the planning framework of the City. ~~It can be applied to all areas now or hereinafter owned by the State of Oregon acting by and through the State Board of Higher Education, and SOU and located with the SOU boundary, as shown on the SOU Plan, adopted by SOU and approved by the City.~~

18-3.5.020 Applicability

- A. This chapter applies to properties designated as SO on the City of Ashland Zoning Map. The Southern Oregon University (SOU) district implements the Campus Master Plan Update for Southern Oregon University dated April 12, 2010, with all conditions added by the City Planning Commission and City Council, as adopted and incorporated into the Ashland Comprehensive Plan by Ordinance No. 3014 on June 1, 2010. ~~It can be applied to all areas now or hereinafter owned by the State of Oregon acting by and through the State Board of Higher Education, and SOU and located with the SOU boundary, as shown on the SOU Plan, adopted by SOU and approved by the City.~~
- B. This chapter, together with chapters 18-5.2 Site Review, 18-4.4 Off-Street Parking, and 18-4.9 Signs are the only portions of this ordinance to be effective within the SOU zone; except that areas within fifty (50) feet of privately owned land are subject to chapter 18-5.4 Conditional Use Permits. In addition, the creation or vacation of public streets or public ways shall be subject to mutual agreement between the City and SOU and all other applicable laws.

18-3.5 – Southern Oregon University District

18-3.5.030 Permitted Uses

Permitted uses are as follows:

- A. Uses permitted outright are all those which are directly related to the educational functions of SOU, provided that such uses are indicated and located in conformance with the adopted and City approved SOU Plan, and are greater than fifty (50) feet from privately owned property.
- B. Wireless Communication Facilities authorized pursuant to chapter 18-4.14.

18-3.5.040 Conditional Uses

Uses subject to approval of a conditional use permit, per chapter 18-5.4, are as follows:

- A. Any use, site design, or construction or alteration of same not agreed upon in advance by the City and SOU in the SOU Plan.
- B. Any use, site design, or construction within fifty (50) feet of privately owned property.
- C. Any construction over forty (40) feet in height.
- D. Wireless Communication Facilities not permitted outright and authorized pursuant to chapter 18-4.14.

Chapter 18-3.6 Airport Overlay

Sections:

18-3.6.010	Purpose
18-3.6.020	Applicability
18-3.6.030	Airport Overlay Regulations

Comment: The following carries forward and edits the existing provisions of 18.56.030.

18-3.6.010 Purpose

The Airport Overlay is intended to be applied to properties that lie within close proximity to the Ashland Airport where aircraft are likely to be flying at relatively low elevations. Further, the zone is intended to prevent the establishment of airspace obstructions in such areas through height restrictions and other land use controls. Application of the overlay zone does not alter the requirements of the parent zone except as specifically provided herein.

18-3.6.020 Applicability

This chapter applies to properties located in the Airport Overlay (A) on the City of Ashland Zoning map. In addition to the provisions of this title, the requirements of section 18-3.6.030 apply within the A Overlay.

18-3.6.030 Airport Overlay Regulations

- A. Residential uses are not permitted, unless approved pursuant to chapter 18-5.4 Conditional Use Permits.
- B. Maximum height of structures, trees or other airspace obstructions shall be twenty (20) feet.
- C. All planning actions will require, as a condition of approval that the applicant sign an agreement with the City agreeing that airport noise is likely to increase in the future and that they waive all rights to complain about airport noise.
- D. The City may top any tree that is in excess of those maximum heights listed in section 18-3.6.030.B, or locate appropriate lights or markers on those trees as a warning to the operators of aircraft.
- E. No use shall be made of land or water within any of this zone in such a manner as to create electrical interference with navigational signals or radio communication between airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, or otherwise create a hazard which may in any way endanger the landing, takeoff, or maneuvering of aircraft using the airport.

18-3.7 – Freeway Sign Overlay (FS)

Chapter 18-3.7 Freeway Sign Overlay

Sections:

- 18-3.7.010 Purpose
- 18-3.7.020 Applicability
- 18-3.7.030 Freeway Sign Overlay Regulations

Comment: The following carries forward and edits the existing provisions of 18.96.100.

18-3.7.010 Purpose

The Freeway Sign Overlay provides for and regulates certain ground signs that identify businesses in commercial districts located at freeway interchanges.

18-3.7.020 Applicability

This chapter applies to properties located in the Freeway Sign Overlay (FS) on the City of Ashland Zoning Map. In addition to the provisions of chapter 18-4.9 Sign Regulations, the requirements of section 18-3.7.030 apply within the FS Overlay.

18-3.7.030 Freeway Sign Overlay Regulations

The following regulations apply within the FS Overlay:

1. One freeway sign shall be permitted for each lot in addition to the signs allowed by chapter 18-4.9 Signs.
2. Signs shall not exceed an area of one hundred (100) square feet per sign.
3. Signs shall not exceed a height of 2,028 feet above mean sea level.

Chapter 18-3.8 – Performance Standards Option and PSO Overlay

Sections:

18-3.8.010	Purpose and Intent
18-3.8.020	Applicability
18-3.8.030	PSO Overlay
18-3.8.040	Review Procedures and Criteria Procedure for Approvals
18-3.8.050	Performance Standards for Residential Developments
18-3.8.050	Street Standards
18-3.8.060	Parking Standards
18-3.8.070	Setbacks and Lot Coverage
18-3.8.080	Performance Standards Guidelines

Comment: This chapter is carried forward from chapter 18.88, edited, and reordered for a more logical flow. The street standards apply to all development in the city and as a result, are relocated to the street standards in 18-4. Definitions for Performance Standards are relocated to 18-6.

18-3.8.010 Purpose

The purpose of this chapter is to allow an option for more flexible design than is permissible under the conventional zoning codes. The design should stress energy efficiency, architectural creativity and innovation; use the natural features of the landscape to their greatest advantage; provide a quality of life equal to or greater than that provided in developments built under the standard zoning codes; be aesthetically pleasing; provide for more efficient land use; and reduce the impact of development on the natural environment and neighborhood.

18-3.8.020 Applicability

Comment: The following carries forward 18.88.100. The Performance Standards option can be used to divide property larger than two acres per the current code or that has environmental constraints (see 18.3.8.070.D). As a result, language was added clarifying that the Performance Standard option can be used for both residential and non-residential land divisions.

Developments exercising the Performance Standards option, including developments that are required to apply the option pursuant to this ordinance, shall meet the provisions of this chapter and all other applicable sections of this ordinance; except that developments subject to this chapter are not required to meet the minimum lot size, lot width, lot depth and setback standards of Part 18-2, and other standards as specifically provided by this chapter. **The Performance Standards option may be used to divide residential and non-residential zoned land.** ~~All public improvements and commonly owned areas in a Performance Standards development shall follow the same procedure as a subdivision for bonding.~~

18-3.8 – Performance Standards Option and PSO Overlay

18-3.8.030 PSO-Overlay

Comment: The following carries forward and edits 18.88.080. An statement referencing overlay as shown on the zoning map is added for clarity and consistency.

- A. Purpose.** The purpose of the PSO overlay is to distinguish between those areas that have been largely developed under the subdivision code, and those areas, which, due to the undeveloped nature of the property, sloping topography, or the existence of vegetation or natural hazards, are more suitable for development under Performance Standards.
- B. Applicability.** This chapter applies to properties located in the Performance Standards Option Overlay (PSO) as depicted on the City of Ashland Zoning Map. All developments in PSO overlay, other than partitions and development of individual dwelling units, shall be processed under chapter 18-3.8. The minimum number of dwelling units for a Performance Standards Subdivision within residential zoning districts is three (3).
- C. Permitted Uses.** In a PSO overlay, the granting of the application shall be considered an outright permitted use, subject to review by the Commission for compliance with the standards set forth in this ordinance and the guidelines adopted by the Council.
- D. Development Outside PSO-overlay.** If a parcel is not in a PSO overlay, then development under this chapter may only be approved if one or more of the following conditions exist:
1. The parcel is larger than two acres and is greater than 200 feet in average width; or
 2. That development under this chapter is necessary to protect the environment and the neighborhood from degradation which would occur from development to the maximum density allowed under subdivision standards, or would be equal in its aesthetic and environmental impact; or
 3. The property is zoned R-2, R-3 or CM.

18-3.8.040 Review Procedures and Criteria Procedure for Approvals

Comment: The following is carried forward from 18.88.030. This section has been reordered for better flow, but the content is not changed.

Review Steps. There are two required steps to Performance Standards Options and PSO Overlay approval, which may be completed individually or combined for concurrent review pursuant to 18.3.8.040.A:

1. Application for outline plan approval; and
2. Application final plan approval.

Permitting and guarantees for public improvements, including bonding, and the creation of common areas shall follow the same procedures as for a subdivision.

18-3.8 – Performance Standards Option and PSO Overlay

A. Outline Plan. A proposed Outline Plan shall accompany applications for subdivision approval under this chapter. For developments of fewer than 10 lots, the Outline Plan may be filed concurrently with the Final Plan, as that term is defined in 18-3.8.040.B.4. For developments of 10 or more lots, prior Outline Plan approval is mandatory.

1. **Review Procedure.** A Type II procedure, as defined in this ordinance, shall be used for the approval of the outline plan.
2. **Contents Application Submission Requirements.** ~~The contents for an outline plan shall be as follows.~~ The following information is required for a Performance Standards Subdivision Outline Plan application submittal:
 - a. A topographic map showing contour intervals of five (5) feet.
 - b. The proposed land uses and approximate locations of the existing buildings to be retained, the proposed structures on the site, the proposed and existing property lines and easements on the site, and existing buildings, structures, and trees greater than six (6) inches in diameter measured at breast height on the properties adjacent to the site, and all buildings within one hundred sixty (160) feet of the site boundaries.
 - c. The locations of all proposed thoroughfares, walkways, and parking facilities.
 - d. Public uses, including schools, parks, playgrounds, open spaces and trails.
 - e. Public or private utilities.
 - f. General areas of cuts and fill.
 - g. The location of natural features such as rock outcroppings, marshes, wooded areas, and isolated preservable trees.
 - h. The location and direction of all watercourses and areas subject to flooding.
 - i. Plans shall indicate building envelopes for all proposed lots, which show the area and maximum height of improvements, including solar access and view protection where required.

Comment: Elevation wording is simplified for clarity. Elevations are not required for nonresidential structures at the subdivision stage because more detailed elevations and building design is addressed through the required Site Review process.

- j. ~~Elevation drawings of all typical proposed structures except single-family, detached residences which meet parent zone setback requirements.~~ Elevations of typical proposed residential structures. Elevations should be to scale and should include the approximate dimensions of the proposed structures and all attached exterior hardware for heating and cooling.
- k. A written statement containing an explanation of:
 - i. The character of the proposed development and the manner in which it has been designed to take advantage of the Performance Standards concept.
 - ii. The proposed manner of financing.

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- iii. The present ownership of all the land included within the development.
 - iv. The method proposed to maintain common open areas, buildings and private thoroughfares.
 - v. The proposed time schedule of the development.
 - vi. The findings of the applicant showing that the development meets the criteria set forth in this ordinance and the Ashland Comprehensive Plan.
4. Approval Criteria for Outline Plan. The Planning Commission shall approve the outline plan when it finds the following criteria have been met:
- a. The development meets all applicable ordinance requirements of the City of Ashland.
 - b. Adequate key City facilities can be provided including water, sewer, paved access to and through the development, electricity, urban storm drainage, police and fire protection and adequate transportation; and that the development will not cause a City facility to operate beyond capacity.
 - c. The existing and natural features of the land; such as wetlands, floodplain corridors, ponds, large trees, rock outcroppings, etc., have been identified in the plan of the development and significant features have been included in the open space, common areas, and unbuildable areas.
 - d. The development of the land will not prevent adjacent land from being developed for the uses shown in the Comprehensive Plan.
 - e. There are adequate provisions for the maintenance of open space and common areas, if required or provided, and that if developments are done in phases that the early phases have the same or higher ratio of amenities as proposed in the entire project.
 - f. The proposed density meets the base and bonus density standards established under this chapter.
 - g. The development complies with the Street Standards.

Comment: The following language is deleted (~~shown in strikeout~~) because it repeats basic information covered in the Part 5 Procedures.

5. Approval of the Outline Plan.

~~a. To the extent allowed by statute, the Planning Commission may extend the public hearing to gather more information.~~

~~a. The Planning Commission may approve or disapprove the outline plan and application or require changes, or impose conditions of approval that it finds necessary to conform to the standards of this ordinance and the purpose of this chapter. Approval of the Outline Plan and application, and conditions of approval are final to all issues resolved at that time unless appealed.~~

a. After the City approves an outline plan, ~~which has had a public hearing, is approved~~ and

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adopts any zone change necessary for the development, the developer may then file a final plan in phases or in its entirety. ~~However, a final plan may not be filed until the Council adopts any zone change necessary for the development.~~

- b. If an outline plan is phased, fifty (50%) percent of the value of the recreational amenities shall be provided in the first phase and all recreational amenities shall be provided when two-thirds (2/3) of the units are finished.

B. Final Plan

1. ~~Procedure for approval~~ Review Procedure. Type I procedure, as defined in this Title, shall be used for approval of final plans, unless an outline plan has been filed, in which case Type II procedure shall be used, and the criteria for approval of an outline plan shall also be applied.
2. Phasing. The final plan may be filed in phases as approved on the outline plan.
3. Expiration. If the final plan or the first phase of the outline plan is not approved within eighteen (18) months from the date of the approval of the outline plan, then the approval of the plan is terminated and void and of no effect whatsoever. Extensions may be granted as a Type I procedure.
4. ~~Contents~~ Application Submission Requirements. ~~The following information is required for a Performance Standards Subdivision Final Plan application submittal. The final plan shall contain a scale map or maps and a written document showing the following for developments:~~
 - a. A topographic map showing contour intervals of five (5) feet
 - b. Location of all thoroughfares and walks, their widths and nature of their improvements, and whether they are to be public or private
 - c. Road cross-sections and profiles, clearly indicating the locations of final cuts and fills, and road grades
 - d. The location, layout, and servicing of all off-street parking areas
 - e. The property boundary lines
 - f. The individual lot lines of each parcel that are to be created for separate ownership
 - g. The location of easements for water line, fire hydrants, sewer and storm sewer lines, and the location of the electric, gas, and telephone lines, telephone cable and lighting plans
 - h. Landscaping and tree planting plans with the location of the existing trees and shrubs which are to be retained, and the method by which they are to be preserved
 - i. Common open areas and spaces, and the particular uses intended for them
 - j. Areas proposed to be conveyed, dedicated, reserved or used for parks, scenic ways, playgrounds, schools or public buildings
 - k. A plan showing the following for each existing or proposed building or structure for all sites except single-family, detached housing which meets the parent zone setbacks:
 - i. Its location on the lot and within the Planned Unit Development

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- ii. Its intended use
 - iii. The number of dwelling units in each residential building
 - iv. Plans shall indicate building envelopes for all proposed lots, which show the area and maximum height of improvements, including solar access and view protection where required.
 - l. **Elevation drawings of all typical proposed structures except single-family, detached residences which meet parent zone setback requirements. Elevations of typical proposed residential structures.** Elevations should be to scale and should include the approximate dimensions of the proposed structures and all attached exterior hardware for heating and cooling.
 - m. Manner of financing
 - n. Development time schedule
 - o. If individual lots are to be sold, a final plat is required, similar to that required for a subdivision, per chapter 18-5.3.
 - p. Final plans for location of water, sewer, drainage, electric and cable T.V. facilities, and plans for street improvements and grading or earth-moving improvements.
 - q. The location of all trees over six (6) inches diameter at breast height, which are to be removed by the developer. Such trees are to be tagged with flagging at the time of Final Plan approval. See also, chapter 18-4.13 Tree Preservation and Protection.
5. ~~Criteria for Final Plan Approval~~ **Approval Criteria for Final Plan.** Final Plan approval shall be granted upon finding of substantial conformance with the Outline Plan. ~~Nothing in this provision shall limit reduction in the number of dwelling units or increased open space provided that, if this is done for one phase, the number of dwelling units shall not be transferred to another phase, nor the open space reduced below that permitted in the outline plan.~~ This substantial conformance provision is intended solely to facilitate the minor modifications from one planning step to another. Substantial conformance shall exist when comparison of the outline plan with the final plan **meets all of the following criteria** ~~shows that:~~
- a. The number of dwelling units vary no more than ten (10%) percent of those shown on the approved outline plan, but in no case shall the number of units exceed those permitted in the outline plan.
 - b. The yard depths and distances between main buildings vary no more than ten (10%) percent of those shown on the approved outline plan, but in no case shall these distances be reduced below the minimum established within this Title.
 - c. The open spaces vary no more than ten (10%) percent of that provided on the outline plan.
 - d. The building size does not exceed the building size shown on the outline plan by more than ten (10%) percent.
 - e. The building elevations and exterior materials are in conformance with the purpose and intent of this Title and the approved outline plan.

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- f. That the additional standards which resulted in the awarding of bonus points in the outline plan approval have been included in the final plan with substantial detail to ensure that the performance level committed to in the outline plan will be achieved.
 - g. The development complies with the Street Standards.
 - h. Nothing in this section shall limit reduction in the number of dwelling units or increased open space provided that, if this is done for one phase, the number of dwelling units shall not be transferred to another phase, nor the open space reduced below that permitted in the outline plan.
6. Any substantial amendment to an approved Final Plan shall follow a Type I procedure and be reviewed in accordance with the criteria for above criteria.

18-3.8.050 Performance Standards for Residential Developments

Comment: The following is carried forward from 18.88.040 and edited for clarity.

- A. Base Densities.** The density of the development shall not exceed the density established by this section. The density shall be computed by dividing the total number of dwelling units by the acreage of the project, including land dedicated to the public. Fractional portions of the final answer, after bonus point calculations, shall not apply towards the total density.
1. The base density, for purposes of determining density bonuses allowed under this section, is as provided in Table 18-3.8.050:

Zone	Allowable Density (dwelling units per acre)
WR-2	0.30 du/acre
WR-2.5	0.24 du/acre
WR-5	0.12 du/acre
WR-10	0.06 du/acre
WR-20	0.03 du/acre
RR-1	0.60 du/acre
RR-.5	1.2 du/acre
R-1-10	2.40 du/acre
R-1-7.5	3.60 du/acre
R-1-5	4.50 du/acre
R-1-3.5	7.2 du/acre
R-2	13.5 du/acre
R-3	20 du/acre

2. Open Space Required. All developments with a base density of ten (10) units or greater shall be required to provide a minimum of five percent (5%) of the total lot area in Open Space; that area is not subject to bonus point calculations, however, density bonuses shall be awarded to open

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space areas in excess of the 5% required by this subsection.

B. Density Bonus Point Calculations. The permitted base density shall be increased by the percentage gained through bonus points. In no case shall the density exceed that allowed under the Comprehensive Plan. The maximum density bonus permitted shall be 60% (base density x 1.6), pursuant to the following criteria:

1. Conservation Housing. A maximum 15% bonus is allowed – 100% of the homes or residential units approved for development, after bonus point calculations, shall meet the minimum requirements for certification as a Earth Advantage home, as approved by the Ashland Conservation Division under the City' s Earth Advantage program as adopted by resolution 2006-06.
2. Provision of Common Open Space. A maximum 10% bonus is allowed, pursuant to the following:
 - a. Purpose. Common open spaces may be provided in the form of natural areas, wetlands, playgrounds, active or passive recreational areas, and similar areas in common ownership. All areas set aside for common open space may be counted for base density, unless otherwise excluded by section 18-3.8.050.A.2. However, for the purposes of awarding density bonus points, the Planning Commission shall consider whether or not the common open space is a significant amenity to project residents, and whether project residents will realistically interact with the open space on a day-to-day basis. The purpose of the density bonus for common open space is to permit areas, which could otherwise be developed, or sold as individual lots, to be retained in their natural state or to be developed as a recreational amenity. It is not the purpose of this provision to permit density bonuses for incidental open spaces that have no realistic use by project residents on a day-to-day basis.
 - b. Standard. **Except as required for cottage housing developments, under subsection 5, below,** developments with fewer than ten (10) units that provide more than 2% of the project area for common open space, or for developments of ten (10) units or greater that provide more than 5% open space, a 1% bonus shall be awarded for each 1% of the total project area in common open space.
3. Provision of Major Recreational Facilities. A maximum 10% bonus is allowed, pursuant to the following:
 - a. Purpose. Points may be awarded for the provision of major recreational facilities such as tennis courts, swimming pools, playgrounds, or similar facilities.
 - b. Standard. For each percent (1%) of total project cost devoted to recreational facilities, a 6% density bonus may be awarded up to a maximum of 10% bonus. Total project cost shall be defined as the estimated sale price or value of each residential unit times the total number of units in the project. Estimated value shall include the total market value for the structure and land. A qualified architect or engineer shall prepare the cost of the recreational facility using current costs of recreational facilities.

Comment: The affordable housing incentive is revised to provide two market rate units for every affordable unit, per the Planning Commission input on the Policy Issues and Recommendations from the 2006 Land Use

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Ordinance Review. The current bonus is an equivalent increase in density as the percentage of affordable units provided. The amendment was included in the previous draft, but the language was edited for clarity.

A density bonus for cottage housing is added per the Planning Commission discussion and recommendations of the green development evaluation. The standards for cottage housing will be included in 18-2.

4. **Affordable Housing.** A maximum bonus of 35% is allowed, pursuant to the following: ~~For every percent of units that are affordable, an equivalent percentage of density bonus shall be allowed.~~ **Developments shall receive a density bonus of two units for each affordable housing unit provided.** Affordable housing bonus shall be for residential units that are guaranteed affordable for moderate-income persons in accord with the standards of section 18-2.5.070.
5. **Cottage Housing.** In the R-1 zone, developments meeting the standards of section 18-2.3.085 Cottage Housing, two (2) cottage house units shall be allowed in place of each single-family home allowed by the base density of the district. Duplexes are allowed and shall count as two (2) cottage house units.

18-3.8.060 Parking Standards

Comment: The following is carried forward from 18.88.060 and edited for clarity.

All development under this chapter shall conform to the following parking standards, which are in addition to the requirements of chapter 18-4.4 Parking and Loading.

- A. On-Street Parking Required.** At least one (1) on-street parking space per dwelling unit shall be provided, in addition to the off-street parking requirements for all developments in an R-1 zone and for all developments in R-2 and R-3 zones that create or improve public streets.
- B. On-Street Parking Standards.** On-street parking spaces shall be immediately adjacent to the public right-of-way on publicly or association-owned land and be directly accessible from public right-of-way streets. On-street parking spaces shall be located within 200 feet of the dwelling that it is intended to serve. In addition, on-street public parking may be provided pursuant to minimum criteria established under section 18-4.3.060.A.
- C. Signing of Streets.** The installation of "No Parking" signs regulating parking in the public right-of-way and any other signs related to the regulation of on-street parking shall be consistent with the Street Standards in 18-4.6.030, and shall be consistent with the respective City planning approval.

18-3.8.070 Setbacks and Lot Coverage

Comment: The following is carried forward from 18.88.070 and edited for clarity.

All development under this chapter shall conform to the following setback standards, which are in addition to the requirements of the applicable zone.

- A. Front Yard Setback.** Front yard setbacks shall follow the requirements of the underlying district.

Comment: The section on building separation is reworded for clarity, but the content is not changed.

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- B. Building Separation.** The minimum separation between two buildings equals half of the height of the tallest building, where height is measured at the two closest exterior walls, and the maximum required separation is twelve (12) feet. See Table 18-2.5.030.A. One-half of the building height at the wall closest to the adjacent building shall be required as the minimum width between buildings on the same site, except within non-residential zoning districts including C-1, C-1-D, E-1, CM and M-1. This standard does not apply to non-residential zoning districts including C-1, C-1-D, E-1, CM, and M-1.
- C. Solar Setback.** Solar setbacks shall meet the requirements of 18-4.
- D. Perimeter Setback.** Setbacks along the perimeter of the development shall have the same setbacks as required in the parent zone.
- E. Building Envelope for Single-Family Structure.** Any single-family structure not shown on the plan must meet the setback requirements established in the building envelope on the Outline Plan.

Comment: The lot coverage section is new, and is added to clarify that lot coverage in a Performance Standards Subdivision can be either calculated for each individual lot or on for the entire site. This is the approach that has been used historically, but it is not currently stated in the ordinance.

- F. Lot Coverage.** Lot coverage may be addressed on an individual lot basis, or for the entire site at the time of subdivision application. In either option, the maximum lot coverage for the zone shall be met. If lot coverage is calculated for the entire site, the Outline Plan application shall include the lot coverage calculations as well as the lot coverage assigned to the individual lots.

18-3.8.080 Performance Standards Guidelines

Comment: The following carries forward and edits 18.88.090.

The Council may adopt guidelines for Performance Standards developments by ordinance, following a Legislative public hearing held by the Planning Commission. These guidelines may contain:

- A. Minimum standards for Performance Standards developments, including energy and water efficient housing standards; turn-around and other street standards; and minimum landscaping and design standards.
- B. Methods of achieving bonuses recommended by the Council.
- C. Additional standards and recommendations regarding project and unit design and layout, landscaping, street furniture, and other aesthetic considerations.
- D. Interpretations of the intent and purpose of this chapter, applied to specific examples.
- E. Other informational or educational materials the Council deems advisable.

Chapter 18-3.9 Physical and Environmental Constraints Overlay

Sections

18-3.9.010	Purpose and Intent
18-3.9.020	Applicability
18-3.9.030	Application Submission Requirements
18-3.9.040	Approval Criteria
18-3.9.050	Land Classifications
18-3.9.060	Official Maps
18-3.9.070	Development Standards for Flood Plain Corridor Lands
18-3.9.080	Development Standards for Hillside Lands
18-3.9.090	Development Standards for Wildfire Lands
18-3.9.100	Development Standards for Severe Constraint Lands
18-3.9.110	Density Transfer
18-3.9.120	Penalties

Comment: This chapter carries forward 18.62. Edits are limited to renumbering sections/subsections and minor grammatical corrections (e.g., hyphenations, spelling, and commas). Definitions are relocated to 18-6.

18-3.9.010 Purpose and Intent

The purpose of this chapter is to provide for safe, orderly and beneficial development of districts characterized by diversity of physiographic conditions and significant natural features; to limit alteration of topography and reduce encroachment upon, or alteration of, any natural environment and; to provide for sensitive development in areas that are constrained by various natural features. Physiographic conditions and significant natural features can be considered to include, but are not limited to: slope of the land, natural drainage ways, wetlands, soil characteristics, potential landslide areas, natural and wildlife habitats, forested areas, significant trees, and significant natural vegetation.

18-3.9.020 Applicability

The type of regulation applicable to the land depends upon the classification in which the land is placed, as provided in section 18-3.9.030. Where this chapter and any other ordinance (e.g. 18-2.10 Water Resource Protection Overlay), easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

18-3.9 – Physical and Environmental Constraints Overlay

A Physical Constraints Review Permit is required for the following activities:

- A. Development, as defined in 18-6, in areas identified as Flood Plain Corridor Land, Hillside Land, or Severe Constraint Land. In addition all activities located within an area of special flood hazard are subject to the provisions for a Development Permit under 15.10 Flood Damage and Prevention Regulations.
- B. Tree removal, as defined in 18-6, in areas identified as Flood Plain Corridor Land.
- C. Commercial logging, in areas identified as Flood Plain Corridor Land, Hillside Land, or Severe Constraint Land.
- D. Tree removal, in areas identified as Hillside Land and Severe Constraint Land, except that a permit need not be obtained for tree removal that is not associated with development, and done for the purposes of wildfire management and carried out in accord with a Fire Prevention and Control Plan approved by the Fire Chief.
- E. If a development is part of a Site Review, Performance Standards Development, Conditional Use Permit, Subdivision, Partition, or other Planning Action, then the Review shall be conducted simultaneously with the Planning Action.
- F. If a development is exclusive of any other Planning Action, as noted in subsection B, then the Physical Constraints Review shall be processed as a Staff Permit.
- G. Where it appears that the proposal is part of a more extensive development that would require a master site plan, or other planning action, the Staff Advisor shall require that all necessary applications be filed simultaneously.

18-3.9.030 Application Submission Requirements

Plans Required. The following plans shall be required for any development requiring a Physical Constraints Review:

1. Plans shall contain the following:
 - a. Project name
 - b. Vicinity map.
 - c. Scale (the scale shall be at least one inch equals 50 feet or larger) utilizing the largest scale that fits on 22" x 34" paper. Multiple plans or layers shall be prepared at the same scale, excluding detail drawings. The Staff Advisor may authorize different scales and plan sheet sizes for projects, provided the plans provide sufficient information to clearly identify and evaluate the application request.
 - d. North arrow.
 - e. Date.
 - f. Street names and locations of all existing and proposed streets within or on the boundary of the proposed development.

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- g. Lot layout with dimensions for all lot lines.
 - h. Location and use of all proposed and existing buildings, fences and structures within the proposed development. Indicate which buildings are to remain and which are to be removed.
 - i. Location and size of all public utilities affected by the proposed development.
 - j. Location of drainage ways or public utility easements in and adjacent to the proposed development, and location of all other easements.
 - k. Topographic map of the site at a contour interval of not less than two feet nor greater than five feet – the topographic map shall also include a slope analysis, indicating buildable areas, as shown in the graphic.
 - l. Location of all parking areas and spaces, ingress and egress on the site, and on-site circulation
 - m. Accurate locations of all existing natural features including, but not limited to, all trees as required in 18-3.9.070.D.1, including those of a caliper equal to or greater than six (6) inches in diameter at breast height (dbh), native shrub masses with a diameter of ten (10) feet or greater, natural drainage, swales, wetlands, ponds, springs, or creeks on the site, and outcroppings of rocks, boulders, etc. Natural features on adjacent properties potentially impacted by the proposed development shall also be included, such as trees with drip-lines extending across property lines. In forested areas, it is necessary to identify only those trees that will be affected or removed by the proposed development. Indicate any contemplated modifications to a natural feature, including trees, method of erosion control, water runoff control, and proposed tree protection for the development as required by this chapter.
 - o. Building envelopes for all existing and proposed new parcels that contain only buildable area, as defined by this chapter.
 - p. Location of all irrigation canals and major irrigation lines.
 - q. Location of all areas of land disturbance, including cuts, fills, driveways, building sites, and other construction areas. Indicate total area of disturbance, total percentage of project site proposed for disturbance, and maximum depths and heights of cuts and fill.
 - r. Location for storage or disposal of all excess materials resulting from cuts associated with the proposed development.
 - s. Applicant name, firm preparing plans, person responsible for plan preparation, and plan preparation dates shall be indicated on all plans.
 - t. Proposed timeline for development based on estimated date of approval, including completion dates for specific tasks.
2. Additional plans and studies as required in sections 18-3.9.060, 18-3.9.070, 18-3.9.080 and 18-3.9.090 of this chapter.

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18-3.9.040 Approval Criteria

The Staff Advisor shall issue a Physical Constraints Review Permit on finding the application demonstrates the following:

- A. Through the application of the development standards of this chapter, the potential impacts to the property and nearby areas have been considered, and adverse impacts have been minimized.
- B. That the applicant has considered the potential hazards that the development may create and implemented measures to mitigate the potential hazards caused by the development.
- C. That the applicant has taken all reasonable steps to reduce the adverse impact on the environment. Irreversible actions shall be considered more seriously than reversible actions. The Staff Advisor or Planning Commission shall consider the existing development of the surrounding area, and the maximum development permitted by this ordinance.

18-3.9.050 Land Classifications

The following factors shall be used to determine the classifications of various lands and their constraints to building and development on them:

- A. Flood Plain Corridor Lands - Lands with potential stream flow and flood hazard. The following lands are classified as Flood Plain Corridor Lands:
 - 1. All land contained within the 100 year Flood Plain as defined by the Federal Insurance Administration and identified in the Flood Insurance Map (FIRM) adopted by the Council as provided for in chapter 15.10 of the Ashland Municipal Code.
 - 2. All land within the area defined as Flood Plain Corridor Land in maps adopted by the Council as provided for in section 18-3.9.060.
 - 3. All lands which have physical or historical evidence of flooding in the historical past.
 - 4. All areas within 20 feet (horizontal distance) of any stream identified as a Riparian Preservation Creek on the Physical and Environmental Constraints Floodplain Corridor Lands map adopted pursuant to section 18-3.9.060.
 - 5. All areas within ten (10) feet (horizontal distance) of any stream identified as a Land Drainage Corridor on the Physical and Environmental Constraints Floodplain Corridor Lands maps adopted pursuant to section 18-3.9.060.
- B. Hillside Lands - Hillside Lands are lands that are subject to damage from erosion and slope failure, and which include areas that are highly visible from other portions of the city. The following lands are classified as Hillside Lands: All areas defined as Hillside Lands on the Physical and Environmental Constraints Hillside Lands and Severe Constraints map and which have a slope of 25% or greater.
- C. Wildfire Lands - Lands with potential of wildfire. The following lands are classified as Wildfire Lands: All areas defined as wildfire lands on the Physical and Environmental Constraints Wildfire Lands map.

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- D. Severe Constraint Lands - The following lands are classified as Severe Constraint Lands, which have characteristics that severely limit normal development.
1. All areas that are within the floodway channels, as defined in chapter 15.10.
 2. All lands with a slope greater than 35%.
- E. Classifications Cumulative. The above classifications are cumulative in their effect and, if a parcel of land falls under two or more classifications, it shall be subject to the regulations of each classification. Those restrictions applied shall pertain only to those portions of the land being developed and not necessarily to the whole parcel.

18-3.9.060 Official Maps

- A. The City Council shall adopt official maps denoting the above-identified areas. Substantial amendments of these maps shall be a Type 3 procedure.
- B. Minor amendments of the maps to correct mapping errors when the amendments are intended to more accurately reflect the mapping criteria contained in this chapter or in the findings of the Council in adopting an official map may be processed as a Type 1 procedure.

18-3.9.070 Development Standards for Flood Plain Corridor Lands

For all land use actions that could result in development of the Flood Plain Corridor, the following is required in addition to any requirements of chapter 15.10:

- A. Standards for fill in Flood Plain Corridor Lands:
1. Fill shall be designed as required by the Oregon Structural Specialty Code (OSSC), and Oregon Residential Specialty Code (ORSC), where applicable.
 2. The toe of the fill shall be kept at least ten feet outside of floodway channels, as defined in section 15.10, and the fill shall not exceed the angle of repose of the material used for fill.
 3. The amount of fill in the Flood Plain Corridor shall be kept to a minimum. Fill and other material imported from off the lot that could displace floodwater shall be limited to the following:
 - a. Poured concrete and other materials necessary to build permitted structures on the lot.
 - b. Aggregate base and paving materials, and fill associated with approved public and private street and driveway construction.
 - c. Plants and other landscaping and agricultural material.
 - d. A total of 50 cubic yards of other imported fill material.
 - e. The above limits on fill shall be measured from April 1989, and shall not exceed the above amounts. These amounts are the maximum cumulative fill that can be imported onto the site, regardless of the number of permits issued.
 4. If additional fill is necessary beyond the permitted amounts in (3) above, then fill materials must be obtained on the lot from cutting or excavation only to the extent necessary to create an

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elevated site for permitted development. All additional fill material shall be obtained from the portion of the lot in the Flood Plain Corridor.

5. Adequate drainage shall be provided for the stability of the fill.
 6. Fill to raise elevations for a building site shall be located as close to the outside edge of the Flood Plain Corridor as feasible.
- B. A crossing of any waterway identified on the official maps adopted pursuant to section 18-3.9.060 (e.g., for streets, property access or utilities) must be designed by an engineer. Stream crossings shall be designed to the standards of chapter 15.10, or where no floodway has been identified, to pass a one hundred (100) year flood without any increase in the upstream flood height elevation. The engineer shall consider in the design the probability that the crossing will be blocked by debris in a severe flood, and accommodate expected overflow. The crossing shall be at right angles to the stream channel to the greatest extent possible. Fill for stream crossings shall be kept to the minimum necessary to achieve property access, but is exempt from the limitations in subsection (A) above.
- C. Non-residential structures shall be flood-proof to the standards in chapter 15.10 to one foot above the elevation contained in the maps adopted by chapter 15.10, or up to the elevation contained in the official maps adopted by section 18-3.9.060, whichever height is greater. Where no specific elevations exist, then they must be flood-proofed to an elevation of ten feet above the stream channel on Ashland, Bear or Neil Creek; to five feet above the stream channel on all other Riparian Preservation Creeks identified on the official maps adopted pursuant to section 18-3.9.060; and three feet above the stream channel on all other Land Drainage Corridors identified on the official maps adopted pursuant to section 18-3.9.060.
- D. All residential structures shall be elevated so that the lowest habitable floor shall be raised to one foot above the elevation contained in the maps adopted in chapter 15.10, or to the elevation contained in the official maps adopted pursuant to section 18-3.9.060, whichever height is greater. Where no specific elevations exist, then they must be constructed at an elevation of ten feet above the stream channel on Ashland, Bear, or Neil Creek; to five feet above the stream channel on all other Riparian Preservation Creeks identified on the official maps adopted pursuant to section 18-3.9.060; and three feet above the stream channel on all other Land Drainage Corridors identified on the official maps adopted pursuant to section 18-3.9.060, or one foot above visible evidence of high flood water flow, whichever is greater. An engineer or surveyor shall certify the elevation of the finished lowest habitable floor prior to issuance of a certificate of occupancy for the structure.
- E. To the maximum extent feasible, structures shall be placed on other than Flood Plain Corridor Lands. In the case where development is permitted in the Flood Plain Corridor area, then development shall be limited to that area which would have the shallowest flooding.
- F. Existing lots with buildable land outside the Flood Plain Corridor shall locate all residential structures outside the Corridor Land, unless 50% or more of the lot is within the Flood Plain Corridor. For residential uses proposed for existing lots that have more than 50% of the lot in Corridor Land, structures may be located on that portion of the Flood Plain Corridor that is two feet or less below the flood elevations on the official maps, but in no case closer than 20 feet to the channel of a Riparian Preservation Creek identified on the official maps adopted pursuant to section

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18-3.9.060. Construction shall be subject to the requirements in paragraph D above.

- G. New non-residential uses may be located on that portion of Flood Plain Corridor Lands that equal to or above the flood elevations on the official maps adopted in section 18-3.9.060. Second story construction may be cantilevered or supported by pillars that will have minimal impact on the flow of floodwaters over the Flood Plain Corridor for a distance of 20 feet if it does not impact riparian vegetation, and the clearance from finished grade is at least ten feet in height. The finished floor elevation may not be more than two feet below the flood corridor elevations.
- H. All lots modified by property line adjustments, and new lots created from areas containing Flood Plain Corridor Land, must have building envelopes containing buildable area of a sufficient size to accommodate the uses permitted in the underlying zone, unless the action is for open space or conservation purposes. This section shall apply even if the effect is to prohibit further division of lots that are larger than the minimum size permitted in the zoning ordinance.
 - I. Basements.
 - 1. Habitable basements are not permitted for new or existing structures or additions located within the Flood Plain Corridor.
 - 2. Non-habitable basements, used for storage, parking, and similar uses are permitted for residential structures but must be flood-proofed to the standards of chapter 15.10.
- J. Storage of petroleum products, pesticides, or other hazardous or toxic chemicals is not permitted in Flood Plain Corridor Lands.
- K. Fences shall be located and constructed in accordance with section 18-3.10.060.B.3. Fences shall not be constructed across any waterway or stream identified on the official maps adopted pursuant to section 18-3.9.060. Fences shall not be constructed within any designated floodway.
- L. Decks and structures other than buildings, if constructed on Flood Plain Corridor Lands and at or below the levels specified in section 18-3.9.070.C and D, shall be flood-proofed to the standards contained in chapter 15.10.
- M. Local streets and utility connections to developments in and adjacent to the Flood Plain Corridor shall be located outside of the Flood Plain Corridor, except for crossing the Corridor, except as provided for in chapter 18-3.10 Water Resource Protection Zones, or in the Flood Plain Corridor as outlined below:
 - 1. Public street construction may be allowed within the Bear Creek Flood Plain Corridor as part of development following the adopted North Mountain Neighborhood Plan. This exception shall only be permitted for that section of the Bear Creek Flood Plain Corridor between North Mountain Avenue and the Nevada Street right-of-way. The new street shall be constructed in the general location as indicated on the neighborhood plan map, and in the area generally described as having the shallowest potential for flooding within the corridor.
 - 2. Proposed development that is not in accord with the North Mountain Neighborhood Plan shall not be permitted to utilize this exception.

18-3.9.080 Development Standards for Hillside Lands

It is the purpose of the Development Standards for Hillside Lands to provide supplementary development regulations to underlying zones to ensure that development occurs in such a manner as to protect the natural and topographic character and identity of these areas, environmental resources, the aesthetic qualities and restorative value of lands, and the public health, safety, and general welfare by insuring that development does not create soil erosion, sedimentation of lower slopes, slide damage, flooding problems, and severe cutting or scarring. It is the intent of these development standards to encourage a sensitive form of development and to allow for a reasonable use that complements the natural and visual character of the City.

A. General Requirements. The following general requirements shall apply in Hillside Lands:

1. All development shall occur on lands defined as having buildable area. Slopes greater than 35% shall be considered unbuildable except as allowed below. Variances may be granted to this requirement only as provided in section 18-3.9.080.H.
 - a. Existing parcels without adequate buildable area less than or equal to 35% shall be considered buildable for one unit.
 - b. Existing parcels without adequate buildable area less than or equal to 35% cannot be subdivided or partitioned.
2. All newly created lots either by subdivision or partition shall contain a building envelope with a slope of 35% or less.
3. New streets, flag drives, and driveways shall be constructed on lands of less than or equal to 35% slope with the following exceptions:
 - a. The street is indicated on the City of Ashland Transportation System Plan Street Dedication map.
 - b. The portion of the street, flag drive, or driveway on land greater than 35% slope does not exceed a length of 100 feet.
4. Geotechnical Studies. For all applications on Hillside Lands involving subdivisions or partitions, the following additional information is required: A geotechnical study prepared by a geotechnical expert indicating that the site is stable for the proposed use and development. The study shall include the following information:
 - a. Index map.
 - b. Project description to include location, topography, drainage, vegetation, discussion of previous work and discussion of field exploration methods.
 - c. Site geology, based on a surficial survey, to include site geologic maps, description of bedrock and surficial materials, including artificial fill, locations of any faults, folds, etc., and structural data including bedding, jointing and shear zones, soil depth and soil structure.
 - d. Discussion of any off-site geologic conditions that may pose a potential hazard to the site, or that may be affected by on-site development.

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- e. Suitability of site for proposed development from a geologic standpoint.
 - f. Specific recommendations for cut and fill slope stability, seepage and drainage control or other design criteria to mitigate geologic hazards.
 - g. If deemed necessary by the engineer or geologist to establish whether an area to be affected by the proposed development is stable, additional studies and supportive data shall include cross-sections showing subsurface structure, graphic logs with subsurface exploration, results of laboratory test and references.
 - h. Signature and registration number of the engineer and/or geologist.
 - i. Additional information or analyses as necessary to evaluate the site.
 - j. Inspection schedule for the project as required in 18-3.9.080.B.9.
 - k. Location of all irrigation canals and major irrigation pipelines.
- B. Hillside Grading and Erosion Control. All development on lands classified as Hillside shall provide plans conforming to the following items:
1. All grading, retaining wall design, drainage, and erosion control plans for development on Hillside Lands shall be designed by a geotechnical expert. All cuts, grading or fills shall conform to the International Building Code and be consistent with the provisions of this Title. Erosion control measures on the development site shall be required to minimize the solids in runoff from disturbed areas.
 2. For development other than single family homes on individual lots, all grading, drainage improvements, or other land disturbances shall only occur from May 1 to October 31. Excavation shall not occur during the remaining wet months of the year. Erosion control measures shall be installed and functional by October 31. Up to 30 day modifications to the October 31 date, and 45 day modification to the May 1 date may be made by the Planning Director, based upon weather conditions and in consultation with the project geotechnical expert. The modification of dates shall be the minimum necessary, based upon evidence provided by the applicant, to accomplish the necessary project goals.
 3. Retention in natural state. On all projects on Hillside Lands involving partitions and subdivisions, and existing lots with an area greater than one-half acre, an area equal to 25% of the total project area, plus the percentage figure of the average slope of the total project area, shall be retained in a natural state. Lands to be retained in a natural state shall be protected from damage through the use of temporary construction fencing or the functional equivalent. For example, on a 25,000 sq. ft. lot with an average slope of 29%, $25\%+29\%=54\%$ of the total lot area shall be retained in a natural state. The retention in a natural state of areas greater than the minimum percentage required here is encouraged.
 4. Grading - cuts. On all cut slopes on areas classified as Hillside Lands, the following standards shall apply:
 - a. Cut slope angles shall be determined in relationship to the type of materials of which they are composed. Where the soil permits, limit the total area exposed to precipitation and

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erosion. Steep cut slopes shall be retained with stacked rock, retaining walls, or functional equivalent to control erosion and provide slope stability when necessary. Where cut slopes are required to be laid back (1:1 or less steep), the slope shall be protected with erosion control getting or structural equivalent installed per manufacturers specifications, and revegetated.

- b. Exposed cut slopes (See Graphic), such as those for streets, driveway accesses, or yard areas, greater than seven feet in height shall be terraced. Cut faces on a terraced section shall not exceed a maximum height of five feet. Terrace widths shall be a minimum of three feet to allow for the introduction of vegetation for erosion control. Total cut slopes shall not exceed a maximum vertical height of 15 feet. The top of cut slopes not utilizing structural retaining walls shall be located a minimum setback of one-half the height of the cut slope from the nearest property line. Cut slopes for structure foundations encouraging the reduction of effective visual bulk, such as split pad or stepped footings shall be exempted from the height limitations of this section.
 - c. Revegetation of cut slope terraces shall include the provision of a planting plan, introduction of top soil where necessary, and the use of irrigation if necessary. The vegetation used for these areas shall be native, or species similar in resource value to native plants, which will survive, help reduce the visual impact of the cut slope, and assist in providing long term slope stabilization. Trees, bush-type plantings and cascading vine-type plantings may be appropriate.
5. Grading and fills. On all fill slopes on lands classified as Hillside Lands, the following standards shall apply:
- a. Fill slopes shall not exceed a total vertical height of 20 feet. The toe of the fill slope area not utilizing structural retaining shall be a minimum of six feet from the nearest property line.
 - b. Fill slopes shall be protected with an erosion control netting, blanket or functional equivalent. Netting or blankets shall only be used in conjunction with an organic mulch such as straw or wood fiber. The blanket must be applied so that it is in complete contact with the soil so that erosion does not occur beneath it. Erosion netting or blankets shall be securely anchored to the slope in accordance with manufacturer's recommendations.
 - c. Utilities. Whenever possible, utilities shall not be located or installed on or in fill slopes. When determined that it necessary to install utilities on fill slopes, all plans shall be designed by a geotechnical expert.
 - d. Revegetation of fill slopes shall utilize native vegetation or vegetation similar in resource value and which will survive and stabilize the surface. Irrigation may be provided to ensure growth if necessary. Evidence shall be required indicating long-term viability of the proposed vegetation for the purposes of erosion control on disturbed areas.
6. Revegetation requirements. Where required by this chapter, all required revegetation of cut and fill slopes shall be installed prior to the issuance of a certificate of occupancy, signature of a required survey plat, or other time as determined by the hearing authority. Vegetation shall be installed in such a manner as to be substantially established within one year of installation.

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7. Maintenance, Security, and Penalties for Erosion Control Measures.
 - a. Maintenance. All measures installed for the purposes of long-term erosion control, including but not limited to vegetative cover, rock walls, and landscaping, shall be maintained in perpetuity on all areas which have been disturbed, including public rights-of-way. The applicant shall provide evidence indicating the mechanisms in place to ensure maintenance of measures.
 - b. Security. Except for individual lots existing prior to January 1, 1998, after an Erosion Control Plan is approved by the hearing authority and prior to construction, the applicant shall provide a performance bond or other financial guarantees in the amount of 120% of the value of the erosion control measures necessary to stabilize the site. Any financial guarantee instrument proposed, other than a performance bond, shall be approved by the City Attorney. The financial guarantee instrument shall be in effect for a period of at least one year, and shall be released when the Planning Director and Public Works Director determine, jointly, that the site has been stabilized. All or a portion of the security retained by the City may be withheld for a period up to five years beyond the one year maintenance period if it has been determined by the City that the site has not been sufficiently stabilized against erosion.
 8. Site Grading. The grading of a site on Hillside Lands shall be reviewed considering the following factors:
 - a. No terracing shall be allowed except for the purposes of developing a level building pad and for providing vehicular access to the pad.
 - b. Avoid hazardous or unstable portions of the site.
 - c. Avoid hazardous or unstable portions of the site.
 - d. Building pads should be of minimum size to accommodate the structure and a reasonable amount of yard space. Pads for tennis courts, swimming pools and large lawns are discouraged. As much of the remaining lot area as possible should be kept in the natural state of the original slope.
 9. Inspections and Final Report. Prior to the acceptance of a subdivision by the City, signature of the final survey plat on partitions, or issuance of a certificate of occupancy for individual structures, the project geotechnical expert shall provide a final report indicating that the approved grading, drainage, and erosion control measures were installed as per the approved plans, and that all scheduled inspections, as per 18-3.9.070.A.4.j were conducted by the project geotechnical expert periodically throughout the project.
- C. Surface and Groundwater Drainage. All development on Hillside Lands shall conform to the following standards:
1. All facilities for the collection of stormwater runoff shall be constructed on the site and according to the following requirements:
 - a. Stormwater facilities shall include storm drain systems associated with street construction, facilities for accommodating drainage from driveways, parking areas and other impervious

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surfaces, and roof drainage systems.

- b. Stormwater facilities, when part of the overall site improvements, shall be, to the greatest extent feasible, the first improvements constructed on the development site.
- c. Stormwater facilities shall be designed to divert surface water away from cut faces or sloping surfaces of a fill.
- d. Existing natural drainage systems shall be utilized, as much as possible, in their natural state, recognizing the erosion potential from increased storm drainage.
- e. Flow-retarding devices, such as detention ponds and recharge berms, shall be used where practical to minimize increases in runoff volume and peak flow rate due to development. Each facility shall consider the needs for an emergency overflow system to safely carry any overflow water to an acceptable disposal point.
- f. Stormwater facilities shall be designed, constructed and maintained in a manner that will avoid erosion on-site and to adjacent and downstream properties.
- g. Alternate stormwater systems, such as dry well systems, detention ponds, and leach fields, shall be designed by a registered engineer or geotechnical expert and approved by the City's Public Works Department or City Building Official.

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

- 1. Inventory of Existing Trees. A tree survey at the same scale as the project site plan shall be prepared, which locates all trees greater than six (6) inches d.b.h., identified by d.b.h., species, approximate extent of tree canopy. In addition, for areas proposed to be disturbed, existing tree base elevations shall be provided. Dead or diseased trees shall be identified. Groups of trees in close proximity (i.e. those within five feet of each other) may be designated as a clump of trees, with the predominant species, estimated number and average diameter indicated. All tree surveys shall have an accuracy of plus or minus two feet. The name, signature, and address of the site surveyor responsible for the accuracy of the survey shall be provided on the tree survey. Portions of the lot or project area not to be disturbed by development need not be included in the inventory.
- 2. Evaluation of Suitability for Conservation. All trees indicated on the inventory of existing trees shall also be identified as to their suitability for conservation. When required by the hearing authority, the evaluation shall be conducted by a landscape professional. Factors included in this determination shall include:
 - a. Tree health. Healthy trees can better withstand the rigors of development than non-vigorous trees.
 - b. Tree Structure. Trees with severe decay or substantial defects are more likely to result in damage to people and property.
 - c. Species. Species vary in their ability to tolerate impacts and damage to their environment.
 - d. Potential longevity.

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- e. Variety. A variety of native tree species and ages.
 - f. Size. Large trees provide a greater protection for erosion and shade than smaller trees.
3. Tree Conservation in Project Design. Significant trees (2 ft. d.b.h. or greater conifers and 1 ft. d.b.h. or greater broadleaf) shall be protected and incorporated into the project design whenever possible.
- a. Streets, driveways, buildings, utilities, parking areas, and other site disturbances shall be located such that the maximum number of existing trees on the site are preserved, while recognizing and following the standards for fuel reduction if the development is located in Wildfire Lands.
 - b. Building envelopes shall be located and sized to preserve the maximum number of trees on site while recognizing and following the standards for fuel reduction if the development is located in Wildfire Lands.
 - c. Layout of the project site utility and grading plan shall avoid disturbance of tree protection areas.
4. Tree Protection. On all properties where trees are required to be preserved during the course of development, the developer shall follow the following tree protection standards:
- a. All trees designated for conservation shall be clearly marked on the project site. Prior to the start of any clearing, stripping, stockpiling, trenching, grading, compaction, paving or change in ground elevation, the applicant shall install fencing at the drip line of all trees to be preserved adjacent to or in the area to be altered. Temporary fencing shall be established at the perimeter of the drip-line. Prior to grading or issuance of any permits, the fences may be inspected and their location approved by the Staff Advisor. (See chapter 18-4.13 Tree Preservation and Protection)
 - b. Construction site activities, including but not limited to parking, material storage, soil compaction and concrete washout, shall be arranged so as to prevent disturbances within tree protection areas.
 - c. No grading, stripping, compaction, or significant change in ground elevation shall be permitted within the drip line of trees designated for conservation unless indicated on the grading plans, as approved by the City, and landscape professional. If grading or construction is approved within the drip-line, a landscape professional may be required to be present during grading operations, and shall have authority to require protective measures to protect the roots.
 - d. Changes in soil hydrology and site drainage within tree protection areas shall be minimized. Excessive site run-off shall be directed to appropriate storm drain facilities and away from trees designated for conservation.
 - e. Should encroachment into a tree protection area occur which causes irreparable damage, as determined by a landscape professional, to trees, the project plan shall be revised to compensate for the loss. Under no circumstances shall the developer be relieved of responsibility for compliance with the provisions of this chapter.

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5. Tree Removal. Development shall be designed to preserve the maximum number of trees on a site. The development shall follow the standards for fuel reduction if the development is located in Wildfire Lands. When justified by findings of fact, the hearing authority may approve the removal of trees for one or more of the following conditions:
 - a. The tree is located within the building envelope.
 - b. The tree is located within a proposed street, driveway, or parking area.
 - c. The tree is located within a water, sewer, or other public utility easement.
 - d. The tree is determined by a landscape professional to be dead or diseased, or it constitutes an unacceptable hazard to life or property when evaluated by the standards in 18-3.9.080.D.2.
 - e. The tree is located within or adjacent to areas of cuts or fills that are deemed threatening to the life of the tree, as determined by a landscape professional.
6. Tree Replacement. Trees approved for removal, with the exception of trees removed because they were determined to be diseased, dead, or a hazard, shall be replaced in compliance with the following standards:
 - a. Replacement trees shall be indicated on a tree replanting plan. The replanting plan shall include all locations for replacement trees, and shall also indicate tree planting details.
 - b. Replacement trees shall be planted such that the trees will in time result in canopy equal to or greater than the tree canopy present prior to development of the property. The canopy shall be designed to mitigate of the impact of paved and developed areas, reduce surface erosion and increase slope stability. Replacement tree locations shall consider impact on the wildfire prevention and control plan. The hearing authority shall have the discretion to adjust the proposed replacement tree canopy based upon site-specific evidence and testimony.
 - c. Maintenance of replacement trees shall be the responsibility of the property owner. Required replacement trees shall be continuously maintained in a healthy manner. Trees that die within the first five years after initial planting must be replaced in kind, after which a new five-year replacement period shall begin. Replanting must occur within 30 days of notification unless otherwise noted.
7. Enforcement.
 - a. All tree removal shall be done in accord with the approved tree removal and replacement plan. No trees designated for conservation shall be removed without prior approval of the City of Ashland.
 - b. Should the developer or developer's agent remove or destroy any tree that has been designated for conservation, the developer may be fined up to three times the current appraised value of the replacement trees and cost of replacement or up to three times the current market value, as established by a professional arborist, whichever is greater.
 - c. Should the developer or developer's agent damage any tree that has been designated for

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protection and conservation, the developer shall be penalized \$50.00 per scar. If necessary, a professional arborist's report, prepared at the developer's expense, may be required to determine the extent of the damage. Should the damage result in loss of appraised value greater than determined above, the higher of the two values shall be used.

- E. Building Location and Design Standards. All buildings and buildable areas proposed for Hillside Lands shall be designed and constructed in compliance with the following standards:
1. Building Envelopes. All newly created lots, either by subdivision or partition, shall contain building envelopes conforming to the following standards:
 - a. The building envelope shall contain a buildable area with a slope of 35% or less.
 - b. Building envelopes and lot design shall address the retention of a percentage of the lot in a natural state as required in 18-3.9.080.B.3.
 - c. Building envelopes shall be designed and located to maximize tree conservation as required in 18-3.9.080.D.3 while recognizing and following the standards for fuel reduction if the development is located in Wildfire Lands
 - d. It is recommended that building envelope locations should be located to avoid ridgeline exposures, and designed such that the roofline of a building within the envelope does not project above the ridgeline. See also, 18-2.5.040.A.3.
 2. Building Design. To reduce hillside disturbance through the use of slope responsive design techniques, buildings on Hillside Lands, excepting those lands within the designated Historic District, shall incorporate the following into the building design and indicate features on required building permits:
 - a. Hillside Building Height. The height of all structures shall be measured vertically from the natural grade to the uppermost point of the roof edge or peak, wall, parapet, mansard, or other feature perpendicular to that grade. Maximum Hillside Building Height shall be 35 feet.
 - b. Cut buildings into hillsides to reduce effective visual bulk.
 - i. Split pad or stepped footings shall be incorporated into building design to allow the structure to more closely follow the slope.
 - ii. Reduce building mass by utilizing below grade rooms cut into the natural slope.
- Comment:** The highlighted text in section c below is new language, and has been added to clarify that decks do not constitute a building step back.
- c. A building step-back shall be required on all downhill building walls greater than 20 feet in height, as measured above natural grade. Step-backs shall be a minimum of six feet. Decks projecting out from the building wall and hillside shall not be considered a building step-back. No vertical walls on the downhill elevations of new buildings shall exceed a maximum height of 20 feet above natural grade. (see graphic)
 - d. Continuous horizontal building planes shall not exceed a maximum length of 36 feet. Planes longer than 36 feet shall include a minimum offset of six feet.

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- e. It is recommended that roof forms and roof lines for new structures be broken into a series of smaller building components to reflect the irregular forms of the surrounding hillside. Long, linear unbroken roof lines are discouraged. Large gable ends on downhill elevations should be avoided, however smaller gables may be permitted.
 - f. It is recommended that roofs of lower floor levels be used to provide deck or outdoor space for upper floor levels. The use of overhanging decks with vertical supports in excess of 12 feet on downhill elevations should be avoided.
 - g. It is recommended that color selection for new structures be coordinated with the predominant colors of the surrounding landscape to minimize contrast between the structure and the natural environment.
- F. All structures on Hillside Lands shall have foundations designed by an engineer or architect with demonstrable geotechnical design experience. A designer, as defined, shall not complete working drawings without having foundations designed by an engineer.
- G. All newly created lots or lots modified by a lot line adjustment must include building envelopes containing a buildable area less than 35% slope of sufficient size to accommodate the uses permitted in the underlying zone, unless the division or lot line adjustment is for open space or conservation purposes.
- H. Exception to the Development Standards for Hillside Lands - 18-3.9.080. An exception under this section is not subject to the variance requirements of section 18-5.5 and may be granted with respect to the development standards for Hillside Lands if all of the following circumstances are found to exist:
- 1. There is demonstrable difficulty in meeting the specific requirements of this chapter due to a unique or unusual aspect of the site or proposed use of the site;
 - 2. The exception will result in equal or greater protection of the resources protected under this chapter;
 - 3. The exception is the minimum necessary to alleviate the difficulty; and
 - 4. The exception is consistent with the stated Purpose and Intent of the Physical and Environmental Constraints chapter and section 18-3.9.080.
 - 5. Appeals of decisions involving exceptions shall be processed pursuant to chapter 18-5.1.

18-3.9.090 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 3

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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 7 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 18-3.9.090.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. Criterion for Approval. 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

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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 of Ashland 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. All new construction and any construction expanding the size of an existing structure, shall have a "fuel break" as defined below.
2. 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 Title.
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 10% increase in slope over 10%. 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. 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% 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 18-3.9.080.

D. Implementation.

1. For land that have been subdivided and required to comply with A(6) above, all requirements of

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the pan shall be complied with prior to the commencement of construction with combustible materials.

2. For all other structures, the vegetation control requirements of subsection (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 18-3.9.090.B.5 above. All new residences shall comply with all standards for new construction in section 18-3.9.090.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 18-3.9.090.A.

18-3.9.090 Development Standards for Severe Constraint Lands

- A. Severe Constraint Lands are extremely sensitive to development, grading, filling, or vegetation removal and, whenever possible, alternative development should be considered.
- B. Development of floodways is not permitted except for bridges and road crossings. Such crossings shall be designed to pass the 100-year flood without raising the upstream flood height more than six inches.
- C. Development on lands greater than 35% slope shall meet all requirements of section 18-3.9.080 in addition to the requirements of this section.
- D. Development of land or approval for a planning action shall be allowed only when the following study has been accomplished. An engineering geologic study approved by the City's Public Works Director and Planning Director establishes that the site is stable for the proposed use and development. The study shall include the following:
 1. Index map.
 2. Project description to include location, topography, drainage, vegetation, discussion of previous work and discussion of field exploration methods.
 3. Site geology, based on a surficial survey, to include site geologic maps, description of bedrock and surficial materials, including artificial fill, locations of any faults, folds, etc., and structural data including bedding, jointing and shear zones, soil depth and soil structure.
 4. Discussion of any off-site geologic conditions that may pose a potential hazard to the site, or that may be affected by on-site development.
 5. Suitability of site for proposed development from a geologic standpoint.
 6. Specific recommendations for cut slope stability, seepage and drainage control or other design criteria to mitigate geologic hazards.
 7. If deemed necessary by the engineer or geologist to establish whether an area to be affected by the proposed development is stable, additional studies and supportive data shall include cross-

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sections showing subsurface structure, graphic logs with subsurface exploration, results of laboratory test and references.

8. Signature and registration number of the engineer and/or geologist.
9. Additional information or analyses as necessary to evaluate the site.

18-3.9.100 Density Transfer

Density may be transferred out of unbuildable areas to buildable areas of a lot provided the following standards are met:

- A. Partitions and subdivisions involving density transfer shall be processed under chapter 18-3.8 Performance Standards.
- B. A map shall be submitted showing the net buildable area to which the density will be transferred.
- C. A covenant shall be recorded limiting development on the area from which density is transferred.
- D. Density may not be transferred to properties under different ownership.
- E. Density may be transferred only on contiguous lots under common ownership.
- F. The density of the buildable area may not be increased to more than two (2) times the permitted density of the underlying zone. Fractional units are to be rounded down to the next whole number.

18-3.9.110 Penalties

Comment: The following introduction is revised for clarity.

In addition to taking enforcement action and assessing penalties for violations of this code, as authorized by chapter 18-1.6, the City make take the following actions where there is a violation of this chapter:

- A. Whenever any work is being done contrary to the provisions of this chapter or whenever erosion control measures, tree protection measures, wildfire control measures, or Flood Plain Corridor development measures are not being properly maintained or are not functioning properly due to faulty installation or neglect, the Director of Community Development or the director's designee, may order the work stopped by notice in writing served on any persons engaged in the doing or causing of such work to be done, and any such persons shall immediately stop work until authorized by the director or designee to proceed with the work.
- B. All development under this chapter and all work or construction for which a permit is required under this chapter shall be subject to inspection by the Director of Community Development or the director's designee. When an inspection is made under this section or when it is necessary to make an inspection to enforce this code, or when the Director or designee has reasonable cause to believe that there exists upon Hillside Lands a condition which is contrary to or in violation of this chapter which makes the premises unsafe, dangerous or hazardous, the Director or designee may enter the premises at reasonable times to inspect or to perform the duties imposed by this chapter. The Director or designee shall first make a reasonable effort to locate the owner or other person

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having charge of the premises and request entry.

- C. The City may refuse to accept any development permit application, may revoke or suspend any development or building permit, or may deny occupancy on the property until erosion control measures, tree protection measures, wildfire control measures, or Flood Plain Corridor development measures have been installed properly and are maintained in accordance with the requirements of this chapter.
- D. The owner of the property from which erosion occurs due to failure or neglect of erosion control measures, together with any person or parties who cause such erosion shall be responsible to mitigate the impacts of the erosion and prevent future erosion.

Chapter 18-3.10 Water Resources Protection Zones (Overlays)

Sections

18-3.10.010	Purpose
18-3.10.020	Applicability
18-3.10.030	Inventory of Ashland's Water Resources
18-3.10.040	Establishment of Water Resource Protection Zones
18-3.10.050	Activities and Uses Exempt from These Regulations
18-3.10.060	Limited Activities and Uses
18-3.10.070	Water Resource Protection Zone Reduction
18-3.10.080	Hardship Variance for Development in Water Resource Protection Zones
18-3.10.090	Approval Standards for Land Divisions and Property Line Adjustments
18-3.10.100	Application Submission Requirements
18-3.10.110	Mitigation Requirements
18-3.10.120	Map Errors and Adjustments for Water Resource Protection Zones
18-3.10.130	Enforcement and Penalties

Comment: This chapter carries forward 18-3.10. Edits are primarily limited to renumbering sections/subsections and minor grammatical corrections (e.g., hyphenations, spelling, and commas). The section numbers shifted by ten, as compared to 18-3.10, after removing the definitions, though the code cross-references are updated. Definitions are relocated to 18-6.

18-3.10.010 Purpose

The purpose and intent of this chapter are:

- A. To implement state and federal law with respect to the protection of clean water, pollution control and preservation of endangered species.
- B. To protect Ashland's Goal 5 significant wetlands and riparian areas, thereby protecting and restoring the hydrologic, ecologic and land conservation functions these areas provide for the community.
- C. To implement the provisions of Statewide Planning Goals 6 and 7, which require the buffering and separation of those land uses and activities that lead to or may create impacts on water quality, as well as to reduce the risk to people and property resulting from the inappropriate management of wetland and riparian areas.
- D. To implement the goals and policies of the Environmental Resources chapter of Ashland's Comprehensive Plan with respect to water resources, wetlands, floodplains and stream flooding.
- E. To reduce flood damage and potential loss of life in areas subject to periodic flooding.
- F. To better manage storm water drainage, minimize maintenance costs, protect properties adjacent to drainage ways, improve water quality, protect riparian and aquatic fish and wildlife habitat and provide opportunities for trail connections.
- G. To protect water associated with Ashland's hydrology for human uses, fish and wildlife and their

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habitats.

- H. To control erosion and limit sedimentation.
- I. To protect the amenity values and educational opportunities of Ashland's wetlands, water bodies and associated riparian areas as community assets.
- J. To improve public appreciation and understanding of wetlands and riparian areas for their unique ecosystem structure and functions and for the human-nature interactions they provide.
- K. To improve and promote coordination among local, state, and federal agencies regarding development activities near Ashland's wetlands, water bodies and associated riparian areas.
- L. In cases of hardship, to provide a procedure to alter wetlands and riparian areas only when offset by appropriate mitigation, as stipulated in the ordinance and other applicable state and federal requirements.

18-3.10.020 Applicability

- A. The provisions of this chapter apply to all lands containing Water Resources and Water Resource Protection Zones. Water Resources and Water Resource Protection Zones are defined, established and protected in this chapter.
- B. State and federal wetland and riparian regulations will continue to apply within the City of Ashland, regardless of whether or not these areas are mapped on City of Ashland Water Resources map. Nothing in this chapter shall be interpreted as superseding or nullifying state or federal requirements. Additionally, the City of Ashland shall provide notification to the Oregon Department of State Lands (DSL), as required by Division 23 of Oregon Administrative Rules, for all applications concerning development permits or other land use decisions affecting wetlands on the inventory.
- C. The burden is on the property owner to demonstrate that the requirements of this chapter are met or are not applicable to development activity or other proposed use or alteration of land. The Staff Advisor may make a determination based on the Water Resources map, field check, and any other relevant maps, site plans and information that a Water Resource or Water Resource Protection Zone is not located on a particular site or is not impacted by proposed development, activities or uses. In cases where the location of the Water Resource or Water Resource Protection Zone is unclear or disputed, the Staff Advisor may require a survey, delineation prepared by a natural resource professional, or a sworn statement from a natural resource professional that no Water Resources or Water Resource Protection Zones exist on the site.
- D. All Water Resource Protection Zones shall be protected from alteration and development, except as specifically provided in this chapter. No person or entity shall alter or allow to be altered any real property designated as a Water Resource Protection Zone, except as set forth in an exemption, approved planning application or permit authorized in this chapter. No person or entity shall use or allow to be used, property designated as a Water Resource Protection Zone, except as set forth in an exemption, approved planning application or permit authorized in this chapter.
- E. Where this chapter and any other ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. It is likely that there will be

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some overlap between the regulations in this chapter and those in chapter 18-3.9 Physical and Environmental Constraints, which regulates development in physical constrained areas including floodplains. Where two regulations are in conflict, the most stringent shall govern.

18-3.10.030 Inventory of Ashland's Water Resources

The approximate locations of Ashland's Water Resources are identified on the City of Ashland Water Resource Protection Zones Requirements map, adopted by the City of Ashland and added to the Comprehensive Plan through Ordinance 2419 (May 1987), Ordinance 2528 (July 1989) and Ordinance 2999 (December, 2009). Because the Comprehensive Plan maps are acknowledged to be approximate, the more precise wetland boundaries can be mapped, staked and used for development review purposes without a modification of the Comprehensive Plan maps.

18-3.10.040 Establishment of Water Resource Protection Zones

A Water Resource Protection Zone is hereby established adjacent to and including all Water Resources to protect their integrity, function and value. The boundaries of the following Water Resource Protection Zones shall be established by an on-site survey based upon the following standards.

- A. Stream Bank Protection Zones. The following types of Stream Bank Protection Zones are hereby established to protect streams and their associated riparian resources. The approximate locations of streams are identified on the Water Resources map.
1. Riparian Corridor – For streams classified as Riparian Corridor fish-bearing streams with an annual average stream flow less than 1,000 cubic feet per second and on the Water Resources map, the Stream Bank Protection Zone shall include the stream, plus a riparian buffer consisting of all lands within 50 feet upland from the top of bank (Figure 3).

Figure 3: Stream Bank Protection Zone for Riparian Corridor Streams

2. Local Streams – For streams classified as non-fish-bearing Local Streams and on the Water Resources map, the Stream Bank Protection Zone shall include the stream, plus a riparian buffer consisting of all lands 40 feet from the centerline of the stream (Figure 4).

Figure 4: Stream Bank Protection Zone for Local Streams

3. Intermittent and Ephemeral Streams – For streams classified as Intermittent and Ephemeral Streams on the Water Resource Protection Zones map, the Stream Bank Protection Zone shall include the stream, plus a riparian buffer consisting of all lands within 30 feet from the centerline of the stream (Figure 5).

Figure 5: Stream Bank Protection Zone for Intermittent and Ephemeral Streams

4. Significant Wetland Presence - Where a Stream Bank Protection Zone includes all or part of a significant wetland as identified on official maps adopted by the City of Ashland, the distance to the Stream Bank Protection Zone boundary shall be measured from, and include, the upland edge of the wetland.
5. Determination of Protection Zone - The measurement of the Stream Bank Protection Zones

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shall be a horizontal distance from the top of bank or from the center line of the stream as specified above. For streams that were piped or relocated to a culvert prior to the effective date of this chapter, the Stream Bank Protection Zones shall be reduced to half of the required width or the width of any existing easement (e.g. drainage-way easement), whichever is greater.

B. Wetland Protection Zones. The following types of Wetland Protection Zones are hereby established to protect wetland resources. The approximate locations of Locally Significant Wetlands and Wetlands are identified on the Water Resources map. The precise boundary of a wetland and wetland buffer shall be established through conducting an on-site wetland delineation and survey based upon the following standards.

1. Locally Significant Wetlands – For wetlands classified as Locally Significant on the Water Resources map, the Wetland Protection Zone shall consist of all lands identified to have a wetland presence on the wetland delineation, plus a wetland buffer consisting of all lands within 50 feet of the upland-wetland edge (Figure 6). A wetland delineation prepared by a qualified wetland specialist shall be submitted to the City of Ashland that graphically represents the location of wetlands on a site plan map in accordance with subsection 18-3.10.100.A.3. An average buffer width of 50 feet may be utilized around the perimeter of a significant wetland upon submission of evidence and a detailed plan by a natural resources professional demonstrating that equal or better protection of the functions and values of the resource will be ensured, and that there will be an enhanced buffer treatment through the implementation and maintenance of a restoration and enhancement plan within the buffer area.

Figure 6: Wetland Protection Zone for Locally Significant Wetlands

2. Possible Wetlands – For wetlands not classified as Locally Significant on the Water Resources map, the Wetland Protection Zone shall consist of all lands identified to have a wetland presence on the wetland delineation, plus all lands within 20 feet of the upland-wetland edge (Figure 7). Possible Wetlands includes all areas designated as such on the Water Resources map and any unmapped wetlands discovered on site. A wetland delineation prepared by a qualified wetland specialist shall be submitted to the City of Ashland that graphically represents the location of wetlands on a site plan map in accordance with subsection 18-3.10.100.A.3. An average buffer width of 20 feet may be utilized around the perimeter of a possible wetland upon submission of evidence and a detailed plan by a natural resources professional demonstrating that equal or better protection of the functions and values of the resource will be ensured.

Figure 7: Wetland Protection Zone for Possible Wetlands

3. Determination of Protection Zone – The measurement of the Wetland Protection Zone shall be a horizontal distance from the upland-wetland edge as specified above.

18-3.10.050 Activities and Uses Exempt from These Regulations

A. Exempt Activities Within Water Resource Protection Zones. The following activities and uses do not require a permit or authorization under this chapter to be conducted or to continue in a Water Resource Protection Zone. Exempt activities and uses may qualify as development as defined in Part 18-6 and may require a floodplain development permit.

1. Vegetation Maintenance, Planting and Removal

- a. Landscaping Maintenance. Continued maintenance of existing vegetation such as landscaping, lawn, gardens and trees.
- b. Lawn. Existing lawn within Water Resource Protection Zones may be maintained, but existing lawn shall not be expanded and new lawn shall not be installed.
- c. Tree Pruning. Maintenance pruning of existing trees shall be kept to a minimum and shall be in accordance with the chapter 18-4.13 Tree Preservation and Protection. Under no circumstances shall the maintenance pruning be so severe that it compromises the tree's health, longevity, or resource functions (i.e. shade, soil stability, erosion control, etc.)
- d. Non-native, Noxious and Invasive Vegetation Removal. Removal of non-native, noxious and invasive vegetation, and replacement with local native plant species is permitted. The act of removing non-native, noxious and invasive vegetation shall not result in the removal of native vegetation. Local native plant species for both wetland and stream bank applications are identified on the City of Ashland' s Local Native Plant Species List, and noxious and invasive vegetation approved for removal is identified on the City of Ashland' s Prohibited Plant List. Removal and mowing of blackberries shall occur before May 1 or after July 31 to protect nesting birds.
- e. Hazardous Tree Removal. Removal of a hazardous tree is allowed under the procedures and approval criteria described in chapter 18-4.13 Tree Preservation and Protection.
- f. In-channel Vegetation Removal. Removal of emergent in-channel vegetation that is likely to cause flooding using non-invasive methods such as mowing or weed-whacking that do not disturb the underlying substrate. Mechanized removal of emergent in-channel vegetation that would involve associated removal of soil below the ordinary high water line is not permitted and would otherwise be subject to state and federal wetland permitting requirements.
- g. Routine Planting. The planting of local native plant species or the replacement of non-native, noxious and invasive plants with local native plant species is allowed. Local native plant species for both wetland and stream bank applications are identified on the City of Ashland' s Local Native Plant Species List, and noxious and invasive vegetation approved for removal is identified on the City of Ashland' s Prohibited Plant List.
- h. Use of Equipment or Machinery. Use of hand-held equipment or machinery for vegetation maintenance, planting and removal within Water Resource Protection Zones is allowed. Power-assisted equipment or machinery may be used for vegetation maintenance, planting and removal within Water Resource Protection Zones when soil disturbance and erosion are

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minimized by all of the following measures:

- i. Use of power-assisted equipment or machinery shall occur from May 1 to October 31, and shall not occur during the remaining wet months of the year.
- ii. The general topography of the Water Resource Protection Zone shall be retained.
- iii. Soil compaction from construction equipment shall be reduced by distributing the weight of the equipment over a large area (e.g. laying lightweight geo-grids, mulch, chipped wood, plywood, OSB, metal plats or other materials capable of weight distribution in the pathway of the equipment).
- iv. Local native plant species shall not be damaged or removed.
- v. Disturbed areas shall be replanted so that landscaping shall obtain 50% coverage after one year and 90% after five (5) years.

2. Building, Paving and Grading

- a. Testing. Site investigative work is allowed provided it has minimal surface area disturbance and is conducted by or required by a city, county, state, or federal agency. Such work may include surveys, percolation tests, soil borings or other similar tests.
- b. Unpaved Trails. The establishment of unpaved trails and related educational displays is allowed provided the trail width shall not exceed 36 inches, stair width shall not exceed 50 inches, and trail grade shall not exceed 20% except for the portion of the trail containing stairs. Trails in public parks may be up to 72 inches in width to accommodate high pedestrian traffic areas. Trails construction within a delineated wetland boundary shall be by permit in accordance with local, state and federal permitting requirements and approved management plans.
- c. Storm Water Treatment Facility Maintenance. Routine maintenance of storm water treatment facilities such as detention ponds or sediment traps, vegetated swales and constructed wetlands is allowed in order to maintain flow and prevent flooding when conducted in accordance with local, state and federal permitting requirements and approved management plans. Multi-year maintenance plans for existing storm water treatment facilities without previously approved management plans require a Limited Activity and Use Permit in accordance with subsection 18-3.10.060.A.2.

3. Nonconforming Activities, Uses and Structures – An activity, use or structure legally established prior to the adoption of this chapter, which would be prohibited by this chapter or which would be subject to the limitations and controls imposed by this chapter, shall be considered a nonconforming activity, use or structure, and may continue subject to the following provisions:

- a. Nonconforming Structures. Nonconforming structures within or partially within a Water Resource Protection Zone may be maintained and used.
- b. Expansion of Nonconforming Structures. Expansion of the footprint of a nonconforming structure within or partially within a Water Resource Protection Zone if the expansion of the footprint occurs outside the Water Resource Protection Zone and additional surface area in

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the Water Resource Protection Zone is not disturbed. Additional stories may be added to nonconforming structures if the following conditions are met:

- i. The existing building footprint within the Water Resource Protection Zone is not changed in size or shape.

Comment: The highlighted language below is added to clarify that upper story projections beyond the original footprint into the Water Resource Protection Zone are not permitted.

- ii. The building, including decks, does not project beyond the building footprint over the Water Resource Protection Zone.
- ii. Additional surface area in the Water Resource Protection Zone is not disturbed.
- c. Replacement of Nonconforming Principal Buildings in Residential Zoning Districts. Nonconforming principal buildings within or partially within a Water Resource Protection Zone and located in residential zoning districts may be replaced or rebuilt if the existing building footprint within the Water Resource Protection Zone is not changed in size or shape and additional surface area in the Water Resource Protection Zone is not disturbed. Repair and reconstruction of a nonconforming structure under this section shall be in accordance with the requirements of the Flood Damage Prevention Regulations in chapter 15.10.
- d. Replacement of Nonconforming Structures in Non-Residential Zoning Districts and Within Historic Districts. Nonconforming structures within or partially within a Water Resource Protection Zone, located in a non-residential zoning district and within a Historic District may be replaced or rebuilt if the existing building footprint within the Water Resource Protection Zone is not changed in size or shape and additional surface area in the Water Resource Protection Zone is not disturbed. Repair and reconstruction of a nonconforming structure under this section shall be in accordance with the requirements of chapter 15.10 Flood Damage Prevention Regulations.

Comment: The exemption for previously approved building envelopes is deleted because it was limited to 36 months after the effective date of the ordinance which has expired (Ordinance 3000 Adopted 12/15/2009; effective date 1/15/2010; exemption therefore ended on 1/15/2013).

- ~~e. **Previously Approved Building Envelopes and Driveways. Previously approved building envelopes and driveways within or partially within a Water Resource Protection Zone may be built as originally approved and do not have to meet the requirements of this chapter if the following conditions are met:**~~
 - ~~i. **Building permits are approved and construction is commenced within 36 months from the effective date of this ordinance.**~~
 - ~~ii. **The building envelope or driveway location was established and received City of Ashland Planning Division approval prior the effective date of this ordinance.**~~
 - ~~iii. **The building envelope is located on a vacant lot.**~~
 - ~~iv. **The building envelope is located on a lot that was created prior to the effective date of this ordinance.**~~
 - ~~v. **The driveway will provide access to a lot that was created prior to the effective date of**~~

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~~this ordinance.~~

- f. Exemptions for Historic Public Parks and Properties. Nonconforming activities, landscaping, uses and structures included in Lithia Park, Blue Bird Park and Calle Guanajuato and located in the Water Resource Protection Zone may be used, maintained and replaced, but shall not be expanded or enlarged within the Water Resource Protection Zone. Repair and reconstruction of a nonconforming structure under this section shall be in accordance with the requirements of the Flood Damage Prevention Regulations in chapter 15.10.
 4. City Emergency Activities - Emergency repair authorized by the City Administrator or his/her designee which must be undertaken immediately, or for which there is insufficient time for full compliance with this chapter, in order to address at least one of the following.
 - a. Prevent an imminent threat to public health or safety.
 - b. Prevent imminent danger to public or private property.
 - c. Prevent an imminent threat of serious environment degradation.
 - B. Additional Exempt Activities and Uses within Stream Bank Protection Zones. In addition to the Exempt Activities and Uses in subsection 18-3.10.050.A, the following activities and uses do not require a permit or authorization under this chapter to be conducted or to continue in a Stream Bank Protection Zone.
 1. Fire Hazard Prevention – Cutting or thinning of vegetation for fire hazard prevention provided that the cutting or thinning is the minimum necessary to alleviate the potential fire hazard and is consistent with City standards for Wildfire Lands described in chapter 18-3.0 Physical and Environmental Constraints.
 2. Stream Restoration and Enhancement – Stream restoration and enhancement projects when all of the following are met.
 - a. The restoration and enhancement results in a net gain in stream bank corridor functions.
 - b. The lot is in a residential zoning district and occupied only by a single-family dwelling and accessory structures.
 - c. The property has not undergone stream restoration and enhancement work in the past 12 months.
 - d. The restoration and enhancement project does not involve in-stream work.
 - e. The restoration and enhancement project may include minor earth moving activities involving excavation or placement of up to five cubic yards of soil and earth-moving activity disturbing a surface area of no more than 1,000 square feet.
- Comment:** The highlighted language below is new, and is added to clarify that tree protection fencing is allowed in the Water Resource Protection Zone on a temporary basis during construction.
3. Fences – Fences limited to open wire, electric or similar fence that will not collect debris or obstruct flood waters, but not including wire mesh or chain link fencing, may be installed in the

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upland half of the riparian buffer furthest away from the stream. Solid wood fencing is prohibited in Water Resource Protection Zones. Temporary tree protection fencing in accordance with the Tree Preservation and Protection standards in 18-4.11 is allowed in conjunction with a development project. Fencing in a designated floodplain shall conform to the requirements of subsection 18-3.9.060.K.

4. Outdoor Patio Areas – Outdoor patio areas consisting of porous solid surfaces up to 150 square feet in size per lot, but not including decks, may be constructed in the upland half of the riparian buffer furthest away from the stream.
 5. Public Utility Maintenance and Replacement – Routine maintenance and replacement of existing public utilities and irrigation pumps if work disturbs no more total surface area than the area inside the public utility easement and up to an additional five percent surface area of the public utility easement outside of the public utility easement.
 6. Private Utility Maintenance and Replacement – Routine maintenance and replacement of existing private utilities and irrigation pumps.
 7. Driveway and Street Maintenance and Paving – Maintenance, paving and reconstruction of existing public and private streets and driveways if work disturbs no more total surface area than the area inside the street right-of-way or access easement and up to an additional five percent surface area of the street right-of-way or access easement outside of the right-of-way or easement. Public streets shall be located in public right-of-way or a public easement.
- C. Additional Exempt Activities and Uses within Wetland Protection Zones. In addition to the Exempt Activities and Uses in section 18-3.10.050.A, the following activities and uses do not require a permit or authorization under this chapter to be conducted or to continue in a Wetland Protection Zone.

Comment: The highlighted language below is new, and added to clarify that mowing or thinning of vegetation in wetland areas is allowed in situations where it is an part of an approved wetland mitigation plan, or if the mowing or thinning will not remove native plants.

1. Fire Hazard Prevention – Perimeter mowing or thinning of vegetation for fire hazard prevention consistent with a wetland mitigation plan approved by the Oregon Division of State Lands, or within the wetland buffer provided that the mowing or thinning is the minimum necessary to alleviate the potential fire hazard and is consistent with City standards for Wildfire Lands described in the chapter 18-3.9 Physical and Environmental Constraints. The Staff Advisor may approve perimeter mowing or thinning of vegetation in wetlands that do not have an approved wetland mitigation plan using the ministerial process if a plan is submitted demonstrating that native plants will not be removed.

Comment: The highlighted language in section 2 below is new, and added to clarify that tree protection fencing is allowed in the Water Resource Protection Zone on a temporary basis during construction.

2. Fences – Fences limited to open wire, electric or similar fence that will not collect debris or obstruct flood waters, but not including wire mesh or chain link fencing, may be installed in the wetland buffer. Solid wood fencing is prohibited in Water Resource Protection Zones.

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Temporary tree protection fencing required in accordance with the Tree Preservation and Protection standards in 18-4.11 is allowed in conjunction with a development project. Fencing in a designated floodplain shall conform to the requirements of subsection 18-3.9.060.K.

18-3.10.060 Limited Activities and Uses

The following activities and uses within Water Resource Protection Zones are allowed under a Type I land use procedure provided the activities or uses comply with the approval standards set forth in subsection 18-3.10.060.D.

A. Limited Activities and Uses within Water Resource Protection Zones.

1. Use of Power-assisted Equipment or Machinery – Use of power-assisted equipment or machinery for vegetation maintenance unless otherwise exempted in subsection 18-3.10.050.A.1.i.
2. Multi-year Maintenance Plans – Multi-year maintenance plans may be authorized as follows for existing areas or storm water treatment facilities in Water Resource Protection Zones which do not have a previously approved management plans.
 - a. Publicly and Commonly Owned Properties. The routine restoration and enhancement of publicly and commonly owned properties such as public parks and private open spaces.
 - b. Storm Water Treatment Facilities. The ongoing routine maintenance of storm water treatment facilities such as detention ponds or sediment traps, vegetated swales and constructed wetlands in order to maintain flow and prevent flooding. Routine maintenance of storm water treatment facilities in accordance with an approved management plan is exempted as outline in subsection 18-3.10.050.A.2.c.
3. Building, Paving, and Grading Activities – Permanent alteration of Water Resource Protection Zones by grading or by the placement of structures, fill or impervious surfaces may be authorized as follows.
 - a. New Public Access and Utilities. The location and construction of public streets, bridges, trails, multi-use path connections and utilities deemed necessary to maintain a functional system and upon finding that no other reasonable, alternate location outside the Water Resource Protection Zone exists. This Title, the Comprehensive Plan, Transportation System Plan, adopted utility master plans and other adopted documents shall guide this determination.
 - b. New Private Access and Utilities. The location and construction of private streets, driveways and utilities to provide a means of access to an otherwise inaccessible or landlocked property where no other reasonable, alternate location outside the Water Resource Protection Zone exists.
 - c. Storm Water Treatment Facility Installation. Installation of public and private storm water treatment facilities such as detention ponds or sediment traps, vegetated swales and constructed wetlands.

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- d. Replacement of Nonconforming Accessory Structures in Residential Districts and Replacement of Nonconforming Structures in Non-Residential Zoning Districts and Outside Historic Districts. Replacement of nonconforming structures located within or partially within the original building footprint, except those nonconforming principal buildings exempted in subsection 18-3.10.050.A.3, provided replacement does not disturb additional surface area within the Water Resource Protection Zone.

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B. Additional Limited Activities and Uses within Stream Bank Protection Zones. In addition to the Limited Activities and Uses in subsection 18-3.10.060.A, the following activities and uses with the Stream Bank Protection Zones are allowed under a Type I land use procedure provided the activities or uses comply with the approval standards set forth in subsection 18-3.10.060.D.

1. Stream Restoration and Enhancement – Restoration and enhancement projects resulting in a net gain in stream bank corridor functions unless otherwise exempted in subsection 18-3.10.050.B.2. Restoration and enhancement activities not otherwise associated with development involving building, grading or paving are encouraged, and planning application fees associated with reviewing these activities for compliance with applicable land use standards may be waived by the Staff Advisor.
2. Driveway and Street Maintenance and Paving – Maintenance, paving, and reconstruction of existing public and private streets and driveways if work disturbs more total surface area than the area inside the street right-of-way or access easement and an additional five percent surface area of the street right-of-way or access easement outside of the right-of-way or easement. Public streets shall be located in public right-of-way or a public easement.
3. Public Facility Paving and Reconstruction – Paving and reconstruction of public parking areas and walkways if additional surface area in the Stream Bank Protection Zone is not disturbed, the public facilities are deemed necessary to maintain a functional system and upon finding that no other reasonable alternate location outside the Water Resource Protection Zone exists.
4. Public Utility Maintenance and Replacement – Routine maintenance and replacement of existing public utilities and irrigation pumps if work disturbs more total surface area than the area inside the public utility easement and an additional five percent surface area of the public utility easement outside of the public utility easement.
5. Erosion Control – Erosion control and stream bank stabilization measures that have been approved by the Oregon Department of State Lands (DSL), the U.S. Army Corps of Engineers, or other state or federal regulatory agencies, and that utilize non-structural bio-engineering methods.
6. Storm Water Outfall – Construction of a storm water outfall discharging treated storm water from an adjacent developed area provided that the discharge meets local, state and federal water quality regulations.
7. Bridges – The installation of a bridge or similar, bottomless crossing structure for the purpose of constructing a public or private street, bicycle or pedestrian crossing, as well as to provide a means of access to an otherwise inaccessible or landlocked property.
8. Flood Control Measures – Installation or expansion of structural flood control measures, including but not limited to concrete retaining walls, gabions, gravity blocks, etc., shall generally be prohibited, but approved only if demonstrated that less-invasive, non-structural methods will not adequately meet the stabilization or flood control needs.

C. Additional Limited Activities and Uses within Wetland Protection Zones. In addition to the Permitted Activities and Uses in subsection 18-3.10.060.A, the following activities and uses with the Wetland Protection Zones are allowed under a Type I land use procedure provided the activities or

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uses comply with the approval standards set forth in subsection 18-3.10.060.D.

1. Wetland Restoration and Enhancement – Wetland restoration and enhancement projects resulting in a net gain in wetland functions. Wetland restoration and enhancement activities not otherwise associated with development involving building, grading or paving are encouraged, and planning application fees associated with reviewing these activities for compliance with applicable land use standards may be waived by the Staff Advisor.
2. Driveway and Street Maintenance and Paving – Maintenance, paving, and reconstruction of existing public and private streets and driveways. Public streets shall be located in public right-of-way or public easement.
3. Public and Private Utility Maintenance and Replacement – Routine maintenance and replacement of existing public and private utilities that disturb lands within the Wetland Protection Zone.

D. Approval Standards for Limited Activities and Uses within Water Resource Protection Zones.

All Limited Activities and Uses within Water Resource Protection Zones described in section 18-3.10.060 shall be processed as a Type I land use procedure. The approval authority may approve or approve with conditions a request to conduct Limited Activities and Uses in a Water Resource Protection Zone based upon findings that the following standards have been satisfied.

1. All activities shall be located as far away from streams and wetlands as practicable, designed to minimize intrusion into the Water Resources Protection Zone and disturb as little of the surface area of the Water Resource Protection Zone as practicable.
2. The proposed activity shall be designed, located and constructed to minimize excavation, grading, area of impervious surfaces, loss of native vegetation, erosion, and other adverse impacts on Water Resources.
3. On stream beds or banks within the bank full stage, in wetlands, and on slopes of 25% or greater in a Water Resource Protection Zone, excavation, grading, installation of impervious surfaces, and removal of native vegetation shall be avoided except where no practicable alternative exists, or where necessary to construct public facilities or to ensure slope stability.
4. Water, storm drain and sewer systems shall be designed, located and constructed to avoid exposure to floodwaters, and to avoid accidental discharges to streams and wetlands.
5. Stream channel repair and enhancement, riparian habitat restoration and enhancement and wetland restoration and enhancement will be restored through the implementation of a mitigation plan prepared in accordance with the standards and requirements in section 18-3.10.110.
6. Long term conservation, management and maintenance of the Water Resource Protection Zone shall be ensured through preparation and recordation of a management plan as described in subsection 18-3.10.110.C, except a management plan is not required for residentially zoned lots occupied only by a single-family dwelling and accessory structures.

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18-3.10.070 Water Resource Protection Zone Reductions

A Water Resource Protection Zone may be reduced by up to 25% through a Type I land use procedure, and by greater than 25% and up to 50% through a Type II land use procedure to allow alteration within the Water Resource Protection Zone based upon findings that the following approval criteria have been satisfied.

- A. The proposed use or activity is designed to avoid intrusion into the Water Resource Protection Zone through the use of up to a 50% reduction of any dimensional standards (e.g. required front, side and rear yard setbacks; required distance between buildings) to permit development as far outside or upland of the Water Resource Protection Zone as possible. Such adjustment to any applicable dimensional standards shall be reviewed as part of the requested reduction, and shall not be subject to a separate Variance application under chapter 18-5.5. Reductions to dimensional standards may not be used to reduce required Solar Access setbacks without evidence of agreement by the effected property owner(s) to the north through a concurrent Solar Access Variance application as described in chapter 18-4.10.
- B. The alteration of the Water Resource Protection Zone is the minimum necessary to efficiently perform the proposed activity and/or use. The proposed development shall minimize disturbance to the Water Resource Protection Zone by utilizing the following design options to minimize or reduce impacts of development.
 - 1. Multi-story construction shall be considered.
 - 2. Parking spaces shall be minimized to no more than that required as a minimum for the use.
 - 3. Pavement shall be minimized, and all pavement used shall be installed and maintained in a pervious paving material.
 - 4. Engineering solutions shall be used to minimize additional grading and/or fill.
- C. The application demonstrates that equal or better protection for identified resources will be ensured through restoration, enhancement and mitigation measures. The structures, functions and values of the Water Resource will be restored through the implementation of a restoration and enhancement strategy set forth in a mitigation plan prepared in accordance with the standards and requirements described in section 18-3.10.110.
- D. Long term conservation, management and maintenance of the Water Resource Protection Zone shall be ensured through preparation and recordation of a management plan as described in subsection 18-3.10.110.C, except a management plan is not required for residentially zoned lots occupied only by a single-family dwelling and accessory structures.

18-3.10.080 Hardship Variances for Development in Water Resource Protection Zones

Hardship Variances shall be processed as a Type II land use procedure. Hardship Variances are not subject to the Variance requirements of chapter 18-5.5. The approval authority may approve or approve with conditions a request for a Hardship Variance based upon findings that the following approval criteria have been satisfied.

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- A. The application of this chapter unduly restricts the development or use of the lot, and renders the lot not buildable.
- B. The proposed activity or use of land would have been permitted prior to the effective date of this ordinance.
- C. The applicant has explored all other reasonable options available under this chapter and other applicable provisions of this ordinance to relieve the hardship.
- D. Adverse impacts on the structures, functions or values of the resource including water quality, erosion, or slope stability that would result from approval of this Hardship Variance have been minimized and will be mitigated to the greatest extent possible through restoration and enhancement of the Water Resource Protection Zone in accordance with a mitigation plan prepared in accordance with the standards and requirements in section 18-3.10.110.
- E. Long term conservation, management and maintenance of the Water Resource Protection Zone shall be ensured through preparation and recordation of a management plan as described in subsection 18-3.10.110.C, except a management plan is not required for residentially zoned lots occupied only by a single-family dwelling and accessory structures.

18-3.10.090 Approval Standards for Land Divisions and Property Line Adjustments

Planning actions and procedures containing Water Resource Protection Zones and involving the division of land or lot line adjustments shall comply with the following provisions and shall include the plan requirements in subsection 18-3.10.100.A.3.

- A. **Building Envelope Established.** Each lot shall contain a building envelope outside the Water Resource Protection Zone of sufficient size to permit the establishment of the use and associated accessory uses.
- B. **Conservation Area. Performance Standards Option** Subdivision, Subdivision, Partition, and Site Design Review applications shall include the Water Resource Protection Zone within a conservation easement or recorded development restriction, which stipulates that the use or activity within the Water Resource Protection Zone shall be consistent with the provisions of this chapter. The approval authority may require that the Water Resource Protection Zone be included in a separate tract of land managed by a homeowners' association or other common ownership entity responsible for preservation.
- C. **Density Transfer.** Density calculated from the land area contained within the Water Resource Protection Zone may be transferred to lands outside the Water Resource Protection Zone provided the following standards are met.
 - 1. Partitions and subdivisions involving density transfer shall be processed under chapter 18-3.8 Performance Standards Option.
 - 2. A map shall be submitted showing the land area not within the Water Resource Protection Zone to which the density will be transferred.
 - 3. The Water Resource Protection Zone shall be included in a separate preservation tract to be

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managed by a homeowner's association or other common ownership entity responsible for management of the area.

4. Density may only be transferred within the subject property or to a lot or lots contiguous to the subject property and within the same ownership.
 5. The density transferred to lands not within the Water Resource Protection Zone may not be increased to more than one and a half times the base density of the underlying zoning district. Fractional units are to be rounded down to the nearest whole number.
- D. Management Plan. Long term conservation, management and maintenance of the Water Resource Protection Zone consistent with the requirements of this chapter shall be ensured through preparation and recordation of a management plan as described in subsection 18-3.10.110.C.
- E. Mitigation Requirements. The approval authority may require a mitigation plan in accordance with the requirements of section 18-3.10.110 to mitigate impacts resulting from land divisions.
- F. Exemptions for a Public Purpose. An exemption to the requirements described above shall be granted for lots created for public park purposes, or privately-owned tracts created for the sole purpose of conserving in perpetuity the natural functions and values of the lands contained within the Water Resource Protection Zone.)

18-3.10.100 Application Submission Requirements

- A. Required Plans and Information.** The following plans and information shall be submitted with the application for activities and uses in a Water Resource Protection Zone which are required to be processed under a Type I or Type II land use procedure including Limited Activities and Uses, Water Resource Protection Zone Reductions and Hardship Variances.
1. A narrative description of all proposed activities and uses including the extent to which any Water Resource Protection Zone is proposed to be altered or affected as a result of the proposed development activity or use (in terms both of square footage of surface disturbance and cubic yards of overall disturbance).
 2. Written findings of fact addressing all applicable development standards and approval criteria.
 3. Site development plan map, drawn to scale - The application shall include a site map of the subject property prepared by a licensed surveyor, civil engineer or other design professional that includes the information described below. The Staff Advisor may request additional information based upon the character of the site or the specific nature of the proposal.
 - a. All watercourses identified (including any drainage ways, ponds, etc).
 - b. Surveyed location of the Water Resource Protection Zone, as described in section 18-3.10.040. For applications involving single-family residences or Limited Activities and Uses, in lieu of a surveyed location, the Staff Advisor may approve a field determination of the Water Resource Protection Zone by the Staff Advisor or his/her designee in which the applicant shall be required to stake the top-of-bank or the upland-wetland edge and the boundary of the Water Resource Protection Zone.

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- c. For activities and use proposed within a Stream Bank Protection Zone: identification of the stream as being either fish-bearing or non-fish-bearing; identification of the top-of-bank or center line as required; and surveyed location of the stream's floodway and floodplain, if applicable.
 - d. For activities and uses proposed within a Wetland Protection Zone: a wetland delineation (with an accompanying site map) prepared by a natural resource professional and that has been concurred with by the Oregon Department of State Lands (DSL); and an aerial photo with the wetland boundaries identified.
 - e. Topographic information at two foot contour increments identifying both existing grades and proposed grade changes.
 - f. Surveyed locations of all trees six (6) inches in diameter at breast height (dbh) or greater located in the Water Resource Protection Zone and within 15 feet of the Water Resource Protection Zone, identified by edge of canopy, diameter at breast height and species;
 - g. The outlines of non-tree vegetation, with a dominant species and any occurrence of non-native, invasive species identified.
 - h. Location of existing and proposed development, including all existing and proposed structures, any areas of fill or excavation, stream or wetland crossings, alterations to vegetation, or other alterations to the site's natural state.
 - i. The location of natural features, proposed and existing structures, and other proposed and existing improvements associated with lands within 100 feet of the Water Resource Protection Zone.
 - j. Proposed and existing land uses within 100 feet of the Water Resource Protection Zone.
 - k. The location of temporary fencing and erosion control measures installed to prevent encroachment and flow of material into the Water Resource Protection Zone, such as sediment fencing and hay bales, etc.
 - l. North arrow and scale.
 - m. Sources of information (federal, state and local).
- 4. Mitigation Plan prepared in accordance with the requirements described in section 18-3.10.110.
 - 5. Management Plan prepared in accordance with the requirements described in subsection 18-3.10.110.C., except a management plan is not required for residentially zoned lots occupied only by a single-family dwelling and accessory structures.

B. Building Permits and Development Activities. When approval of a planning action is not required, other permit applications for the construction of structures or other development activities on properties containing Water Resource Protection Zones shall be reviewed by the Staff Advisor to assure that Water Resource Protection Zones are accurately identified on a site plan and that Limited Activities and Uses or other site disturbances will not be conducted within the Water Resource Protection Zone. Temporary fencing and erosion control measures may be required to be installed to prevent encroachment and flow of material or other debris into the Water Resource

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Protection Zone and to otherwise prevent impacts to the Water Resource Protection Zone by clearly identifying its boundaries. When required, these measures shall be installed and site-verified by the Staff Advisor before any permits are issued and prior to the commencement of excavation, grading, site clearing, construction or similar site work resulting in changes to the land.

- C. Required Information Waived – Determination.** Applications under this chapter involving properties containing a Water Resource Protection Zone shall accurately indicate the locations of these features and all other information as described and required above. The Staff Advisor may waive one or more of the required elements of the site development plan map in subsection 18-3.10.100.A.3 if evidence is provided conclusively demonstrating that proposed excavation, grading, site clearing, construction or similar actions resulting in changes to the property are not located within the boundaries of the Water Resource Protection Zone.

18-3.10.110 Mitigation Requirements for Water Resource Protection Zones

- A. Vegetation Preservation and Construction Staging.** The following standards shall be addressed in mitigation plans to protect vegetation identified for preservation and water resources from sedimentation when construction activity is proposed within a Water Resources Protection Zone.
1. Work areas on the immediate site shall be identified and marked to reduce damage to trees and vegetation. Temporary construction fencing shall be placed at the drip line of trees bordering the work area. No equipment maneuvering, staging or stockpiling shall occur outside of designated work areas.
 2. Trees shall not be used as anchors for stabilizing equipment.
 3. Stockpiling of soil, or soil mixed with vegetation, shall not be permitted in Water Resource Protection Areas on a permanent basis. Temporary storage shall employ erosion control measures to ensure sediments are not transported to adjacent surface waters.
 4. Temporary erosion control measures shall be installed to prevent encroachment and flow of runoff, material or other debris into the Water Resource. These measures shall be installed prior to the commencement of excavation, grading, site clearing, construction or similar site work resulting in changes to the land. Access roads, staging areas, storage areas and other areas of temporary disturbance necessary to complete the proposed activity shall be restored as soon as possible, but not more than 90 days after authorized land disturbance. Erosion control measures shall be in place concurrently with construction or establishment of the proposed activity. Temporary measures used for initial erosion control shall not be left in place permanently.
- B. Options for Satisfying Restoration and Enhancement Requirements in Mitigation Plans.** Mitigation plans are required to meet the standards in either the Prescriptive Option or Alternative Option as follows.
1. Prescriptive Option The mitigation plan shall meet the following standards.
 - a. Re-planting Timeline. Re-planting shall occur within 90 days of authorized land disturbance.
 - b. Restoration Area Ratio. Disturbed areas shall be re-planted and an additional area restored,

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re-planted and enhanced at a one square foot to one and a half square feet (1:1.5) ratio (e.g. if 100 square feet of surface area is disturbed, 150 square feet shall be restored, re-planted and enhanced).

- c. Local Native Plant Species Coverage. The Stream Bank Protection Zone shall be a minimum of 50% plant coverage in local native plant species with the installation of new trees only to consist of native trees (Figures 8, 9 and 10). The Wetland Protection Zone shall be 100% plant coverage in local native plant species and in accordance with local, state and federal approved management plans. Local native plant species for stream bank and wetland applications are identified on the City of Ashland's Local Native Plant Species List. The use of noxious and invasive plants on the City of Ashland's Prohibited Plant List in Water Resource Protection Zones is prohibited.
- d. Re-planting Priorities.
 - i. Priority shall be given to removal of noxious and invasive vegetation and planting of local native plant species.
 - ii. Plant materials shall be located in such a manner as to maximize enhancement and restoration of the Water Resource Protection Zone, with particular emphasis on temperature reduction of watercourses, erosion control, bank stabilization and wildlife habitat enhancement.
 - iii. Nearby riparian plant communities should be used as a guide for developing a re-vegetation plan.
- e. Shrub and Tree Requirements. Re-planting shall include shrubs and tree canopy layers in accordance with the following coverage and spacing requirements.
 - i. Shrubs shall be planted and maintained to provide a minimum of 50% total coverage of the restored area within a five year period. The minimum planting size shall be one gallon. Restoration areas that have existing vegetated under-story consisting of healthy riparian shrubs that covers at least 50% of the restoration area are considered compliant with the restoration standards for under-story plantings.
 - ii. Canopy trees shall be planted at 20-foot intervals. The minimum planting size shall be one inch caliper. All new trees shall be staked and protected by deer/rodent-proof fencing. Restoration areas that have an existing vegetated tree canopy consisting of healthy trees at least four inches d.b.h. and at an average spacing of 20 feet on-center are considered compliant with the restoration standards for trees.
- f. Erosion Control. Erosion control material such as mulch, hay, jute-netting, or comparable material shall be applied to protect disturbed, re-planted areas. Disturbed areas shall be replanted so that landscaping shall obtain 50% coverage after one year and 90% coverage after five years.
- g. Irrigation. New plantings shall be irrigated for a period of five years to ensure establishment.
- h. Performance. Local native plant species that do not survive the first two years after planting shall be replaced.

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- i. Landscape and Irrigation Plans. A mitigation plan shall include landscape and irrigation plans, with details addressing the proposed plant species, variety, size of plant materials, number of plants, timing of plantings, plant spacing and installation methods. The landscape plan shall address the plant coverage by local native plant species after five years.
2. Alternative Option – The mitigation plan shall address the following requirements, and shall meet or exceed the standards in the Prescription Option in subsection 18-3.10.110.B.1. The Staff Advisor may require the mitigation plan to be prepared by a natural resource professional.
 - a. Assessment of Water Resource Protection Zone Structures, Functions and Values. A mitigation plan shall include an assessment of the structures, functions and values (i.e. water quality, flood control, habitat, etc.) that will be adversely impacted by the proposed alterations of the Water Resource Protection Zone and a clear explanation of how these impacts are to be mitigated.
 - b. Objectives and Standards of Mitigation. A mitigation plan shall state specific plan objectives and establish clear and measurable standards for determining if stated objectives have been accomplished. For example, the objective might be to restore or enhance the shade canopy within a Stream Bank Protection Zone to benefit fish and reduce water temperature, while the standard might be a certain percentage of shade canopy coverage at the end of one year and 100% shade canopy coverage after three years.
 - c. Mitigation Site/Grading Plan. A statement and detailed plan of the location, elevation, and hydrology of the mitigation area, including a grading plan at two foot contour intervals. For applications involving Wetland Protection Zones, the application shall demonstrate that plants have adequate access to site hydrology. For applications involving Stream Bank Protection Zones, the grading plan shall identify newly planted areas and include slope stabilizing measures to prevent erosion, ensure vegetative coverage and limit plant mortality.
 - d. Landscape Plan. The Stream Bank Protection Zone shall be a minimum of 50% plant coverage in local native plant species with the installation of new trees only to consist of native trees (Figures 8, 9 and 10). The Wetland Protection Zone shall be 100% plant coverage in local native plant species and in accordance with local, state and federal approved management plans. Local native plant species for stream bank and wetland applications are identified on the City of Ashland's Local Native Plant Species List. The use of noxious and invasive plants on the City of Ashland's Prohibited Plant List in Water Resource Protection Zones is prohibited. The landscape plan shall address the plant coverage by local native plant species after five years, and shall be size and species-specific, with details addressing the timing of plantings, proposed plant placement and plant spacing.

C. Management Plan. The applicant shall implement a management plan for the Water Resource Protection Zone and resource areas under the applicant's ownership or control, including the areas restored and enhanced to assure long term conservation and maintenance. The management plan shall detail proposed monitoring and maintenance, and shall include a schedule delineating how

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completed projects will be monitored and reported to the Staff Advisor. The management plan shall contain the following requirements.

1. The approved mitigation plan.
2. Identification of Water Resources and Water Resource Protection Zone management practices to be conducted and proposed intervals.
3. The following statements.
 - a. “There shall be no alteration of the Water Resource Protection Zones as delineated and shown on the attached plan.” (attach reduced plan)
 - b. “There shall be no alteration of the size, shape or design of an approved Water Resource Protection Zone without prior approval by the City of Ashland”.
 - c. “There shall be no amendment or change to this Management Plan without prior approval of the City of Ashland”.
4. Provisions for the ongoing removal and management of noxious or invasive vegetation and debris.
5. Provisions for the protection of protected plant and animal species in accordance with recommendations from applicable state and federal agencies.
6. Specific provisions for city enforcement of the management plan.
7. Any additional measures deemed necessary to protect and maintain the structures, functions and values of the Water Resource Protection Zone (e.g. signage delineating preservation boundaries).
8. Provisions for the perpetual protection and maintenance of the Water Resource and Water Resource Protection Zone including but not limited to the following.
 - a. Recordation of a conservation easement or Conditions, Covenants, and Restrictions (CC&Rs) which prescribe the conditions and restrictions set forth in the approved planning application, development permit, building permit, or proposed public facilities plans, and any imposed by state or federal permits.
 - b. Transfer of the ownership and maintenance responsibilities for the area to a willing public agency, non-profit association or private conservation organization with a recorded conservation easement prescribing the conditions and restrictions set forth in the approved planning application, development permit, building permit, or proposed public facilities plans, and any imposed by state or federal permits.
 - c. Other mechanisms addressing long-term protection, maintenance and mitigation consistent with the purposes and requirements of this ordinance as deemed appropriate and acceptable by the approval authority.

D. A Performance Guarantee. In general, mitigation shall be implemented prior to or concurrently with the project. The approval authority may require a performance bond or similar monetary insurance of up to 110% of the proposal’s cost to guarantee that the mitigation proposal will be

18-3.10 – Water Resources Protection Zones (Overlays)

carried out as approved, and to ensure that the objectives are met through demonstration of compliance with measurable standards and that the site will be maintained to keep the Water Resource functioning properly.

18-3.10.120 Map Errors and Adjustments

The Staff Advisor may authorize a correction to a wetland on the Water Resources map when the applicant has shown that a mapping error has occurred and the error has been verified by the Oregon Department of State Lands (DSL). Delineations verified by DSL shall be used to automatically update the Water Resources map and record the wetland delineation document. No formal variance application or plan amendment is required for map corrections where an approved delineation with a DSL letter of concurrence is provided. Approved delineations shall be subject to the terms of expiration set forth in the DSL approval.

18-3.10.130 Enforcement and Penalties

- A. Fine. A violation of any provision of this chapter, a permit issued under this chapter or any condition of a permit issued under this chapter shall be a violation as defined by General Penalty chapter 1.08 and punishable by a fine as set forth in that section.
- B. Mitigation and Management. Within 30 days of notification by the City of Ashland Planning Division of a violation of a provision of this chapter or any condition of a permit issued under this chapter, mitigation shall be required and the Staff Advisor may require the property owner to submit a mitigation plan prepared by a natural resource professional and in accordance with subsection 18-3.10.110.B.
- C. Enforcement Fee. In addition to a fine, the court may impose an enforcement fee as restitution for the enforcement costs incurred by the City. This fee may be imposed upon any person who violates any provision of this chapter or who violates any permit or condition of any issued permit under this chapter. The fee shall be in an amount established by resolution of the City Council.

Chapter 18-3.11 – Site Development and Design Overlays

Sections

- 18-3.11.010 Purpose
- 18-3.11.020 Applicability
- 18-3.11.030 Detail Site Review Overlay
- 18-3.11.040 Downtown Design Standards Overlay
- 18-3.11.050 Historic District Overlay
- 18-3.11.060 Pedestrian Place Overlay

Comment: This chapter consolidates existing ordinance provisions and creates new enabling provisions for the following overlays, which are applied through Site Review: Detailed Site Review Overlay, Downtown Design Standards Overlay, Historic District Overlay, and Pedestrian Places Overlay.

18-3.11.010 Purpose

The Site Development and Design overlays provide special regulations and standards that supplement the base zoning regulations which are implemented through Site Review.

18-3.11.020 Applicability

This chapter applies to the Detail Site Review, Downtown Design Standards, Historic District, and Pedestrian Place overlays. Development located within these overlays is required to meet all other applicable sections of this ordinance, except as modified by this chapter. Where the provisions of this chapter conflict with comparable standards described in any other ordinance or regulation, the provisions of this chapter apply.

18-3.11.030 Detail Site Review Overlay

Comment: This section carries forward 18.72.050.

- A. The Detail Site Review overlay is that area defined in the City of Ashland Site Design Zones map.
- B. Development in the Detail Site Review overlay is subject to section 18-4.2.040.B Detail Site Review Standards in addition to all other applicable sections of this ordinance.
- C. Any development in the Detail Site Review overlay which exceeds 10,000 square feet or is longer than 100 feet in length or width shall be reviewed according to the Type 2 procedure.

18-3.11.040 Downtown Design Standards Overlay

Comment: This section carries forward 18.72.055.

- A. The Downtown Design Standards Overlay is that area defined in the City of Ashland Site Design Zones map.

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- B. Development in the Downtown Design Standards Overlay is subject to section 18-4.2.070 Downtown Design Standards in addition to all other applicable sections of this ordinance.
- C. Any development in the Downtown Design Standards overlay which exceeds 2,500 square feet shall be reviewed according to the Type 2 procedure.

18-3.11.050 Historic District Overlay

Comment: This section provides enabling language for the historic district regulations currently contained in the SDUS document.

- A. The Historic District Overlay, also referred to as the Historic Interest Area, is that area defined in the City of Ashland Historic Districts map.
- B. Development in the Historic District Overlay is subject to section 18-4.2.050 Historic District Standards in addition to all other applicable sections of this ordinance.

18-3.11.060 Pedestrian Place Overlay

Comment: This section carries forward 18.56.040. The “Applicability” section is reworded for consistency throughout the ULUO.

A. Purpose. The Pedestrian Place overlay is intended to direct and encourage development of small walkable nodes that provide concentrations of gathering places, housing, businesses and pedestrian amenities situated and designed in a way to encourage walking, bicycling and transit use.

B. Applicability

1. ~~Location.~~ The Pedestrian Place overlay is that area defined in the City of Ashland Site Design Zones map. **This section applies to properties designated as Pedestrian Places overlay on the City of Ashland Site Design Zones map.**
2. ~~Review Procedure.~~ The Pedestrian Place overlay requirements apply to proposed development located in the Pedestrian Place overlay that requires a planning application approval, and involves development of new structures or additions other than single-family dwellings and associated accessory structures and uses. ~~3. Pedestrian Overlay Standards Apply.~~ The provisions of the Pedestrian Place overlay supplement those of the applicable base zoning district and other applicable ordinance requirements. Where the provisions of this chapter conflict with comparable standards described in any other ordinance or regulation, the provisions of the Pedestrian Place overlay shall apply.
3. ~~Mixed-Use Buildings in Residential Zones.~~ Mixed-use buildings in a residential base zoning district require Site Review approval in accordance with chapter 18-5.2, and are subject to the non-residential standards section 18-4.2.040.A Basic Site Review Standards rather than the

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residential standards in section 18-4.2.030 Residential Development. Mixed-use buildings are subject to all other applicable provisions of Part 18-4 Site Development and Design Standards.

- C. Pedestrian Place Concept Plans.** The Pedestrian Place Concept plans (i.e. site plan, development summary and building illustrations) are for the purpose of providing an example of development that conforms to the standards, and do not constitute independent approval criteria. Concept plans are attached to the end of this chapter.
- D. Development Standards.** ~~In addition to the requirements of the base zoning district, the~~ **The** following standards shall apply to development in the Pedestrian Places overlay **in addition to all applicable provisions of this ordinance.**
1. **Building Setbacks.** The solar access setback in chapter 18-4.10 Solar Access applies only to those lots abutting a residential zone to the north.
 2. **Plazas and Landscaping Ratio.** Outdoor seating areas, plazas and other useable paved surfaces may be applied toward meeting the landscaping area requirements in chapter 18-4.5, but shall not constitute more than 50% of the required area.
- E. Development in Residential Base Zone Residential Zoning Districts within Pedestrian Place Overlay.** **The following provisions shall apply to development in residential base zones in the Pedestrian Places overlay in addition to all applicable provisions of this ordinance.**
1. **Special Permitted Uses.** In addition to the permitted uses in the base residential zoning district, the following uses and their accessory uses are permitted outright subject to the requirements of this section and the requirements of Part 18-4 Site Development and Design Standards.
 - a. Professional, financial, business and medical offices, and personal service establishments.
 - b. Stores, shops and offices supplying commodities or performing services.
 - c. Restaurants.
 2. **Development Standards and Limitations.**
 - a. The maximum gross floor area occupied by a special permitted use shall be 2,500 square feet.
 - b. Special permitted uses shall be allowed in a building or in a group of buildings including a mixture of businesses and housing. At least 50% of the total gross floor area of a building or of multiple buildings shall be designated for housing.
 - c. The development shall meet the minimum housing density requirements of the base zoning district.
 - d. A building shall be setback not more than five feet from a public sidewalk unless the area is used for pedestrian activities such as plazas or outside eating areas, or for a required public utility easement.
 - e. Developments shall have a minimum Floor Area Ratio (FAR) of .50. Plazas and pedestrian areas shall count as floor area for the purposes of meeting the minimum FAR. Projects including existing buildings or vacant parcels of a half an acre or greater in size shall

18-3.11 – Site Development and Design Overlays

achieve the required minimum FAR, or provide a shadow plan (see graphic) that demonstrates how development may be intensified over time to meet the required minimum FAR.

18-3.12 – Residential Overlay

Chapter 18-3.12 Residential Overlay

Comment: This section carries forward 18.56.050. A purpose statement is added for clarity and consistency throughout the ULUO.

Sections

18-3.12.010 Residential Overlay Regulations

18-3.12.010 Residential Overlay Regulations

A. Purpose. The Residential overlay is intended to encourage a concentration and mix of businesses and housing that provides a variety of housing types, supports resource and energy conservation, and promotes walking, bicycling and transit use.

B. Applicability. The Residential overlay applies to all property where 'Residential Overlay' ('R') is indicated on the City of Ashland Zoning map. ~~The Residential Overlay applies to all property where a "R" is indicated on the Ashland Zoning Map.~~

C. Requirements. ~~The Residential Overlay applies to all property where (R) is indicated on the Ashland Zoning Map.~~ The Residential overlay requirements are as follows:

Comment: The highlighted language below is added to clarify the calculation for sites with multiple buildings. This is an amendment made per the Planning Commission input, and was included as an item to address on the Policy Issues and Recommendations from the 2005 Land Use Ordinance Review.

1. At least 65% of the total gross floor area of the ground floor, or if there are multiple buildings on a site, at least 50% of the total lot area, including accessory uses such as parking, landscaping, and public space, ~~if there are multiple buildings,~~ shall be designated for permitted or special permitted uses, excluding residential.
2. Residential densities shall not exceed fifteen (15) dwelling units per acre. For the purpose of density calculations, units of less than 500 square feet of gross habitable floor area shall count as 0.75 of a unit.
3. Residential uses shall be subject to the same setback, landscaping, and design standards as for permitted uses in the E-1 District.
4. If the number of residential units exceeds ten (10), then at least 10% of the residential units shall be affordable for moderate-income persons in accord with the standards established by resolution of the Ashland City Council through procedures contained in the resolution. The number of units required to be affordable shall be rounded down to the nearest whole unit.