



## PLANNING COMMISSION **Agenda**

520 E. Cascade Avenue - PO Box 39 - Sisters, Or 97759 | ph.: (541) 549-6022 | [www.ci.sisters.or.us](http://www.ci.sisters.or.us)

### THURSDAY, JANUARY 4, 2024 – 4:00 P.M AGENDA

This Planning Commission meeting is accessible to the public in person in the City Council Chambers at 520 E. Cascade Avenue, Sisters, OR 97759 and via the following Zoom link:

<https://us02web.zoom.us/j/82961000929>

Webinar ID: 829 6100 0929

- I. CALL TO ORDER / DETERMINATION OF QUORUM / ADOPTION OF AGENDA**
- II. VISITOR COMMUNICATION:** This is time provided for individuals wishing to address the Planning Commission regarding issues not already on the agenda.
- III. WORK SESSION**
  - A. Wildfire Hazard Mitigation - Defensible Space and Building Hardening Code Update (Exhibit A)
- IV. STAFF AND COMMISSIONER COMMENTS**
- V. ADJOURN**

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**Meeting Date:** January 4, 2024

**Type:** Work Session

**Subject:** Defensible Space and Structural Hardening Standards to Mitigate the Impacts of Wildfire.

**Staff:** Martin

**Dept:** Community Development

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**Action Requested:** Work session to discuss defensible space and structural hardening standards to mitigate the impacts of wildfire and provide direction for associated Sisters City Code updates.

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### Summary Points:

For the 2023-24 fiscal year, the City Council (Council) adopted several goals to accomplish in the coming year. One of those goals is to “Work toward updating defensible space and structural hardening requirements through the Development Code.” The Council identified this as a priority to address the risks and mitigate the impacts of wildfire in the city limits of Sisters.

The purpose of this work session is to provide an overview of:

- Defensive Space and Structural Hardening
- Existing City of Sisters Standards
- Updated/Upcoming Statewide Standards
- Other Examples of Best Practices

Staff seeks input and recommended direction from the Planning Commission (Commission) regarding potential next steps regarding evaluation of potential changes to Sisters City Code to address defensible space and building hardening standards. To assist this process, staff has identified several options for the Commission to consider (See Pages 7-8).

On November 29, 2023<sup>1</sup>, staff met with the Council for a work session to present a similar overview of defensible space and building hardening strategies and receive input and direction from the Council. A summary of input and direction from the Council is provided at the end of this report (See Page 9).

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<sup>1</sup> 11/29/23 City Council Workshop: <https://www.ci.sisters.or.us/bc-citycouncil/page/city-council-workshop-regular-meeting-0>

## EXHIBIT A

### **DEFENSIBLE SPACE**

Defensible space is the buffer created between buildings and the vegetated landscape that surrounds them that reduces the likelihood of embers or flames igniting the structure. Establishing and maintaining defensible space can make a significant difference during a wildfire. Creating a defensible space does not mean creating a moonscape. Examples of managing this defensible space include limbing and spacing trees, use of fire-resistant plants, removing vegetative byproducts such as needles and leaves, and keeping other combustibles separated from the buildings.

The study of wildfire behavior and mitigation best practices continues to evolve with a variety recommended actions to provide defensible space. To provide one example, staff looked to the National Fire Protection Association (NFPA) for guidance. Figure 1 below was created by NFPA to provide a visual example of defensible space. It is generally accepted that the requirements for an effective defensible space vary based on proximity to buildings.

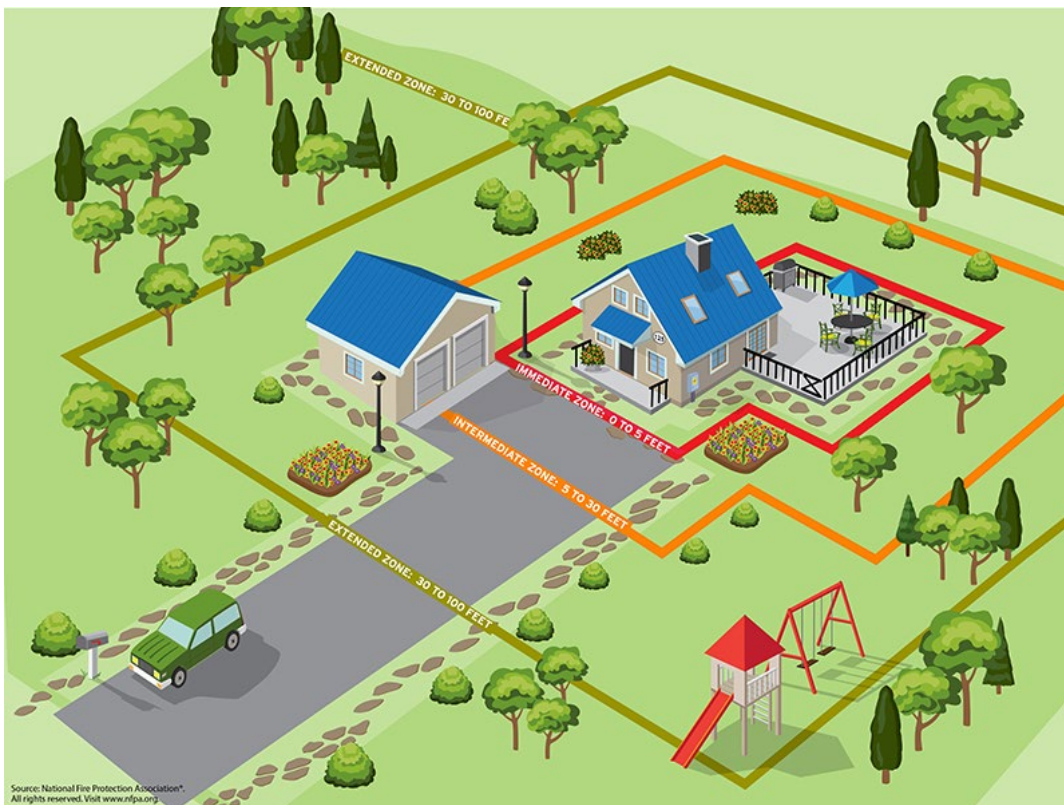


Figure 1. Defensible Space (Source: nfpa.org)

The NFPA identifies three (3) distinct areas of a defensible space: 1. Immediate Zone; 2. Intermediate Zone; and 3. Extended Zone. Table 1 describes each zone and the associated recommended actions to create and manage the zones. Staff recognizes that these are the recommendations of only one of many reputable organizations and that these recommendations may not be practicable or feasible for jurisdiction or individual property.

EXHIBIT A

Table 1.

Zone	Description	Measures
Immediate Zone	The home and the area 0-5 feet from the furthest attached exterior point of the home; defined as a non-combustible area. Science tells us this is the most important zone to take immediate action on as it is the most vulnerable to embers. Start with the house itself then move into the landscaping section of the Immediate Zone.	<ul style="list-style-type: none"> <li>• Clean roofs, gutters, and vents of debris.</li> <li>• Replace or repair any loose or missing shingles or roof tiles.</li> <li>• Installing 1/8-inch metal mesh screening on vents and penetrations.</li> <li>• Repair or replace damaged or loose window screens and any broken windows</li> <li>• Screen or box-in areas below patios and decks with wire mesh.</li> <li>• Remove anything stored underneath decks or porches.</li> <li>• Move any flammable material away from wall exteriors – mulch, flammable plants, leaves and needles, firewood piles.</li> </ul>
Intermediate Zone	5-30 feet from the furthest exterior point of the home. Landscaping/hardscaping-employing careful landscaping or creating breaks that can help influence and decrease fire behavior.	<ul style="list-style-type: none"> <li>• Clear vegetation from under large stationary propane tanks.</li> <li>• Create fuel breaks with driveways, walkways/paths, patios, and decks.</li> <li>• Keep lawns and native grasses mowed to a height of four inches.</li> <li>• Remove ladder fuels (vegetation under trees)</li> <li>• Prune trees up to six to ten feet from the ground but not to exceed 1/3 of the overall height of shorter trees.</li> <li>• Space trees to have a minimum of eighteen feet between crowns with the distance increasing with the percentage of slope.</li> <li>• Tree placement should be planned to ensure the mature canopy is no closer than ten feet to the edge of the structure.</li> <li>• Tree and shrubs should be limited to small clusters of a few each to break up the continuity of the vegetation across the landscape.</li> </ul>

EXHIBIT A

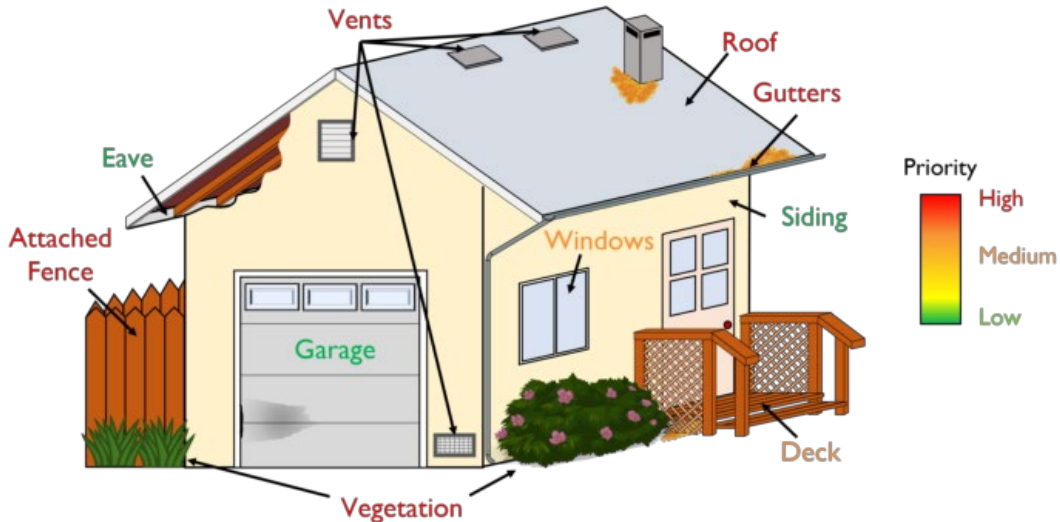
<p>Extended Zone</p>	<p>30-100 feet, out to 200 feet. Landscaping – the goal here is not to eliminate fire but to interrupt fire’s path and keep flames smaller and on the ground.</p>	<ul style="list-style-type: none"> <li>• Dispose of heavy accumulations of ground debris.</li> <li>• Remove small conifers growing between mature trees.</li> <li>• Remove vegetation adjacent to storage sheds or other outbuildings within this area.</li> <li>• Trees 30 to 60 feet from the home should have at least 12 feet between canopy tops.</li> <li>• Trees 60 to 100 feet from the home should have at least 6 feet between the canopy tops.</li> </ul>
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**STRUCTURAL HARDENING**

Structural hardening (aka – building hardening, fire hardening) describes steps that can be taken to make a building more resistant to damage from a wildfire. This includes using materials for siding and/or roofing that resist ignition during a wildfire, installing fire resistant windows to protect openings, or using attic ventilation devices that help reduce ember intrusion.

Structural hardening, along with creating defensible space, decreases the likelihood that a nearby fire will ignite a building, and it reduces the potential for damage.

Structural hardening makes the community more resistant to the spread of wildfire. By slowing down a fire, it may create additional time and opportunity for emergency responders to protect life and property threatened by the fire. Figure 2 below illustrates which building components are most vulnerable to ignition during a wildfire.



## EXHIBIT A

Figure 2. Building components vulnerable to ignition.  
(Source: University of California Agriculture and Natural Resources (ucanr.edu))

Table 2 further describes these building components and describes the vulnerabilities.

**Table 2.**

Building Component	Vulnerability
Roof	Due to its large surface area, the roof is most susceptible to embers. Complicated roofs, such as those that meet vertical walls or include dormers, present additional vulnerabilities since they could accumulate debris and embers.
Vents	Traditional vents are vulnerable to embers and flame impingement. Embers passing through foundation, roof, and attic vents could ignite flammable materials inside the house.
Gutters	Debris can accumulate in the gutters and ignite with embers. This could directly expose the roof edges and the under-eave to flame contact.
Eave	Depending on design, the eave overhang can allow embers to enter through under-eave attic vents. With open-eave construction, gaps between the rafter tails and the blocking are vulnerable to ember entry.
Deck	Materials under and on top of a deck can ignite from embers or flame contact. Leaves and needles can accumulate in gaps between deck boards, creating ignition targets for embers. If a deck burns, other parts of the house will be exposed to flames for a long period of time.
Windows	Flame contact and radiant heat could shatter the glass. Larger windows are more vulnerable than smaller windows. Vinyl windows could deform with radiant heat and create gaps in the window.
Fence	Debris or vegetation in contact with the fence could ignite it. If made of combustible materials, fences in contact with the house walls could expose the building to flame impingement.
Garage	Chemicals and flammable materials are often stored in a garage. Often garages are not insulated and could have air leaks or gaps where embers could land.
Siding	Siding is vulnerable when exposed to flames or radiant heat for extended periods. Gaps and joints in siding can create places where flame penetration can occur. Poorly maintained or degraded siding is also vulnerable to flame penetration.

### **EXISTING CITY OF SISTERS STANDARDS**

The Sister City Code does not explicitly use the terms “defensible space” or “structural hardening (or similar).” With that said, the Sisters Municipal Code (SMC) includes the following chapters that address vegetation management and building hardening that reduce the impacts of wildfire:

- **SMC Chapter 8.20 - Urban/Rural Interface** (Attachment A),  
SMC Chapter 8.20 addresses vegetation management in the city with the purpose “to incorporate “urban/rural interface” standards and criteria as a means of reducing the risk of the spread of wildfire.” The standards include establishment and maintenance of fuel breaks for any site within the city limits of Sisters that is designated as “extreme fire risk” property according to the fire risk map prepared by the Oregon Department of Forestry and referenced by exhibit in the chapter. Also included are requirements that all properties in the city limits of Sisters create clear space that is fuel free.
- **SMC Chapter 8.35 - Roofing Materials** (Attachment B)  
SMC Chapter 8.35 prohibits treated and untreated wood shingles and shake roofs. Instead, this code requires roofing to be asphalt shingles, slate shingles, metal roofing, tile, clay, or concrete shingles, and other approved roofing which is deemed to be equivalent to a minimum Class C rated roof covering.

Staff notes there are no standards in the Sisters Development Code (SDC) explicitly directed at defensible space or structural hardening. This, along with advancement in best practices for reducing the risk of the spread of wildfire, warrants consideration of updates to existing standards and adoption of others.

### **UPDATED/UPCOMING STATEWIDE STANDARDS**

In 2021, the Governor signed into law Senate Bill 762 requiring action to reduce the risk to people and property from wildfire. Prominent elements of the legislation that coincides with this project include:

- **Wildfire Risk Mapping**  
On Aug. 4, 2022, the Oregon Wildfire Risk Map that was released on June 30, was temporarily withdrawn for further refinement by the Oregon Department of Forestry. These refinements will incorporate feedback from more than 2,000 Oregonians received during the recent public engagement process from in-person and online sessions around the state. The department has not set a timetable for these revisions.
- **Draft Defensible Space Standards**  
The Oregon State Fire Marshal (OSFM) is mandated to adopt statewide minimum defensible space standards for high hazard zones. The OSFM, per the Senate Bill 762 mandate, has drafted said defensible space standards (Attachment C) using sections 603 and 604 of International Wildland-Urban Interface Code model language as a framework. Mandated implementation of these defensible space standards is tied to the adoption of the wildfire risk map.

## EXHIBIT A

- **Update to Oregon Residential Specialty Code (ORSC) section R327 (Wildfire Hazard Mitigation).** The Building Codes Division (BDC) is mandated to adopt fire hardening building code standards, based on existing wildfire mitigation provisions, which could be applied to new dwellings and the accessory structures of dwellings in areas of the state mapped as high hazard zones and that are in the wildland urban interface. The updated R327 code (Attachment D) would require dwellings and their accessory structures in the city limits of Sisters to incorporate certain types of materials and requirements for roofing, ventilation, exterior wall coverings, overhanging projections, decking surfaces, and glazing in windows/skylights and doors. The code also outlines a process for local implementation of these building code standards independent of state adoption of the wildfire risk map and/or applicability to high hazard zones identified on said map.

### **OTHER EXAMPLES OF BEST PRACTICES**

In addition to those best practices identified by the State of Oregon and the NFPA previously discussed, there are other examples of measures adopted by other jurisdictions that can be evaluated for implementation in the City of Sisters. One example is the City of Ashland, Oregon. Ashland is often referred to as a leader in the State of Oregon regarding wildfire mitigation measures for land use development.

In 2018, the Ashland City Council adopted a Wildfire Safety Ordinance that, as stated on the portion of the City's website dedicated to this topic<sup>2</sup>, is "One piece of an overall strategy to better protect our community from wildfire..." The ordinance amended both the land use code (Attachment E) and municipal code (Attachment F) incorporating standards for the following types of development projects:

- Fences
- Installing New Landscaping
- Building a Deck, Addition, or Accessory Structure
- New Construction on a Single, Vacant Lot
- Fire Prevention and Control Plan for Subdivisions, Multi-family Dwellings, Commercial Development, or Partitions

These standards, and those of other jurisdictions, can be evaluated for applicability and implementation in the City of Sisters.

### **OPTIONS**

Staff seeks input and recommended direction from the Planning Commission on next steps to implement defensible space and structural hardening standards in the City of Sisters. Table 3 includes options Staff has identified for consideration.

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<sup>2</sup> Ashland, Oregon Wildfire Safety Ordinance Webpage: <https://www.ashland.or.us/Page.asp?NavID=17983>



EXHIBIT A

**Table 3.**

<b>Options</b>	<b>Description</b>
<p><b>Option 1:</b> Monitor Adoption of State Wildfire Risk Map</p>	<p>Waiting until adoption of the map allows the City of Sisters to understand if the State of Oregon initiates a top- down approach related to fire-resistant building materials and defensible space. However, adoption of the Wildfire Risk Map and associated implementation of the defensible space and R327 building code provisions may not get adopted in a timely fashion or provide local governments with adequate funding for implementation.</p>
<p><b>Option 2:</b> Local Adoption of ORSC section R327 (Building Hardening).</p>	<p>Update the City of Sisters Code in accordance with the ORSC section R327 independent and/or ahead of Wildfire Risk Map adoption and implementation.</p> <p>If Council is interested in this option, Staff can schedule a follow-up meeting to discuss in greater detail the number of vacant properties that would be affected, and the cost estimates for implementing R327 including an updated breakdown based on the most recent building cost estimates.</p>
<p><b>Option 3:</b> Adopt Oregon State Fire Marshal Defensible Space Standards</p>	<p>Update the City of Sisters Code using the OSFM draft defensible space standards as a guide.</p> <p>These standards can be evaluated to determine where (city limits, mapped risk areas, etc.) and what provisions should apply.</p>
<p><b>Option 4:</b> Adopt Alternative Defensible Space Standards</p>	<p>Update the City of Sisters Code using best practices that expand beyond those identified in the OSFM draft defensible space standards. This would involve a comprehensive evaluation of various standards to determine what are applicable and acceptable to the City of Sisters community.</p>
<p><b>Option 5:</b> Other</p>	<p>Other changes may be identified or emerge that warrant evaluation.</p>

## EXHIBIT A

### **CITY COUNCIL DIRECTION**

The Council discussed the options listed above and provided the following direction:

- **Don't Wait for Adoption of the Wildfire Risk Map**  
There is currently no timeline for adoption of the Statewide Wildfire Risk Map. In addition, the outcome of the mapping is unknown. These factors further delay implementation of the statewide building hardening and defensible space standards. For these reasons, the Council has directed staff to pursue local code amendments independent of the statewide map and associated building hardening and defensible space standards. In addition, the City Council expressed interest in applying updated building hardening and defensible space standards to the entirety of the city limits and not in relation to a risk map or other determining factors.
- **Local Adoption of ORSC section R327 (Building Hardening)**  
The Council directed staff to pursue local adoption of ORSC section R327. Further, the Council recognized that the update to R327 includes a local adoption process and standards that are not likely to warrant extensive analysis or development of specialized standards. For these reasons, the Council recommended pursuing these amendments independent of the defensible space standards that will be more comprehensive and require detailed policy analysis.
- **Develop Local Defensible Space Standards**  
The Council directed staff to evaluate the draft OSFM defensible space standards and those of other communities to develop policies and standards for local adoption. This process will require detailed analysis of the various strategies and techniques of defensible space best practices to determine those applicable to and appropriate for the City of Sisters given the unique location, setting, and needs of the community.

Staff welcomes input from the Commission regarding these identified directives and others to consider. Based on the input and direction of the Council and Commission, staff will conduct a comprehensive evaluation of the identified options. This process will likely require multiple workshops with both the Council and Commission to provide the necessary background, evaluation, and analysis of those standards under consideration prior to a formal ordinance review process.

**Financial Impact:** None at this time.

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#### **Attachments:**

Attachment A – SMC Chapter 8.20 – Urban/Rural Interface  
Attachment B – SMC Chapter 8.35 – Roofing Materials  
Attachment C – OSFM Draft Defensible Space Standards  
Attachment D – ORSC Section R327 (Building Hardening Requirements)  
Attachment E – City of Ashland Ordinance No. 3158  
Attachment F – City of Ashland Ordinance No. 3159

## EXHIBIT A

## Chapter 8.20 URBAN/RURAL INTERFACE

## Sections:

- 8.20.010** Definitions.
- 8.20.011** Purpose.
- 8.20.012** Urban/rural interface standards.
- 8.20.020** Service of notice – Action by city – Costs.
- 8.20.030** Removal – By city.
- 8.20.040** Removal – Filing a lien.
- 8.20.050** Violation – Penalty.
- 8.20.060** Exception.

**8.20.010 Definitions.**

“Brush, shrub” means any woody plant that has several stems, none of which is dominant, and is usually less than 10 feet (three meters) tall. When much-branched and dense, it may be called a bush.

“Clear space” means an area under or adjacent to a tree that is free from ladder fuels. Clear space height (minimum) is one-third of the height of a tree on any tree that is less than 15 feet in height; eight feet height for trees that are at or taller than 15 feet in height; and a distance of eight feet from the edge of a drip line of a tree’s canopy.

“Extreme risk land” means property that is classified and mapped by the Oregon Department of Forestry’s forestland urban interface classification committee as being at an extreme risk of wildfire.

“Fuel break” means a space in which combustible or flammable materials are removed so as to prevent the spread or travel of fire.

(1) The purpose of a fuel break is to slow the rate of spread and the intensity of an advancing wildfire, and create an area in which fire suppression operations may more safely occur.

(2) A fuel break shall be a natural or a human-made area where material capable of allowing a wildfire to spread does not exist; or has been cleared, modified, or treated in such a way that the rate of spread and the intensity of an advancing wildfire will be significantly reduced.

“Ladder fuel” means a firefighting term for live or dead vegetation that allows a fire to “climb up” from the landscape or forest floor into the tree canopy. Common ladder fuels include tall grasses, shrubs and tree branches, both living and dead. On vacant land categorized as “extreme risk” land, ladder fuel is any type of vegetation described herein that exceeds four inches in height. [Ord. [444](#) § 1 (Exh. A), 2014; Ord. [56](#) § 1, 1957. Code 2002 § 8.16.010].

**8.20.011 Purpose.**

The purpose of this chapter is to incorporate “urban/rural interface” standards and criteria as a means of reducing the risk of the spread of wildfire. [Ord. [444](#) § 1 (Exh. A), 2014].

**8.20.012 Urban/rural interface standards.**

(1) The following standards apply to any site within the Sisters city limits that is designated as “extreme fire risk” property according to the fire risk map prepared by the Oregon Department of Forestry. The following

standards apply to extreme fire risk properties in Sisters. **EXHIBIT A**

(a) Extreme fire risk property owners shall:

(i) Provide and maintain fuel breaks which are:

(A) Immediately adjacent to structures, for a distance of at least 30 feet where feasible, or to the property line, whichever is the shortest distance.

(B) Immediately adjacent to driveways, for a distance of at least 10 feet from the centerline of a driveway, or to the property line, whichever is the shortest distance.

(C) Fuel break shall result in an open area which is not less than 14 feet in height and 12 feet in width or to the property line, whichever is the shortest distance.

(D) Fuel breaks shall:

1. Consist of an area containing substantially nonflammable ground cover. Examples include asphalt, bare soil, clover, concrete, green grass, ivy, mulches, rock, succulent ground cover, or wildflowers.

2. Consist of an area of dry grass which is maintained to an average height of less than four inches.

3. Be an area of cut grass, leaves, needles, twigs, and other similar flammable materials, provided such materials do not create a continuous fuel bed.

4. Be an area of single specimens or isolated groupings of ornamental shrubbery, native trees, or other plants, provided they are:

a. Maintained in a green condition;

b. Maintained substantially free of dead plant material;

c. Maintained free of ladder fuel;

d. Arranged and maintained in such a way that minimizes the possibility a wildfire can spread to adjacent vegetation;

e. Compliant with subsections (1)(a)(i)(D)(1) and (2); and

f. Houses with nontreated shake roofs located within extreme risk areas have additional 20 feet clear space requirement where feasible.

(ii) Provide and maintain additional fuel breaks which are immediately adjacent to fuel breaks required under subsection (1)(a)(i) of this section, for a distance of 20 feet or to the property line where feasible, whichever is the shortest distance. This fuel break shall be comprised of single specimens or isolated groupings of ornamental shrubbery, native trees, or other plants, provided they are:

(A) Maintained in a green condition;

(B) Maintained substantially free of dead plant material;

(C) Maintained free of ladder fuel;

## EXHIBIT A

(D) Arranged and maintained in such a way that minimizes the possibility a wildfire can spread to adjacent vegetation;

(E) Consist of an area containing substantially nonflammable ground cover. Examples include asphalt, bare soil, clover, concrete, green grass, ivy, mulches, rock, succulent ground cover, or wildflowers; and

(F) Consist of an area of dry grass which is maintained to an average height of less than four inches;

(iii) Remove any portion of a tree which extends to within 10 feet of the outlet of a structure chimney or a stove pipe;

(iv) Maintain the portion of any tree which overhangs a structure substantially free of dead plant material where feasible;

(v) Maintain the area under decks substantially free of firewood, stored flammable building material, leaves, needles, and other flammable material; and

(vi) During times of the year when wildfire may be a threat, locate firewood, flammable building material, and other similar flammable material:

(A) At least 20 feet away from a structure; or

(B) In a ventilated fully enclosed space;

(vii) Keep roofs free of leaves, pine needles, and other fuel sources at the start of each fire season.

(2) The owner or person responsible for the care of any property located in the Sisters city limits shall create clear space that is fuel free as follows:

(a) On vacant land, all ladder fuel sources that are directly beneath or are within a horizontal distance of eight feet from a tree drip line shall be removed or cut to a height not to exceed four inches. This does not include ground cover that is kept in green condition including grass.

(b) On developed land, all ladder fuel sources that are directly beneath or are within a horizontal distance of eight feet from a tree drip line shall be removed where feasible or cut to a height not to exceed four inches. This does not include ground cover that is kept in a green condition including grass.

(c) Evergreen trees such as ponderosa pine and juniper trees shall have lower limbs maintained as follows:

(i) On trees, except ornamental trees, that are 15 feet tall or less, the lower one-third of the tree branches shall be limbed.

(ii) On trees, except ornamental trees, that are more than 15 feet tall, a clear space of eight vertical feet shall be maintained underneath the drip line, and shall be free of limbs.

(iii) Dead tree limbs shall be removed from trees where feasible.

(d) All dead brush located within eight feet of a drip line shall be removed. Live brush located within eight feet of a drip line shall be thinned and maintained in a green and healthy state.

## EXHIBIT A

(e) Trees that are dead or diseased shall be removed from all properties.

(f) For houses that have nontreated shake roofs, there shall be a fuel break immediately adjacent to any structure for a distance of 20 feet or to the property line where feasible, whichever is the shortest distance, and shall be comprised of single specimens or isolated groupings of ornamental shrubbery, native trees, or other plants, provided they are:

(i) Maintained in a green condition;

(ii) Maintained substantially free of dead plant material;

(iii) Maintained free of ladder fuel;

(iv) Arranged and maintained in such a way that minimizes the possibility a wildfire can spread to adjacent vegetation;

(v) Consist of an area containing substantially nonflammable ground cover. Examples include asphalt, bare soil, clover, concrete, green grass, ivy, mulches, rock, succulent ground cover, or wildflowers; and

(vi) Consist of an area of dry grass which is maintained to an average height of less than four inches.

(3) Modification of Standards. The city may, in writing, reduce or waive any standard herein if the city finds that conditions so warrant. Reductions or waivers made under this rule:

(a) May be made only after a written request from the owner;

(b) Are intended to be few in number;

(c) Must address:

(i) A site specific condition or a unique situation which does not warrant the development of alternate standards under OAR [629-044-1070](#); or

(ii) A conflict with the requirements of other codes, laws, ordinances, or regulations, as described in ORS [477.023\(2\)](#), and which does not warrant the development of alternate standards under OAR [629-044-1070](#); and

(d) Shall be:

(i) On a form provided by the city;

(ii) Signed by the city and by the owner.

**EXHIBIT A**  
**Fire Risk Map of Greater Sisters Area**



[Ord. [444](#) § 1 (Exh. A), 2014].

**8.20.020 Service of notice – Action by city – Costs.**

If any property owner or tenant having control of any parcel of land within the city fails to comply with the requirements of this chapter, the city shall serve notice to the responsible party that the violation of this chapter shall be corrected within 14 days of receipt of the notice to abate. If the responsible party is unable to be located after reasonable diligence, a notice shall be posted on the violating property where it can be seen from a public road where feasible, and a copy of the notice shall be mailed to the address of record according to the county assessor's database. [Ord. [444](#) § 1 (Exh. A), 2014; Ord. [56](#) § 2, 1957. Code 2002 § 8.16.020].

**8.20.030 Removal – By city.**

If any property owner or tenant fails to comply with the requirements of this chapter within the time allowed within the notice, the city may cause the violation to be abated. The officer charged with abatement of the violation shall have the right to enter into or upon property at reasonable times to investigate or cause the removal of the violation. The officer responsible for overseeing the abatement of the violation shall keep a detailed account of all associated costs, and the property owner or tenant will then be billed for the total cost plus 10 percent for administrative cost recovery. [Ord. [444](#) § 1 (Exh. A), 2014; Ord. [56](#) § 3, 1957. Code 2002 § 8.16.030].

**8.20.040 Removal – Filing a lien.**

In the event that the owner fails to pay the cost specified in SMC [8.20.030](#), the city may at its discretion file a lien on the subject property. The lien may be removed at such time when the balance of the amount owed

## EXHIBIT A

to the city as stated in SMC [8.20.030](#) is paid in full. [Ord. [444](#) § 1 (Exh. A), 2014; Ord. [56](#) § 4, 1957. Code 2002 § 8.16.040].

**8.20.050 Violation – Penalty.**

Any violation of this chapter is a Class B infraction. [Ord. [444](#) § 1 (Exh. A), 2014; Ord. [269](#) § 16, 1995; Ord. [56](#) § 5, 1957. Code 2002 § 8.16.050].

**8.20.060 Exception.**

Any plant material that is categorized by the city, state of Oregon, and/or United States of America as “threatened or endangered” shall not be subject to the provisions of this chapter. [Ord. [444](#) § 1 (Exh. A), 2014].

[Mobile Version](#)



## EXHIBIT A

**Chapter 8.35  
ROOFING MATERIALS**

Sections:

- 8.35.010 Roofing material standard.**
- 8.35.020 Reroofing or repair of roofing of existing buildings.**
- 8.35.030 Violation.**
- 8.35.040 Penalties.**

**8.35.010 Roofing material standard.**

Roofing shall be asphalt shingles, slate shingles, metal roofing, tile, clay, or concrete shingles, and other approved roofing which is deemed to be equivalent to a minimum Class C rated roof covering in accordance with the applicable sections of the state building codes, ORS Chapter [455](#) and Oregon Administrative Rules adopted thereunder. Treated and untreated wood shingles and shake roofs are not permitted. [Ord. [346](#) § 1, 2004].

**8.35.020 Reroofing or repair of roofing of existing buildings.**

When 30 percent or more of the roof covering of any building is repaired or replaced over the life of the roof, the entire roof covering and ventilation shall be made to comply with the state building codes, ORS Chapter [455](#) and Oregon Administrative Rules adopted thereunder. [Ord. [346](#) § 2, 2004].

**8.35.030 Violation.**

It is unlawful for any person to roof, reroof, repair a roof, or to ask or hire a person or company to roof, reroof, or repair a roof in a manner inconsistent with this chapter. [Ord. [346](#) § 3, 2004].

**8.35.040 Penalties.**

Any person or persons willfully violating any of the provisions of this chapter shall be guilty of a Class A misdemeanor. Any person or persons violating provisions of this chapter shall fully comply with this chapter or be subject to separate violations and penalties for each day a roof continues to not comply with this chapter. [Ord. [346](#) § 4, 2004].

[Mobile Version](#)

## EXHIBIT A

CHAPTER 2  
DEFINITIONS**User note:**

**About this chapter:** Codes, by their very nature, are technical documents. Every word, term and punctuation mark can add to or change the meaning of a technical requirement. It is necessary to maintain a consensus on the specific meaning of each term contained in the code. Chapter 2 performs this function by stating clearly what specific terms mean for the purpose of the code

SECTION 201  
GENERAL

**201.1 Scope.** Unless otherwise expressly stated, the following words and terms shall, for the purposes of this code, have the meanings shown in ORS 476.390 and in this chapter.

**201.2 Interchangeability.** Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; and the singular number includes the plural and the plural the singular.

**201.3 Terms defined in other codes.** Where terms are not defined in this code and are defined in other International Codes, such terms shall have the meanings ascribed to them as in those codes.

**201.4 Terms not defined.** Where terms are not defined through the methods authorized by this section, such terms shall have their ordinarily accepted meanings such as the context implies.

SECTION 202  
DEFINITIONS

**ACCESSORY DWELLING UNIT (ADU).** A residential structure that is used in connection with, or that is auxiliary to, a single-family dwelling in accordance with ORS 215.501. ADU's must have adequate access for firefighting equipment and be served by a fire protection service provider with professionals who have received training or certification described in ORS 181A.410. [Section 301.1.1]

**[A] APPROVED.** Acceptable to the *code official*. [Section 302.4.1]

**BEST MANAGEMENT PRACTICES.** Means *defensible space* requirements specific to Oregon, and not contained in the International Wildland-Urban Interface Code, in accordance with the best practices provisions of ORS 476.392. The Oregon Department of State Fire Marshal has included best management practices to establish the minimum defensible space requirements of this code. Best management practices adopted locally must be approved by the Oregon Department of State Fire Marshal in accordance with OAR 837-039-0006. Locally adopted best management practices may be related to, species-specific concerns, special hazards, management practices of recognized local, state, or national programs, or other relevant fuel modification concerns. [Section 105]

**User note:**

Local government may adopt requirements that address conditions that are of particular concern or interest in their area. Amongst others, these could include the following areas:

- **Species-specific.** The requirements of the Oregon Defensible Space Code may not be practical for all vegetation, including some trees or ground cover. For example, lodgepole pine trees are prone to blowing over in strong winds without the protection of being grown in clusters. In other areas of the state the intensity and rate of fire spread created by some highly volatile plant species such as rabbitbrush, juniper or sagebrush may be of local concern, while fire-resistant species such as oak and maple may be of less concern.
- **Special hazards.** In some cases, locals may want to address hazards that are particularly prevalent in their jurisdiction. An example would be areas where the heating of homes with firewood is especially common, and its storage is nearly always within the defensible space. The adoption and enforcement of local requirements to mitigate this danger would be appropriate.
- **Recognized programs.** Many established programs, at both the local, state, and national level, can provide greater requirements than the minimum state-wide code provided by the Oregon Department of State Fire Marshal. Many

## EXHIBIT A

communities, particularly those in regions of the state prone to *wildland-urban interface* wildfires, have successfully utilized programs such as Wildfire Ready (FEMA), Firewise USA (NFPA), Fire Adapted Oregon (OSFM), Project Wildfire (Deschutes County), and many others.

**Important:** Draft copies of locally proposed amendments to the ODSC must be evaluated by the OSFM and comply with the OAR 837-039-0006 process. The review will ensure that the proposed requirements are lawful, consistent with the intent of the ODSC, and will be approved by local resolution.

**[A] CODE OFFICIAL.** The official designated by the jurisdiction to interpret and enforce this code, or the code official's authorized representative in accordance with ORS 476.060. [Chapter 1, Section 302]

**DEFENSIBLE SPACE.** A natural or human-made area in which material capable of supporting the spread of fire has been treated, cleared or modified to slow the rate and intensity of advancing wildfire and allow space for fire suppression operations to occur. See also ORS 476.390.

**FIRE-RESISTIVE VEGETATION.** Plants with the characteristics compiled in Appendix F of this code that can be used to reduce the likelihood of fire spread. [Section 302.5/App. F]

**User note:**

While no vegetation can be regarded as truly "fire-proof", and while all will burn under severe fire conditions, fire resistive vegetation can lower that likelihood and severity.

There is a large variety of fire resistive vegetation that can be found commercially and assist an owner in an overall strategy to modify the fuels on their property. This may include groundcovers such as kinnikinnick and periwinkle, perennials such as iris and lupine, shrubs such as azalea and rhododendron, and trees such as maple and crabapple.

Details are available at the Oregon Department of State Fire Marshal homepage. Additional resources are widely available online, including:

- "Safer from the start: A Guide to Firewise-Friendly Developments" published by the National Fire Protection Association (NFPA).
- "Firewise Toolkit" published by the National Fire Protection Association (NFPA).
- "Fire-Resistant Plants for Oregon Home Landscapes" published by the OSU extension service and the USDA.
- "Choosing the Right Plants for Northern Nevada's High Fire Hazard Areas" published by the University of Nevada Reno Extension
- "Firewise Landscaping for Southern Idaho" brochure published by the Bureau of Land Management.

**FIRE-RESISTIVE VEGETATION, NON.** Flammable plants, including *vegetative fuels*, that ignite readily, can add to the intensity of a wildfire and may increase its spread. Generally, these fuels have fine dry material such as twigs, leaves and needles, or have high oil and resin content. [302.3, 402.2, 402.3]

**FUEL MODIFICATION.** A method of modifying fuel load by reducing the amount of *nonfire-resistive vegetation* or altering the type of vegetation to reduce the fuel load. [Section 302]

**HAZARD RATING.** A numerical value describing the likelihood and intensity of a fire, based on specific factors or conditions including weather, climate, topography, and vegetation. [Chapter 3 Scope]

**LADDER FUEL.** Branches, leaves, needles, and other combustible vegetation that may allow a wildfire to spread from lower growing vegetation to higher growing vegetation. [Section 302.4]

**MAP.** The comprehensive statewide map that displays the five wildfire risk classes and populates Oregon Wildfire Risk Explorer, the official wildfire planning and risk classification mapping tool for the State of Oregon, coordinated by the Oregon Department of Forestry. See ORS 477.027. [Chapter 1, Section 301 and 401.]

**OTHER HUMAN DEVELOPMENT.** Means essential facilities, special occupancy structures, or hazardous facilities as defined in ORS 455.447 that support community functions, public communication, energy, or transportation. See OAR 629-044-1005. [Throughout]

**STRUCTURE.** Means:

## EXHIBIT A

- A residential building that requires a Certificate of Occupancy.
- A commercial building that requires a Certificate of Occupancy.
- A manufactured dwelling that has received a Housing and Urban Development certification label (Insignia of Compliance).
- A structure that has received a temporary Certificate of Occupancy under the state building code; or
- A structure constructed prior to adoption of the state building code, that would have required a Certificate of Occupancy or Insignia of Compliance under the state building code, if one was not was obtained. [Throughout]

**TREE CROWN.** The primary and secondary branches growing out from the main stem, together with twigs and foliage. [Sections 302.4]

**VEGETATIVE FUELS.** Means both live and dead plant material that constitute a wildfire hazard, including *ladder fuels*. [Section 302.5. See also OAR 629-044-1005]

**WILDFIRE.** An uncontrolled fire spreading through vegetative fuels, exposing and possibly consuming structures. [other definitions]

**WILDFIRE RISK.** Means the wildfire impacts to values based on scientifically modeled wildfire frequency and wildfire intensity. [Section 101, Section 302.2. See 629-044-1005]

**WILDLAND.** An area in which development is essentially nonexistent, except for roads, railroads, power lines and similar facilities. [Sections 101, 301]

**WILDLAND FUELS.** Means natural vegetation that occurs in an area where development is essentially non-existent, including grasslands, brushlands, rangelands, woodlands, timberlands, or wilderness. Wildland fuels are a type of *vegetative fuels*. [Sections 101, 301]

**WILDLAND-URBAN INTERFACE.** Means a geographical area where structures and other human development meets or intermingles with wildland or vegetative fuels. [Throughout]

EXHIBIT A  
CHAPTER 3  
DEFENSIBLE SPACE

**User note:**

**About this chapter:** Chapter 3 establishes minimum fire protection requirements to mitigate the hazards to life and property from fire in the wildland-urban interface. The chapter includes strategies to reduce the hazards of fire originating within a structure spreading to wildland and fire originating in wildland spreading to structures and other human development. These requirements, and those in Chapter 4, are the result of a law made effective by the Oregon Legislature July 19, 2021 and resulted in the creation of ORS 476.390 through 476.398.

**SECTION 301  
GENERAL**

**301.1 Scope.** The provisions of this chapter establish general requirements statewide for all *structures* and *other human development* on lands in the *wildland-urban interface* that are designated with a *hazard rating* of extreme or high risk, as identified on the comprehensive statewide *map* facilitated by the Oregon Department of Forestry, and in accordance with ORS 476.392.

**Exceptions:**

1. Vineyards, crops, and other cultivated vegetation that are irrigated and maintained, or non-irrigated but maintained, throughout the year.
2. *Structures* and *other human development* exempted under ORS 455.315.

ORS 455.315 is not a part of this code but is reprinted or paraphrased here for the reader's convenience:

ORS 455.315 provides for the exemption of the application of a state structural specialty code to agricultural buildings such as structures used for storage of farm machinery, crops, forest products, or used as equine facilities.

**301.1.1 Accessory dwelling units.** *Accessory dwelling units* on lands in the *wildland-urban interface* that are designated with a *hazard rating* of extreme or high risk shall be in conformance with this section. *Accessory dwelling units* not identified on the comprehensive statewide *map* must comply with any applicable local requirements for defensible space established by a local government pursuant to ORS 476.392.

**301.2 Intent.** The intent of this chapter is to establish minimum requirements to mitigate the risk to life and property from *wildland* fire exposures, exposures from adjacent *structures* and *other human development*, and to prevent *structure* fires from spreading to *wildland fuels*.

**SECTION 302  
DEFENSIBLE SPACE REQUIREMENTS**

**302.1 Objective.** Provisions of this section are intended to modify the fuel load in areas adjacent to *structures* and *other human development* to create a *defensible space*.

**302.2 Fuel modification.** *Structures* and *other human development* located in areas designated as high risk or extreme risk in accordance with OAR 629-044-1020 shall comply with the *fuel modification* distances contained in Table 302.2. Distances specified in Table 302.2 shall be measured on a horizontal plane from the perimeter or projection of the *structure* and *other human development* as shown in Figure 302.2.

OAR 629-044-1020 is not a part of this code but is reprinted or paraphrased here for the reader's convenience:

OAR 629-044-1020 defines *wildfire risk* classifications by a range of wildfire hazard values that illustrate likely wildfire behavior.

**302.3 Responsible party.** Persons owning, leasing, controlling, operating or maintaining *structures* and *other human development* requiring defensible space are responsible for modifying or removing *nonfire-resistive vegetation* on the property owned, leased or controlled by said person.

## EXHIBIT A

**302.4 Trees.** Trees are allowed within the defensible space provided they are in accordance with Sections 302.4.1 and 302.4.2

**302.4.1 Tree spacing.** Single trees, or *approved* groups of trees considered as a single crown, shall comply with at least one of the following:

1. Trees with *ladder fuels* removed in accordance with Section 302.4.2 shall have the horizontal distance between crowns of adjacent trees, structures and other human development, outlets of chimneys, and overhead electrical facilities be not less than 10 feet (3048 mm). See Fig. 302.4.1(1)
2. Trees pruned to remove *ladder fuels* a minimum of 15 feet (4572 mm) above the ground shall be maintained a minimum of 10 feet (3048 mm) above the surface of a roof and 10 feet from overhead electrical facilities and outlets of chimneys. See Fig. 302.4.1(2).

**302.4.2 Ladder fuel.** Trees 18 feet or taller, the *tree crowns* within the *defensible space* shall be pruned to remove limbs located less than 6 feet (1829 mm) above the ground surface adjacent to the trees. Trees less than 18 feet shall be pruned to remove limbs equal to no more than 1/3 the trees height. To protect tree health, no more than 1/2 of the live crown shall be required to be removed at one time.

**302.4.2.1 Deadwood.** Deadwood and litter shall be regularly removed from within trees and on the ground around trees.

**302.5 Ground cover.** Where *vegetative fuels*, *fire-resistive vegetation*, or cultivated ground cover, such as green grass, ivy, succulents or similar plants are used as ground cover, they are allowed to be within the designated *defensible space*, provided that they do not form a means of transmitting fire from the native growth to any *structure* or *other human development*.

**TABLE 302.2  
REQUIRED DEFENSIBLE SPACE**

WILDLAND-URBAN INTERFACE AREA	FUEL MODIFICATION DISTANCE (feet)
High risk	50
Extreme risk	100

For SI: 1 foot = 304.8 mm.

**FIGURE 302.2  
MEASUREMENTS OF FUEL MODIFICATION DISTANCE**

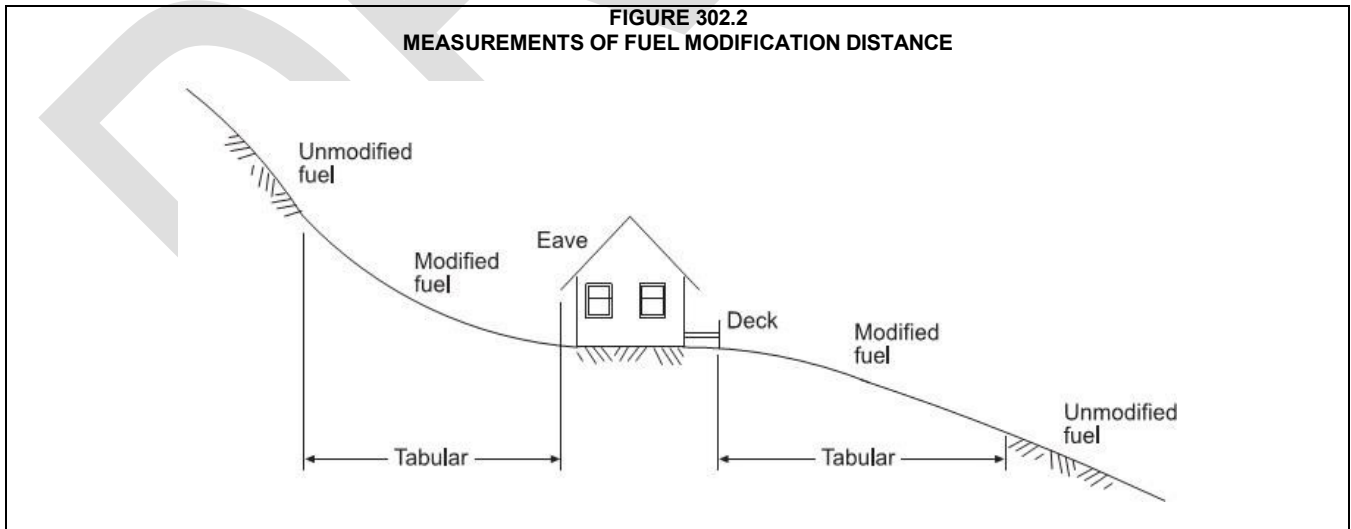
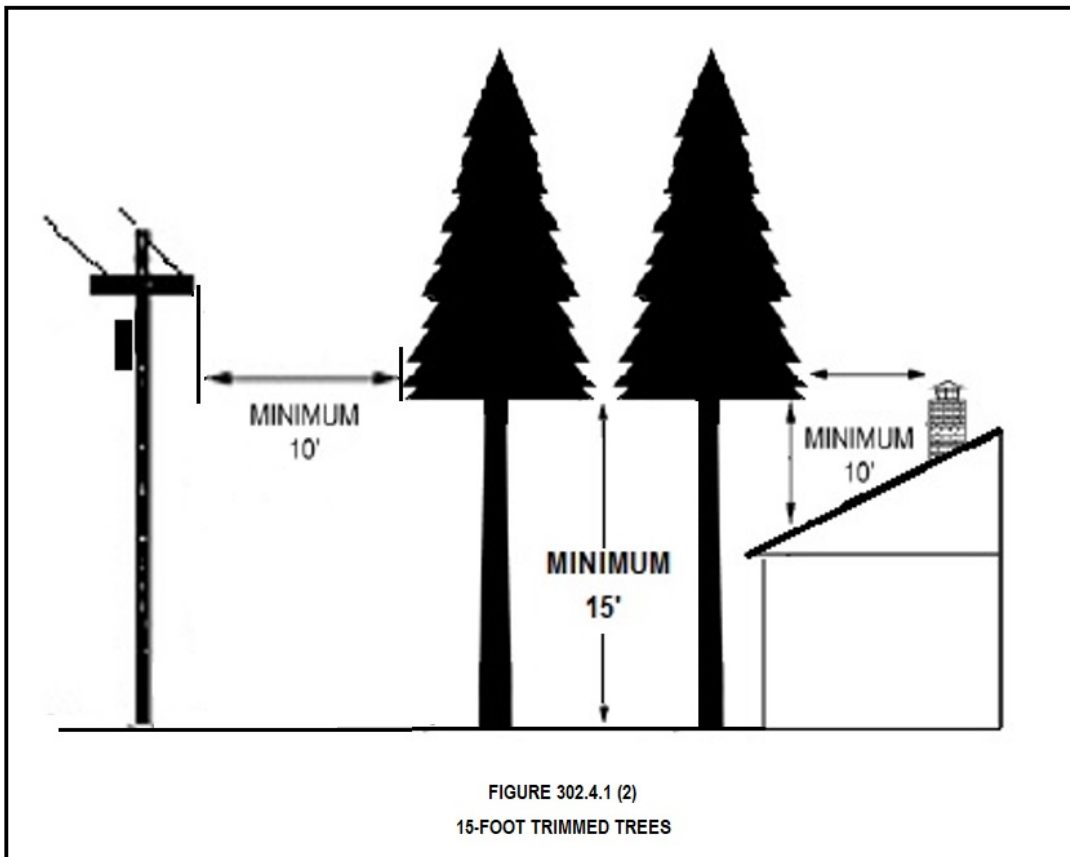
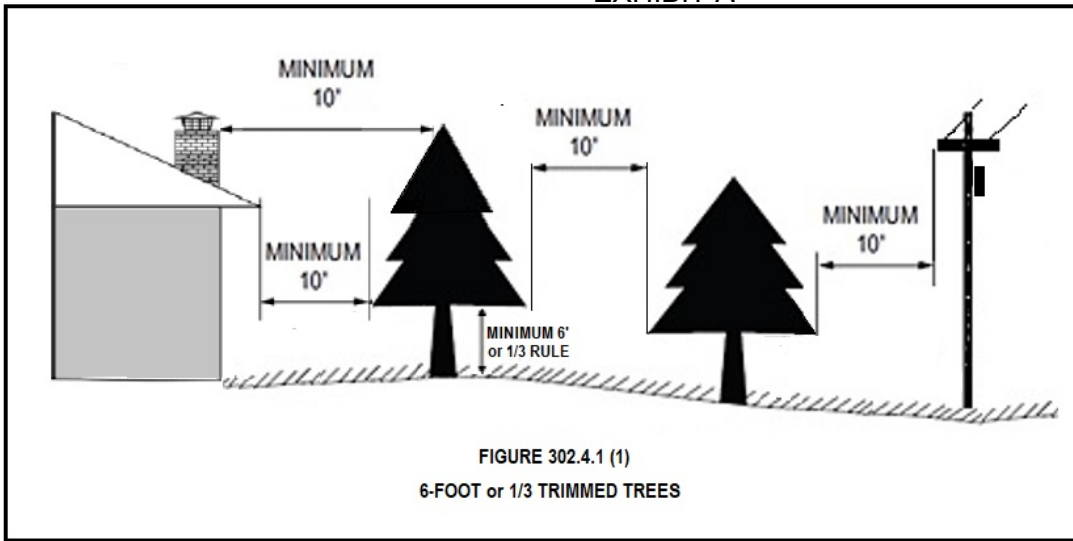


EXHIBIT A



## EXHIBIT A

**CHAPTER 4  
MAINTENANCE OF DEFENSIBLE SPACE****User note:**

**About this chapter:** Chapter 4 provides the maintenance provisions of the Defensible Space requirements in Chapter 3 and may be cited for enforcement purposes.

**SECTION 401  
GENERAL**

**401.1 Scope.** The provisions of this chapter establish the general requirements statewide for maintenance of defensible space on all lands in the *wildland-urban interface* that are designated as extreme or high risk, as identified on the comprehensive statewide *map* facilitated by the Oregon Department of Forestry.

**401.2 Intent.** The intent of this chapter is to establish the minimum maintenance requirements required in Chapter 3.

**SECTION 402  
MAINTENANCE REQUIREMENTS**

**402.1 General.** Defensible space required by Chapter 3 shall be maintained in accordance with this chapter. In addition to citing a code specified herein, compliance notices shall also include a plain statement of the facts in consideration of Chapter 3 and in accordance with Section 104.3.

**402.2 Modified area.** Nonfire-resistive vegetation or growth shall be kept clear of *structures* and *other human development* in accordance with Chapter 3, in such a manner as to provide a clear area for fire suppression operations.

**402.3 Responsibility.** Persons owning, leasing, controlling, operating or maintaining *structures* and *other human development* are responsible for maintenance of *defensible spaces*. Maintenance of the *defensible space* shall include modifying or removing nonfire-resistive vegetation and keeping leaves, needles and other dead vegetative material regularly removed from roofs of *structures* and *other human development*.

**402.4 Trees.** Trees shall be maintained in accordance with Section 302.4.

**402.5 Ground cover.** Ground cover shall be maintained in accordance with Section 302.5.



## EXHIBIT A

## APPENDIX F

**CHARACTERISTICS OF FIRE-RESISTIVE VEGETATION**

*This appendix is for information purposes and is not intended for adoption.*

**User note:**

**About this appendix:** Appendix F is an informational appendix provided for the convenience of the code user. It is simply a compilation of the eight characteristics of fire-resistive vegetation that can be used effectively within wildland-urban interface areas to reduce the likelihood of fire spread through vegetation.

**SECTION F101  
GENERAL**

**F101.1 Characteristics of fire-resistive vegetation.** All plants will burn under extreme fire weather conditions such as drought. However, plants burn at different intensities and rates of consumption. Fire-resistive plants burn at a relatively low intensity, slow rates of spread and with short flame lengths. The following are characteristics of fire-resistive vegetation:

1. Growth with little or no accumulation of dead vegetation (either on the ground or standing upright).
2. Nonresinous plants (willow, poplar or tulip trees).
3. Low volume of total vegetation (for example, a grass area as opposed to a forest or shrub-covered land).
4. Plants with high live fuel moisture (plants that contain a large amount of water in comparison to their dry weight).
5. Drought-tolerant plants (deeply rooted plants with thick, heavy leaves).
6. Stands without ladder fuels (plants without small, fine branches and limbs between the ground and the canopy of overtopping shrubs and trees).
7. Plants requiring little maintenance (slow-growing plants that, when maintained, require little care).
8. Plants with woody stems and branches that require prolonged heating to ignite.



# Oregon

Tina Kotek, Governor

EXHIBIT A



Building  
Codes  
Division

Department of Consumer  
and Business Services

## 2023 Oregon Residential Specialty Code ORSC Approved Wildfire Hazard Mitigation Provisions

### SECTION R327 WILDFIRE HAZARD MITIGATION

**R327.1 General.** The provisions of this section shall apply to dwellings and their accessory structures required by a local municipality via local ordinance to be protected against wildfire.

Nothing in the code prevents a local municipality from modifying the requirements of this section for any lot, property or dwelling, or the remodel, replacement or reconstruction of a dwelling within the jurisdiction, as provided in Section R104.10.

**R327.1.1 Local adoption.** The provisions of this section may be adopted in whole by a municipality via local ordinance without following ORS 455.040 or OAR 918-020-0370. Where a municipality chooses to adopt these provisions locally, the following shall be included in the adopting ordinance:

1. Identification of areas subject to the additional construction standards of Section R327.
2. A transition plan or other measures to address subdivisions already under development at the time of local adoption.
3. A local appeals process for customers to follow.

Where a municipality has previously adopted the provisions of Section R327 locally, the requirements of Section R327.1.1 do not apply and the existing local ordinance may continue without change, to include those based on prior iterations of this section.

**R327.1.2 Notification.** Where a municipality adopts Section R327 locally, or where a municipality has previously adopted Section R327 locally, the municipality shall notify the State of Oregon Building Codes Division and provide a copy of the locally adopted map identifying areas of the jurisdiction where the additional construction standards of Section R327 are required.

#### Senate Bills 762 (2021) and 80 (2023)

The local adoption provisions of §R327.1.1 and the application set forth by §R327.1.3 may be impacted by ongoing efforts to implement Senate Bills 762 (2021) and 80 (2023). These provisions will be updated accordingly to align with any actions taken by the legislature.

**R327.1.3 Application.** Where required by a municipality via local ordinance, newly constructed dwellings, their accessory structures, and new additions to existing dwellings and their accessory structures, located in areas designated by the municipality shall be protected against wildfire in accordance with this section. Where existing exterior elements that are within the scope of this section are replaced in their entirety, the replacement shall be made in accordance with the provisions of this section.

#### **Exceptions:**

1. Nonhabitable detached accessory structures with a floor area of not greater than 400 square feet, (37.2 m<sup>2</sup>) located not less than 50 feet (15 240 mm) from all other structures on the lot.
2. Partial repairs made in accordance with R105.2.2.

**R327.2 Definitions.** The following words and terms shall, for purposes of Section R327, have the meanings shown herein. See Chapter 2 for general definitions.

**HEAVY TIMBER.** For the use in this section, heavy timber shall be sawn lumber or glue laminated wood with the smallest minimum nominal dimension of 4 inches (102 mm). Heavy timber walls or floors shall be sawn or glue laminated planks splined, tongue-and-groove or set close together and well spiked.

**IGNITION-RESISTANT MATERIAL.** A type of building material that resists ignition or sustained flaming combustion sufficiently so as to reduce losses from wildland urban interface conflagrations under worst-case weather and fuel conditions with wildfire exposure of burning embers and small flames. Such materials include any product designed for exterior exposure that, when tested in accordance with ASTM E84 or UL 723 for surface burning characteristics of building materials, extended to a 30 minute duration, exhibits a flame spread index of not more than 25, shows no evidence of significant progressive combustion, and whose flame front does not progress more than 10<sup>1</sup>/<sub>2</sub> feet (3.2 m) beyond the centerline of the burner at any time during the test.

**NONCOMBUSTIBLE MATERIAL.** Any material that in the form in which it is used and under the conditions anticipated will not ignite, burn, support combustion or release flammable vapors when subjected to fire or heat in accordance with ASTM E136.



## EXHIBIT A

**WILDFIRE.** Any uncontrolled fire spreading through vegetative fuels that threatens to destroy life, property or resources.

**WILDFIRE EXPOSURE.** One or a combination of circumstances exposing a structure to ignition, including radiant heat, convective heat, direct flame contact and burning embers being projected by a vegetation fire to a structure and its immediate environment.

**R327.3 Roofing.** Roofing shall be asphalt shingles in accordance with Section R905.2, slate shingles in accordance with Section R905.6, metal roofing in accordance with Section R905.4, tile, clay or concrete shingles in accordance with Section R905.3 or other *approved* roofing which is deemed to be equivalent to a minimum Class B-rated roof assembly. Wood shingle and shake roofs are not permitted on structures in areas designated by the *municipality*.

Where the roof profile allows a space between the roof covering and roof decking, the spaces shall be constructed to prevent the intrusion of flames and embers, be fireblocked with *approved* materials, or have one layer of minimum 72-pound (32.4 kg) mineral-surfaced nonperforated cap sheet complying with ASTM D3909 installed over the combustible decking.

Where valley flashing is installed, the flashing shall be not less than 0.019-inch (0.48 mm) No. 26 gage galvanized sheet corrosion-resistant metal installed over not less than one layer of minimum 72-pound (32.4 kg) mineral-surfaced nonperforated cap sheet complying with ASTM D3909 not less than 36-inch-wide (914 mm) running the full length of the valley.

**R327.3.1 Gutters.** Where required, roof gutters shall be constructed of *noncombustible materials* and be provided with a means to prevent accumulation of leaves and debris in the gutter.

**R327.3.2 Ventilation.** Where provided, the minimum net area of ventilation openings for enclosed attics, enclosed soffit spaces, enclosed rafter spaces and underfloor spaces shall be in accordance with Sections R806 and R408.

All ventilation openings shall be covered with *noncombustible corrosion-resistant metal wire mesh*, vents designed to resist the intrusion of burning embers and flame, or other *approved* materials or devices.

Ventilation mesh and screening shall be a minimum of  $\frac{1}{16}$ -inch (1.6 mm) and a maximum of  $\frac{1}{8}$ -inch (3.2 mm) in any dimension.

**R327.3.2.1 Eaves, soffits, and cornices.** Ventilation openings shall not be installed on the underside of eaves, soffits or cornices.

**Exceptions:**

1. The *building official* may approve eave, soffit or cornice vents that are manufactured to resist the intrusion of flame and burning embers.
2. Ventilation openings complying with the requirements of Section R327.3.2 may be installed on the underside of eaves, soffits or cornices where the opening is located 12 feet (3658 mm) or greater above *grade* or the surface below.

**R327.3.3 Exterior walls.** The *exterior wall covering* or wall assembly shall comply with one of the following requirements:

1. *Noncombustible material.*
2. *Ignition-resistant material.*
3. *Heavy timber assembly.*
4. *Log wall construction assembly.*
5. Wall assemblies that have been tested in accordance with the test procedures for a 10-minute direct flame contact exposure test set forth in ASTM E2707, complying with the conditions of acceptance listed in Section R327.3.3.2.

**Exception:** Any of the following shall be deemed to meet the assembly performance criteria and intent of this section:

1. One layer of  $\frac{5}{8}$ -inch Type X exterior gypsum sheathing applied behind the *exterior wall covering* or cladding on the exterior side of the framing.
2. The exterior portion of a 1-hour fire-resistance-rated *exterior wall* assembly designed for exterior fire exposure including assemblies using exterior gypsum panel and sheathing products listed in the Gypsum Association *Fire Resistance and Sound Control Design Manual*.

**R327.3.3.1 Extent of exterior wall covering.** *Exterior wall coverings* shall extend from the top of the foundation to the roof and terminate at 2-inch (50.8 mm) nominal solid wood blocking between rafters at all roof overhangs, or in the case of enclosed eaves or soffits, shall terminate at the underside of the enclosure.

**R327.3.3.2 Conditions of acceptance.** ASTM E2707 tests shall be conducted in triplicate and the conditions of acceptance below shall be met. If any one of the three replicates do not meet the conditions of acceptance, three additional tests shall be conducted. All additional tests shall meet the following conditions of acceptance:

1. Absence of flame penetration through the wall assembly at any time during the test.
2. Absence of evidence of glowing combustion on the interior surface of the assembly at the end of the 70-minute test.

**R327.3.4 Overhanging projections.** All exterior projections (exterior balconies, carports, decks, patio covers, porch ceilings, unenclosed roofs and floors, overhanging buildings and similar architectural appendages and projections) shall be protected as specified in this section.

**R327.3.4.1 Enclosed roof eaves, soffits, and cornices.** The exposed underside of rafter or truss eaves and enclosed soffits, where any portion of the framing is less than 12 feet (3658 mm) above *grade* or similar surface below, shall be protected by one of the following:

1. *Noncombustible material.*
2. *Ignition-resistant material.*
3. One layer of  $\frac{5}{8}$ -inch Type X exterior gypsum sheathing applied behind an exterior covering on the underside of the rafter tails, truss tails or soffit.

## EXHIBIT A

4. The exterior portion of a 1-hour fire-resistance-rated exterior wall assembly applied to the underside of the rafter tails or soffit including assemblies using exterior gypsum panel and sheathing products listed in the Gypsum Association Fire Resistance and Sound Control Design Manual.
5. Soffit assemblies with an underside surface that meets the performance criteria in Section R327.3.4.5 when tested in accordance ASTM E2957.

**Exceptions:** The following materials do not require protection required by this section:

1. Eaves and soffits where all portions of the framing members are 12 feet (3658 mm) or greater above grade, and 2-inch nominal eave fireblocking is provided between roof framing members from the wall top plate to the underside of the roof sheathing.
2. Gable end overhangs and roof assembly projections beyond an exterior wall other than at the lower end of the rafter tails.
3. Fascia and other architectural trim boards.

**R327.3.4.2 Exterior patio and porch ceilings.** The exposed underside of exterior patio and porch ceilings greater than 200 square feet in area and less than 12 feet (3658 mm) above grade shall be protected by one of the following:

1. Noncombustible material.
2. Ignition-resistant material.
3. One layer of 5/8-inch Type X exterior gypsum sheathing applied behind the exterior covering on the underside of the ceiling.
4. The exterior portion of a 1-hour fire-resistance-rated exterior wall assembly applied to the underside of the ceiling assembly including assemblies using exterior gypsum panel and sheathing products listed in the Gypsum Association Fire Resistance Design Manual.
5. Porch ceiling assemblies with a horizontal underside that meet the performance criteria in Section R327.3.4.5 when tested in accordance with the test procedures set forth in ASTM E2957.

**Exception:** Architectural trim boards.

**R327.3.4.3 Floor projections.** The exposed underside of cantilevered floor projections less than 12 feet (3658 mm) above grade or the surface below shall be protected by one of the following:

1. Noncombustible material.
2. Ignition-resistant material.
3. One layer of 5/8-inch Type X exterior gypsum sheathing applied behind an exterior covering on the underside of the floor projection.
4. The exterior portion of a 1-hour fire-resistance-rated exterior wall assembly applied to the underside of the floor projection, including assemblies using exterior gypsum panel and sheathing products listed in the Gypsum Association Fire Resistance Design Manual.

5. An assembly that meets the performance criteria in Section R327.3.4.5 when tested in accordance with ASTM E2957.

**Exception:** Architectural trim boards.

**R327.3.4.4 Underfloor protection.** The underfloor area of elevated structures shall be enclosed to grade in accordance with the requirements of this section, or the underside of the exposed underfloor shall be protected by one of the following:

1. Noncombustible material.
2. Ignition-resistant material.
3. One layer of 5/8-inch Type X exterior gypsum sheathing applied behind an exterior covering on the underside of the floor assembly.
4. The exterior portion of a 1-hour fire-resistance-rated exterior wall assembly applied to the underside of the floor, including assemblies using exterior gypsum panel and sheathing products listed in the Gypsum Association Fire Resistance Design Manual.
5. An assembly that meets the performance criteria in Section R327.3.4.5 when tested in accordance with ASTM E2957.

**Exception:** Heavy timber structural columns and beams do not require protection.

**R327.3.4.5 Conditions of acceptance.** ASTM E2957 tests shall be conducted in triplicate, and the following conditions of acceptance shall be met. If any one of the three replicates do not meet the conditions of acceptance, three additional tests shall be conducted. All additional tests shall meet the following conditions of acceptance:

1. Absence of flame penetration of the eaves or horizontal projection assembly at any time during the test.
2. Absence of structural failure of the eaves or horizontal projection subassembly at any time during the test.
3. Absence of sustained combustion of any kind at the conclusion of the 40-minute test.

**R327.3.5 Walking surfaces.** Deck, porch and balcony walking surfaces located greater than 30 inches and less than 12 feet (3658 mm) above grade or the surface below shall be constructed with one of the following materials:

1. Materials that comply with the performance requirements of Section R327.3.5.1 when tested in accordance with both ASTM E2632 and ASTM E2726.
2. Ignition-resistant materials that comply with the performance requirements of Section R327.2 when tested in accordance with ASTM E84 or UL 723.
3. Exterior fire-retardant-treated wood.
4. Noncombustible material.
5. Any material that complies with the performance requirements of Section R327.3.5.2 where tested in accordance with ASTM E2632, where the exterior wall covering of the structure is noncombustible or ignition-resistant material.

## EXHIBIT A

6. Any material that complies with the performance requirements of ASTM E2632, where the exterior wall covering of the structure is noncombustible or ignition-resistant material.

**Exception:** Wall covering material may be of any material that otherwise complies with this chapter when the decking surface material complies with the performance requirements ASTM E84 with a Class B flame spread rating.

**Exception:** Walking surfaces of decks, porches and balconies not greater than 200 square feet (18.58 m<sup>2</sup>) in area, where the surface is constructed of nominal 2-inch (51 mm) lumber.

**R327.3.5.1 Requirements for R327.3.5, Item 1.** The material shall be tested in accordance with ASTM E2632 and ASTM E2726, and shall comply with the conditions of acceptance in Sections R327.3.5.1.1 and R327.3.5.1.2. The material shall also comply with the performance requirements of Section R327.2 for ignition-resistant material when tested in accordance with ASTM E84 or UL 723.

**R327.3.5.1.1 Conditions of acceptance.** ASTM E2632 tests shall be conducted in triplicate and the following conditions of acceptance shall be met. If any one of the three replicates do not meet the conditions of acceptance, three additional tests shall be conducted. All additional tests shall meet the following conditions of acceptance:

1. Peak heat release rate of less than or equal to 25 kW/ft<sup>2</sup> (269 kW/m<sup>2</sup>).
2. Absence of sustained flaming or glowing combustion of any kind at the conclusion of the 40-minute observation period.
3. Absence of falling particles that are still burning when reaching the burner or floor.

**R327.3.5.1.2 Conditions of acceptance.** ASTM E2762 tests shall be conducted in triplicate and the following conditions of acceptance shall be met. If any one of the three replicates do not meet the conditions of acceptance, three additional tests shall be conducted. All of the additional tests shall meet the following conditions of acceptance:

1. Absence of sustained flaming or glowing combustion of any kind at the conclusion of the 40-minute observation period.
2. Absence of falling particles that are still burning when reaching the burner or floor.

**R327.3.5.2 Requirements for R327.3.5, Item 6.** The material shall be tested in accordance with ASTM E2632 and shall comply with the following conditions of acceptance. The test shall be conducted in triplicate and the peak heat release rate shall be less than or equal to 25 kW/ft<sup>2</sup> (269 kW/m<sup>2</sup>). If any one of the three replicates do not meet the conditions of acceptance, three additional tests shall be conducted. All of the additional tests shall meet the conditions of acceptance.

**R327.3.6 Glazing.** Exterior windows, windows within exterior doors, and skylights shall be tempered glass, multilayered glazed panels, glass block or have a fire-resistance rating of not less than 20 minutes.

## EXHIBIT A

**ORDINANCE NO.3158**

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

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

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

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

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

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

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

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

## EXHIBIT A

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

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

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

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

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

**18.3.10.100 Development Standards for Wildfire Lands**

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

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

1. Applicability. A Fire Prevention and Control Plan shall be required with the submission of any application for an outline plan approval of a Performance Standards Development, preliminary plat of a subdivision, land partition, Commercial Site Design Review increasing a building's footprint by 200 square feet or greater, or Residential Site Design Review for developments of three units or greater.
2. Plan Submission Requirements. The Fire Prevention and Control Plan, prepared at the same scale as the development plans, shall address the General Fuel Modification Area Requirements outlined in 18.3.10.100.B and include the submission materials listed below. The Staff Advisor may waive a plan submittal

## EXHIBIT A

requirement if the Staff Advisor determines it is not reasonably necessary in order to make a decision on the application.

- a. The location and dimensions of all existing and proposed structures, parking areas and driveways on the property.
- b. The location, dimension, and grade of fire apparatus access roads and driveways serving all structures on the property.
- c. The location and dimensions of all structures upon adjoining properties located within 30 feet of a shared property line.
- d. The location of all existing and proposed fire hydrants.
- e. Site contours showing two foot intervals detailing elevation and slope.
- f. A tree and vegetation management plan showing:
  - i. Areas where shrubs and bushes will be removed including a description of the species and size,
  - ii. Areas where trees will be removed to reduce interlocking tree canopies including a description of the species and diameter at breast height (DBH),
  - iii. New trees, shrubs and bushes to be planted including the species, location and size at maturity,
  - iv. Significant trees to be retained.
- g. The location of and information addressing required General Fuel Modification Area setback areas as described in subsection 18.3.10.100.B.
- h. A schedule and timetable for vegetation removal and thinning shall be included in the Fire Prevention and Control Plan. An exception to the implementation schedule may be granted by the Fire Code Official.

3. Approval Criteria. The hearing authority, in consultation with the Fire Code Official, shall approve the Fire Prevention and Control Plan upon demonstration of compliance with the standards required by this chapter.
  - a. In order to meet the purpose and standards of this chapter the hearing authority, in consultation with the Fire Code Official, may require the following through the imposition of conditions attached to the approval.
    - i. Delineation of areas of heavy vegetation to be thinned and a formal plan for such thinning.
    - ii. Clearing of sufficient vegetation to reduce fuel load.
    - iii. Removal of all dead and dying trees.
    - iv. Relocation of proposed structures and roads to reduce the risks of wildfire and improve the chances of successful fire suppression.
    - v. Preservation or planting a sufficient number of trees and plants for erosion prevention and enhancement of water resources,
4. Fire Prevention and Control Plan Maintenance. The property owner of a lot, or Home Owners Association for areas held in common, shall be responsible for maintaining the property in accord with the requirements of the Fire Prevention and Control Plan approved by the hearing authority.
  - a. Provisions for the maintenance of a required Fire Prevention and Control Plan shall be included in the covenants, conditions and restrictions for the



## EXHIBIT A

development, or otherwise recorded in the Jackson County real property records, and the City shall be named as a beneficiary of such covenants, restrictions, and conditions.

**B. Requirements for Construction of all Buildings and Decks.**

1. Applicability. A fuel modification area is defined as an area either natural or manmade, where material capable of allowing a fire to spread unchecked has been treated, cleared or modified to slow the rate and intensity of an advancing wildfire and to create an area for fire suppression operations. Establishment of a fuel modification area does not involve stripping the ground of all native vegetation. A fuel modification area shall be required for the following construction:
  - a. All new buildings located on a vacant lot, that increase lot coverage by 200 square feet or greater, shall have a General Fuel Modification Area covering the full extent of the property.
  - b. Decks, additions to existing buildings, and detached accessory structures which increase lot coverage by 200 square feet or greater, shall have a General Fuel Modification Area extending 30 feet from the furthest extent of the addition, deck, or accessory structure, or to the property line, whichever is less.
2. General Fuel Modification Area Standards. To reduce fire spread both from and to structures on the property, and to adjoining properties, the establishment and maintenance of a fuel modification area requires the following:
  - a. All standing dead and dying vegetation shall be removed from the property, except when considered ecologically beneficial.
  - b. Newly planted vegetation within 30 feet of any building or deck shall not include species listed on the City's Prohibited Flammable Plant List. This setback distance shall be increased by ten feet for each ten percent increase in the average slope of the property over ten percent.
  - c. Within five feet of a new building, addition, or deck, existing vegetation listed on the City's Prohibited Flammable Plant List shall be removed, with the exceptions of significant trees as defined in part 18.6.
  - d. Within five feet of a new building, addition, or deck, combustible man-made and natural materials are prohibited, including but not limited to bark mulch, stored wood, and accumulation of dry leaves and needles, except when permitted as follows:
    - i. Combustible materials may be permitted within five feet of a structure when approved by the Staff Advisor in consultation with the Fire Code Official, has determined the portion of the structure adjoining the combustible material is constructed with ignition resistant building materials sufficient to reduce the spread of fire from the combustible materials.
  - e. Existing trees, which are identified on the City's Prohibited Flammable Plant List shall be maintained to provide a clearance from new structures, and additions, as follows:

## EXHIBIT A

- i. Ten (10) feet horizontal clearance from a chimney outlet. At no time shall tree crowns or limbs extend into the vertical plane of a chimney outlet.
  - ii. Ten (10) feet above the roof of a new building, or addition.
  - iii. Ten (10) feet from the furthest extension of a new building, or addition or deck.
  - iv. In circumstances where pruning a tree to meet the clearance from structures requirements of 18.3.10.100.B.2.d. i-iii, would compromise the health and survival of existing trees, the Staff Advisor may modify those requirements, but at a minimum the trees shall be pruned to maintain a ground clearance consistent with 18.3.10.100.B.2.i.
- f. Canopy spacing of the outermost limbs of trees on the City's Prohibited Flammable Plant List shall be separated by at least ten (10) feet at mature size.
- i. Groups of trees in immediate proximity to each other may be considered as one tree canopy when approved by the Staff Advisor in consultation with the Fire Code Official.
  - ii. Canopy spacing requirements do not apply to significant trees, as defined in part 18.6, or trees that are not listed on the City's Prohibited Flammable Plant List.
- g. Fire resistant trees, those not listed on the City's Prohibited Flammable Plant List, shall be maintained to provide clearance from structures as follows:
- i. 10 feet horizontal clearance from a chimney outlet. At no time shall tree crowns or limbs extend into the vertical plane of a chimney outlet.
  - ii. Tree limbs shall be pruned to ensure they do not touch any part of a structure including but not limited to roofs, eaves, and decks.
- h. Existing trees which are identified on the City's Prohibited Flammable Plant List shall be pruned to provide a ground clearance of a minimum eight feet above the ground, or 1/3 of the tree height, whichever is less.
- i. Existing shrubs which are identified on the City's Prohibited Flammable Plant list shall be maintained to provide a clearance from new structures and other flammable vegetation as follows:
- i. Five (5) feet clearance from the furthest extension of a new building, addition or deck.
  - ii. Separation from other listed flammable shrubs within the General Fuel Modification Area shall be a minimum of two times the shrub's height at maturity.
- j. Newly planted shrubs which are identified on the City's Prohibited Flammable Plant list, shall be:
- i. A minimum of 30 feet from the furthest extension of any building, addition or deck,
  - ii. Separated from other listed flammable shrubs by a minimum of two times the shrub's height at maturity.
  - iii. Located outside of the drip line of a tree which is listed on the City's Prohibited Flammable Plant list.

## EXHIBIT A

- k. The vertical clearance between the top of understory vegetation within the drip line of a tree, and the lowest tree limbs shall be at least three times the height of vegetation where either the tree or vegetation is listed on the City's Prohibited Flammable Plant list.
  - l. Where necessary for erosion control, slope stability, riparian and wetland preservation and enhancement, performing functions considered beneficial in water resource protection, or aesthetic purposes, existing vegetation may be allowed to be retained consistent with an approved Fire Prevention and Control Plan, or upon written approval of the Staff Advisor in consultation with the Fire Code Official.
  - m. Fuel Modification in areas which are also classified as Hillside Lands or Water Resource Protection Zones, shall be included in the erosion control measures outlined in section 18.3.10.090 Development Standards for Hillside Lands and Management Plan for Water Resource Protection Zones in 18.3.11.110.
  - n. The General Fuel Modification Area standards outlined in 18.3.10.100.B.2 may be reduced or waived when approved by the Staff Advisor in consultation with the Fire Code Official, provided it is demonstrated that the fire risk has been reasonably reduced such as in cases where ignition resistant materials and construction methods, or vegetation type and separation, function to enhance the structure's protection from exterior wildfire exposure
3. Roofing. Where 50% or more of a structure's roof area is replaced within a five year period, the roof covering shall be constructed or re-roofed with a Class B or better roof covering.
4. Fencing. Where fencing is attached to a building or deck, the fencing shall be made of non-combustible materials within five feet of the connection to the structure in compliance with the requirements in 18.4.4.060.

**C. Implementation.**

- 1. For lands required to comply with subsection 18.3.10.100.A. that have been partitioned, subdivided or received site design review, all requirements of the Fire Prevention and Control Plan shall be complied with prior to bringing combustible materials onto the property.
- 2. The Fire Prevention and Control Plan must be implemented during installation of public or private utilities and site improvements required of a subdivision, partition, Site Design Review or Performance Standards Development, and shall be considered part of the applicant's obligations for land development.
  - a. The plan shall be implemented prior to final plat approval for lots created by partitions and for subdivisions or Performance Standards developments not requiring public improvements. The Fire Code Official, or designee, shall

## EXHIBIT A

- inspect and approve the implementation of the Fire Prevention and Control Plan and provide written notice to the Staff Advisor that the plan was completed as approved by the hearing authority, or as amended in accordance with subsection 18.3.110 D.
- b. Final inspection of requisite fuel modification areas will be conducted prior to bringing combustible materials onto the property to verify compliance with the fuel reduction standards set forth in subsection 18.3.10.100 B.
3. For construction of buildings and decks requiring a General Fuel Modification Area, the establishment the fuel modification area provided for in section 18.3.10.100 B shall be completed before bringing combustible materials onto the property. Upon completion of the construction, all General Fuel Modification Area tree and shrub clearance standards shall be verified. The property owner, or subsequent property owners, shall be responsible for maintaining the property in accord with the General Fuel Modification Area standards as defined in 18.3.10.100.B.2.

**D. Minor Amendments.**

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

1. Minor amendments to an approved Fire Prevention and Control Plan include the following:
  - a. A change in the implementation schedule provided within an approved Fire Prevention and Control Plan.
  - b. A delay in the implementation of required fuels reduction in consideration of weather conditions, and fire hazard potential, during the period of construction.
  - c. The retention of existing non-fire resistant trees or shrubs, or planting of new non-fire resistant trees or shrubs, within thirty (30) feet of a structure.
  - d. A reduction of the requisite fuel modification area to address observed field conditions including preservation of riparian, wetland, and slope stabilizing vegetation.
  - e. A reduction of the requisite fuel modification area in recognition of the use of fire resistant materials and construction methods that function to provide the structure with reduced exterior wildfire exposure.
  - f. A change in the Fire Prevention and Control Plan that results in a tree canopy separation of less than ten (10) feet between the outermost limbs of trees which are identified on the City's Prohibited Flammable Plant List.
  - f. The temporary storage of combustible materials on a property prior to completion of a Fire Prevention and Control Plan or establishment of a required fuel modification area.

## EXHIBIT A

- g. A reduction of the spacing between the top of the understory vegetation and the lowest tree limbs not meeting the requirements of section 18.3.10.100.B.2.

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

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

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

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

**18.3.10.020.A. Physical Constraints Review Permit**

1. *[18.3.10.020.A.1 is unchanged]*
2. *[18.3.10.020.A.2 is unchanged]*
3. Tree Removal.
  - a. *Flood Plain Corridor Land.* The following tree removal activities in areas identified as Flood Plain Corridor Land. See also, subsection 18.3.11.050.A.1 for tree pruning and removal standards in water resource protection zones.
    - i. The removal of three or more living trees of over six inches DBH, or the removal of five percent of the total number of living or dead trees over six inches DBH, whichever is greater, on any lot within five year period, or any form of commercial logging.
    - ii. The removal of one or more living conifers having **a trunk 18 caliper inches or larger in diameter at breast height (DBH), and broadleaf trees having a trunk 12 caliper inches or larger at breast height**

## EXHIBIT A

~~(DBH). greater than two feet DBH, or living broadleaf trees greater than one foot DBH.~~

- b. *Hillside Land and Severe Constraints Land.* Tree removal, in areas identified as Hillside Land and Severe Constraint Land, except that a permit need not be obtained for tree removal that is not associated with development, and done for the purposes of wildfire management ~~and carried out in accord with a Fire Prevention and Control Plan, approve by the Fire Chief.~~ provided one or more of the following conditions is met:
- i. The tree removal is carried out in accord with an approved Fire Prevention and Control Plan.
  - ii. The tree is a conifer with a trunk of less than 18 caliper inches in diameter at breast height (DBH), or a broadleaf tree having a trunk of less than 12 caliper inches at breast height (DBH), and the removal is recommended by the Fire Code Official, and approved by the Staff Advisor, as part of a comprehensive fuels reduction strategy to implement a General Fuel Modification Area standards consistent with 18.3.10.100.
- c. *Commercial Logging.* Commercial logging in areas identified as Flood Plain Corridor Land, Hillside Land, or Severe Constraints Land.

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

**18.3.10.040 Application Submission Requirements**

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

*[The remainder of 18.3.10.040 is unchanged]*

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

**18.3.10.090 Development Standards for Hillside Lands**

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

1. *[18.3.10.090.D.1 is unchanged]*
2. *[18.3.10.090.D.2 is unchanged]*
3. Tree Conservation in Project Design. Significant conifer trees having a trunk 18 caliper inches or larger in diameter at breast height (DBH) (two feet DBH or greater conifers and one foot DBH or greater broadleaf), and broadleaf trees having a trunk 12 caliper inches or larger in diameter at breast height

## EXHIBIT A

**(DBH)**, shall be protected and incorporated into the project design whenever possible.

- a. Streets, driveways, buildings, utilities, parking areas, and other site disturbances shall be located such that the maximum number of existing trees on the site are preserved, while recognizing and following the standards for fuel reduction if the development is located in
- b. Building envelopes shall be located and sized to preserve the maximum number of trees on site while recognizing and following the General Fuel Modification Area standards per 18.3.10.100 if the development is located in Wildfire Lands.
- c. Layout of the project site utility and grading plan shall avoid disturbance of tree protection areas.

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

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

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

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

- a. Replacement trees shall be indicated on a tree replanting plan. The replanting plan shall include all locations for replacement trees, and shall also indicate tree planting details.
- b. Replacement trees shall be planted such that the trees will in time result in canopy equal to or greater than the tree canopy present prior to development of the property. See Figure 18.3.10.090.D.6.b. The canopy shall be designed to mitigate of the impact of paved and developed areas, reduce surface

## EXHIBIT A

erosion, and increase slope stability. Replacement tree locations shall consider impact on the wildfire prevention and control plan. The hearing authority shall have the discretion to adjust the proposed replacement tree canopy based upon site-specific evidence and testimony.

- c. Maintenance of replacement trees shall be the responsibility of the property owner. Required replacement trees shall be continuously maintained in a healthy manner. Trees that die within the first five years after initial planting must be replaced in kind, after which a new five-year replacement period shall begin. Replanting must occur within 30 days of notification unless otherwise noted.

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

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

**18.4.3.080 Vehicle Area Design**

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

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

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

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

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

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

6. Walls and Hedges

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

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



## EXHIBIT A

- b. In all zones, except single-family zones, where a parking facility or driveway is adjacent to a residential or agricultural zone, school yard, or like institution, a sight-obscuring fence, wall, or **fire resistant broadleaf evergreen site-obscuring** hedge shall be provided, pursuant to the following requirements.
- i. The fence, wall or hedge shall be placed on the property line and shall be between five feet and six feet in height as measured from the high grade side of the property line, except that the height shall be reduced to 30 inches within a required setback area and within ten feet of a street property line.
  - ii. Screen plantings shall be of such size and number to provide the required screening within 12 months of installation.
  - iii. Adequate provisions shall be made to protect walls, fences, or plant materials from being damaged by vehicles using said parking area.
  - iv. Notwithstanding the above standards, the required wall or screening shall be designed to meet the vision clearance area requirements in section 18.2.4.040.
  - v. The fence, wall, or hedge shall be maintained in good condition.

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

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

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

**18.4.4.030 Landscaping and Screening**

A. *[18.4.4.030.A is unchanged]*

B. *[18.4.4.030.B is unchanged]*

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

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

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

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

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

5. **Screening**

- a. Evergreen shrubs shall be used where a sight-obscuring landscape screen is required.
- b. Where a hedge is used as a screen, **fire-resistant and drought tolerant**

## EXHIBIT A

evergreen shrubs shall be planted so that not less than 50 percent of the desired screening is achieved within two years and 100 percent is achieved within four years. Living groundcover in the screen strip shall be planted such that 100 percent coverage is achieved within two years.

D. [18.4.4.030.D is unchanged]

E. [18.4.4.030.E is unchanged]

F. [18.4.4.030.F is unchanged]

G. [18.4.4.030.G is unchanged]

H. [18.4.4.030.H is unchanged]

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

1. Landscaping Design Standards

- a. *Landscaping Coverage.* Water conserving designs shall have plant coverage of not less than 90 percent with five years of planting, but are not required to meet the standard of 50 percent coverage within one year.
- b. *Plant Selection.* At least 90 percent of plants in the non-turf areas shall be listed as drought tolerant and fire-resistant in the City's Water-Wise Landscaping website, or be similarly well-suited for this climate of region as determined by the Staff Advisor. Up to ten percent of the plants may be of a non-drought tolerant variety or species as long as they are grouped together and are located in a separate irrigation zone.
- c. *Screening.* Plant screening hedges to attain 50 percent coverage after two years.
- d. *Mulch.* Add a minimum of two inches of mulch in non-turf areas to the soil surface after planting, **with the exception of within five (5) feet of a building or deck where bark mulch and other combustible materials are not permitted per the General Fuel Modification Area standards in 18.3.10.100.** Neither large nuggets nor fine bark may be used for mulch. Non-porous material shall not be placed under the mulch.
- e. *Turf and Water Areas.* Limit combined turf or water areas (i.e., pools, ponds, and fountains) to 20 percent of the landscaped areas. Turf limitations do not apply to public parks, private common open space, required outdoor recreation areas, golf courses, cemeteries, and school recreation areas.
- f. *Fountains.* Design all fountains to recycle their water.

## EXHIBIT A

- g. *Turf Location.* Turf is restricted to slopes less than ten percent grade.
- h. *Berms and Raised Beds.*
  - i. No more than five percent of landscaped area of any lot or project may be berms or raised beds higher than one foot unless there is demonstrated need for sound or safety barrier. If allowed, berms must be no taller than 1/6 of their width.
  - ii. All plantings on berms one foot or greater in height must be drought tolerant.
  - iii. Only drip irrigation is allowed on berms more than one foot in height.
- i. *Soil Quality.* When new vegetation is planted, soils shall be amended for plant health and water absorption. Add mature compost at a rate of three cubic yards of compost per 1,000 square feet of area to be landscaped, and work soil and amendment(s) to a depth of four to six inches. This requirement may be waived for one or more of the following circumstances.
  - a. The area to be landscaped is fenced off to fully protect native soil from disturbance and compaction during construction.
  - b. Soil tests document an organic content of a least three percent based on a representative core sample taken at a rate of one test per 20,000 square feet, based on a minimum of three core sample per test. Samples shall be taken at least 40 feet apart to a depth of six inches following attainment of rough grade.
  - c. The area to be landscaped will be used to capture and treat storm water runoff, and is subject to separate design standards.

2. *[18.4.4.030.1.2 is unchanged]*

3. *[18.4.4.030.1.3 is unchanged]*

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

**18.4.4.060.B Design Standards.**

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

1. *[18.4.4.060.B.1 is unchanged]*

## EXHIBIT A

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

**8. Wildfire Lands Overlay. Fencing attached to a building or deck within the Wildfire Lands Overlay shall be made of non-combustible materials within five (5) feet of the connection to the structure.**

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

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

<b>Table 18.5.1.010 – Summary of Approvals by Type of Review Procedure</b>		
<b>Planning Actions</b>	<b>Review Procedures</b>	<b>Applicable Regulations</b>
Access to a Street/Driveway Approach	Ministerial	Chapter 18.4.3
Annexation	Type III	Chapter 18.5.8; See Oregon Revised Statute 222.
Ordinance Interpretation	Type I or II	Chapter 18.1.5
Ordinance Text Amendment	Type III	Chapter 18.5.9

## EXHIBIT A

<b>Table 18.5.1.010 – Summary of Approvals by Type of Review Procedure</b>		
<b>Planning Actions</b>	<b>Review Procedures</b>	<b>Applicable Regulations</b>
Comprehensive Plan Amendment	Type III	Chapter 18.5.9
Conditional Use Permit	Type I or II	Chapter 18.5.4
Conversion of Multifamily Dwelling Units into For-Purchase Housing	Ministerial	Section 18.2.3.200
<b><u>Exception to Fire Prevention and Control Plan and General Fuel Modification Area Standards</u></b>	<b><u>Type I</u></b>	<b><u>Subsection 18.3.10.100.E</u></b>
Exception to Site Development and Design Standards	Type I	Subsection 18.5.2.050.E
Exception to Street Standards	Type I	Subsection 18.4.6.020.B.1
Extension of Time Limit for Approved Planning Action	Ministerial	Section 18.1.6.040
Fence	Ministerial	Section 18.4.4.060
Hillside Standards Exception	Type I	Subsection 18.3.10.090.H
Home Occupation Permit	Ministerial	Section 18.2.3.150
Land Use Control Maps Change	Type II or III	Chapter 18.5.9
Legal Lot Determination	Ministerial	Chapter 18.1.3
Modification to Approval Minor Modification Major Modification	Ministerial Per original review	Chapter 18.5.6
Non-Conforming Use or Structure, Expansion of	Ministerial or Type I	Chapter 18.1.4
Partition or Re-plat of 2-3 lots Preliminary Plat Final Plat Minor Amendment	Type I Ministerial Ministerial	Chapter 18.5.3 Chapter 18.5.3 Subsection 18.5.3.020.G
Performance Standards Option Outline Plan Final Plan Minor Amendment	Type II Type I Ministerial	Chapter 18.3.9 Chapter 18.3.9 Subsection 18.5.3.020.G
Physical and Environmental Constraints Permit	Type I	Chapter 18.3.10
Property Line Adjustments, including Lot Consolidations	Ministerial	Chapter 18.5.3
Sign Permit	Ministerial	Chapter 18.4.7
Site Design Review	Type I or II	Chapter 18.5.2
Solar Setback Exception	Type I	Chapter 18.4.8

## EXHIBIT A

Table 18.5.1.010 – Summary of Approvals by Type of Review Procedure		
Planning Actions	Review Procedures	Applicable Regulations
Subdivision or Replat of >3 lots Preliminary Plat Final Plat Minor Amendment	Type II Ministerial Ministerial	Chapter 18.5.3 Chapter 18.5.3 Subsection 18.5.3.020.G
Tree Removal Permit	Type I	Chapter 18.5.7
Variance	Type I or II	Chapter 18.5.5
Water Resources Protection Zone – Limited Activities and Uses	Type I	Section 18.3.11.060
Water Resources Protection Zone Reduction	Type I or II	Section 18.3.11.070
Water Resources Protection Zone – Hardship Exception	Type II	Section 18.3.11.080
Zoning District Map Change	Type II or III	Chapter 18.5.9

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

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

### 18.5.3.060 Additional Preliminary Flag Lot Partition Plat Criteria

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

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

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

### 18.5.5.020 Applicability

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

## EXHIBIT A

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

A. [18.5.7.020.A is unchanged]

B. [18.5.7.020.B is unchanged]

- C. Exempt From Tree Removal Permit.** The following activities are exempt from the requirement for a tree removal permit in 18.5.7.020.A, subsections A. and B, above.
1. Those activities associated with the establishment or alteration of any public park under the Ashland Parks and Recreation Commission. However, the Parks and Recreation Department shall provide an annual plan in January to the Tree Commission outlining proposed tree removal and topping activities, and reporting on tree removal and topping activities that were carried out in the previous year.
  2. Removal of trees in single family residential zones on lots occupied only by a single family detached dwelling and associated accessory structures where the property is **less than twice the minimum lot size or otherwise ineligible to be partitioned or subdivided**, except as otherwise regulated by chapters 18.3.10 Physical and Environmental Constraints and 18.3.11 Water Resource Protection Zones.
  3. Removal of trees in multi-family residential **and health care** zones on lots occupied only by a single family detached dwelling and associated accessory structures where the property **cannot be further developed with additional dwelling units other than an accessory residential unit**, except as otherwise regulated by chapters 18.3.10 Physical and Environmental Constraints and 18.3.11 Water Resource Protection Zones.
  4. Removal of trees less than six-inches DBH in any zone, excluding those trees located within the public right of way or required as conditions of approval with landscape improvements for planning actions.
  5. Removal of trees less than 18 **caliper inches in diameter at breast height (DBH)inches DBH** on any public school lands, Southern Oregon University, and other public land, excluding Heritage trees.
  6. Removal of trees within the Wildfire Lands area of the City, as defined on adopted maps, for the purposes of wildfire fuel management **consistent with the fuel modification area standards in 18.3.10.100**, and in accord with the requirements of chapters 18.3.10 Physical and Environmental Constraints and 18.3.11 Water Resource Protection Zones.
  7. Removal of dead trees.
  8. Those activities associated with tree trimming for safety reasons, as mandated by the Oregon Public Utilities Commission, by the City's Electric and Telecommunication Utility. However, the Utility shall provide an annual plan to the Tree Commission outlining tree trimming activities and reporting on tree trimming activities that were carried out in the previous year. Tree trimming shall be done, at a minimum, by a Journeyman Tree Trimmer, as defined by the Utility, and will be done in conformance and to comply with OPUC regulations.

## EXHIBIT A

9. Removal of street trees within the public right-of-way subject to street tree removal permits in AMC 13.16.

D. [18.5.7.020.D is unchanged]

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

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

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

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

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

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

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

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



## EXHIBIT A

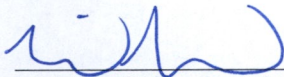
**Significant Tree:** A conifer tree having a trunk 18 caliper inches or larger in diameter at breast height (DBH), or a deciduous tree having a trunk 12 caliper inches in diameter at breast height.

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

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

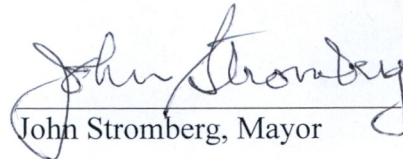
**SECTION 15. Codification.** Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections 13-15) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

The foregoing ordinance was first read by title only in accordance with Article X, Section 2(C) of the City Charter on the 21<sup>st</sup> day of August, 2018, and duly PASSED and ADOPTED this 18<sup>th</sup> day of September, 2018,



\_\_\_\_\_  
Melissa Huhtala, City Recorder

SIGNED and APPROVED this 18th day of September, 2018,.



\_\_\_\_\_  
John Stromberg, Mayor

Reviewed as to form:



\_\_\_\_\_  
David H. Lohman, City Attorney

## EXHIBIT A

**ORDINANCE NO. 3159****AN ORDINANCE AMENDING CHAPTER 9.04 OF THE ASHLAND MUNICIPAL CODE TO DECLARE PROHIBITED FLAMMABLE PLANTS A NUISANCE.**

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

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

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

**WHEREAS**, the City of Ashland has determined that it is in the best interest of its residents, business and visitors to encourage fire resistant vegetation when it comes to landscape design; and

**WHEREAS**, the City of Ashland has determined that the prohibition of highly flammable plants from being newly planted within General Fuel Modification Areas within the City of Ashland, supports the following City Comprehensive Plan Environmental Resources Goal: "Protect Life, property and environmental resources in Ashland's suburban/wildland interface area from the devastating effects of wildfire. Lessen the possibility of wildfire spreading to the Ashland watershed from the urban/wildland interface area", and

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

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

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

## EXHIBIT A

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

**SECTION 1.** Chapter 9.04 [Weeds and Noxious Vegetation] of the Ashland Municipal Code is hereby amended as follows:

**9.04.002 Purpose**

The purpose of this chapter is to reduce the risk of damage to property and persons by fire due to weeds, and to reduce hazards to public health, agriculture, recreation, and wildlife by controlling the growth of weeds and noxious vegetation. Ashland Fire and Rescue and the City's Code Compliance Officers intend to prioritize enforcement and abatement under this chapter based upon the degree of fire risk or other hazard caused by the violation and the availability of resources. (Ord. 3009, added, 04/20/2010)

**9.04.005 Definitions**

- A. Code Compliance Officer: all individuals designated as such pursuant to AMC 1.08.005, including specifically the Fire Chief.
- B. Fire Chief: the City of Ashland Fire Chief or his/her authorized designee.
- C. Fire hazard: a written determination from the Fire Chief that the quality, condition, and/or location of vegetation creates a risk of fire.
- D. Noxious vegetation: all vegetation listed on the noxious weed list promulgated by the Oregon Department of Agriculture's Plant Division.
- E. Owner: owner of real property, agent of the owner, and/or occupant of any lot or parcel of land. In the case of property subject to foreclosure as a result of bankruptcy or default of the legal owner, the City may deem the "Owner" to be the person, other than the legal owner, who has a primary lien, security, or mortgage interest in possession or control of the property or who is the deed of trust beneficiary of the property.

**F. Prohibited Flammable Plants: all vegetation listed on the Prohibited Flammable Plan List as approved by Resolution of the City Council.**

- F. G. Summer season: between May 15 and September 30 of any year, or the end of fire season as declared by the Oregon Department of Forestry, whichever is later.

**G. H. Weed:**

- 1. Vegetation, grass, shrubbery, and round wood that is less than 1/4 inch in diameter and more than four inches (4") high, and
- 2. Vegetation that is a:
  - a. Health hazard, such as providing harborage for vermin;
  - b. Fire hazard due to the quantity and/or location; or
  - c. Traffic hazard because it impairs the view of a public thoroughfare or otherwise makes use of the thoroughfare hazardous

## EXHIBIT A

**9.04.010 Weeds Declared Nuisance**

The growth or maintenance of weeds upon lots and parcels of land, and abutting rights-of-way in the City during the summer season, or at any other time of year when deemed a fire, health or traffic hazard, is declared to be a nuisance.

**9.04.011 Prohibited Flammable Plants Declared Nuisance**

**The planting of species identified on the Prohibited Flammable Plant List within a General Fuel Modification Area in the City is declared to be a nuisance.**

**9.04.012 Noxious Vegetation Declared Nuisance**

The growth or maintenance of noxious vegetation upon lots and parcels of land, and abutting rights-of-way in the City at any time is declared to be a nuisance.

**9.04.015 Exemptions to Nuisance**

- A. The term "weed" does not include vegetation that constitutes an agricultural crop or decorative residential landscaping, unless that vegetation is a fire, health, or traffic hazard.
- B. It shall not be a violation of this chapter for property owners to maintain wetland or upland native vegetation in its natural state either on their property or in common areas when required to do so pursuant to the requirements of state law, city ordinance or land use approval. Nothing herein prohibits a property owner from preserving native vegetation in its natural state in excess of the requirements of state law or city ordinance, provided the owner prepares and implements a management plan for maintenance of the natural area and said plan is approved and on file with the community development department.
- C. It shall not be a violation of this chapter for property owners to maintain Prohibited Flammable Plants which were established prior to the effective date of this ordinance on their property or in common areas, unless the plants are subject to removal through implementation of an approved Fuel Prevention and Control Plan or General Fuel Modification Area on file with the community development department.**

**9.04.020 Responsibility of Owner - Removal of Weeds**

The owner of any lot or parcel of land within the limits of the City of Ashland shall cut and/or remove weeds growing thereon, and on adjacent and abutting rights-of-way, between May 15th and June 15th of each year. It shall be the duty of an owner to continue to cut and remove the weeds throughout the summer season, or any other time of year when deemed a fire, health, or traffic hazard.

## EXHIBIT A

**9.04.022 Responsibility of Owner - Prohibited Flammable Plants**

**The owner of any lot or parcel of land within the limits of the City of Ashland shall not permit species identified on the Prohibited Flammable Plant List to be newly planted on their property within a General Fuel Modification Area as defined in Chapter 18.3.10.100.B. It shall be the duty of an owner to cut down and remove any new seedlings and volunteer plants of listed prohibited flammable plants as often as needed to prevent them from posing an increased fire hazard.**

**9.04.024 Responsibility of Owner - Removal of Noxious Vegetation**

The owner of any lot or parcel of land within the limits of the City of Ashland shall not permit noxious vegetation to grow upon their property and on adjacent and abutting rights-of-way. It shall be the duty of an owner to cut down or to destroy and remove all noxious vegetation as often as needed to prevent it from becoming a fire, health or traffic hazard, from becoming unsightly, or maturing, spreading, and going to seed.

**9.04.028 Abatement Process**

The Uniform Abatement Process set forth in chapter AMC 2.31 shall apply to nuisances identified in this Chapter and may be used to abate continuing violations.

Notwithstanding any other AMC provisions, a code compliance officer may order the minimum abatement necessary to abate a fire, health or traffic hazard, (e.g. creation of an adequate fire break to protect adjacent property from fire exposure). Abatement of the nuisance shall not prohibit the City from seeking any other remedy or sanction provided by law.

**9.04.030 Violation Penalty**

Any person who violates any provision of this Chapter is subject to Section 1.08.020 of the Ashland Municipal Code. Any violation of this section is a Class I violation.

**9.04.040 Notice to Abate – Contents**

In case of failure or neglect of any such agent, owner or occupant to cut weeds and grass and shrubbery as herein provided, the City Recorder shall cause to be served on such agent, owner, and/or occupant a notice, describing the property with convenient certainty by its legal description or by the street number of the house, requiring such owner or agent and/or occupant to cut said weeds, grass, and shrubbery within ten (10) days from the service thereof, or that the City will require the same to be done, and the cost thereof charged as a lien against said property.

**9.04.050 Notice to Abate – Service – Removal by City – Lien**

Such notice shall be served upon such owner, agent, and/or occupant in person if found upon said premises or within the City, and in case said owner, agent, and/or occupant

## EXHIBIT A

cannot be found in person within the City after reasonable diligence and inquiry, such notice shall be posted in a conspicuous place upon said premises, and a copy thereof mailed to the last known post office address of such owner, agent, or occupant, if any such address is known, and return of service shall be filed with the Recorder; and if at the end of ten (10) days from the giving of such notice, such owner, agent, and/or occupant, has failed and neglected to cut and remove such vegetation, the Fire Chief shall cause the same to be done and shall file with the Council a verified itemized statement of the expenditure occasioned thereby, and the Recorder shall cause notice to be served upon the owner, agent, or occupant in the manner hereinbefore described, such statement will be considered and determined by the Council and a lien declared upon the property involved, the time of which meeting shall be specified in the notice, more than ten (10) days from the giving of the same, and the Council shall at such meeting hear any objections to such statement, and by ordinance determine the correctness of the same, and declare such corrected amount a lien upon the property benefitted and instruct the Recorder to enter the same upon the City docket of liens in the same manner and with the same effect that street improvement liens and sewer liens are entered, and said lien shall have the same force and effect as such street improvement and sewer liens, and shall be certified to the county assessor in the same manner.

**SECTION 2.** A Prohibited Flammable Plant List shall be maintained by the City of Ashland and approved by Resolution of the City Council.

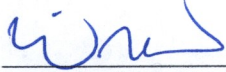
**SECTION 3. Savings.** Notwithstanding this amendment, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinances(s) or portions thereof were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

**SECTION 4. Severability.** The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

**SECTION 5. Codification.** Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections 3-5) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

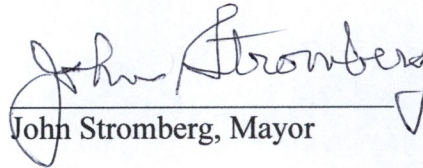
## EXHIBIT A

The foregoing ordinance was first read by title only in accordance with Article X,  
Section 2(C) of the City Charter on the 21<sup>st</sup> day of August, 2018,  
and duly PASSED and ADOPTED this 18<sup>th</sup> day of September, 2018,



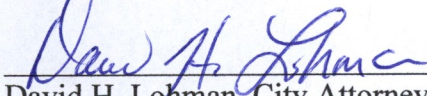
\_\_\_\_\_  
Melissa Huhtala, City Recorder

SIGNED and APPROVED this 18th day of September, 2018,.



\_\_\_\_\_  
John Stromberg, Mayor

Reviewed as to form:



\_\_\_\_\_  
David H. Lohman, City Attorney