



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

05/11/2012

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Ashland Plan Amendment
DLCD File Number 005-11

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Friday, May 25, 2012

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Amy Gunter, City of Ashland
Gordon Howard, DLCD Urban Planning Specialist
Josh LeBombard, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

In person electronic mailed

DATE STAMP

DEPT OF
MAY 07 2012
LAND CONSERVATION
AND DEVELOPMENT

For Office Use Only

Jurisdiction: **City of Ashland**

Local file number: **PA#2011-01731**

Date of Adoption: **5/01/2012**

Date Mailed: **5/4/2012**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 12/09/2011

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Amends Ashland Municipal Code and Land Use Ordinance to allow Solar panels on Historic buildings in commercial districts without prior Site Review, permits 8' tall deer fencing, defines fence height, allows eaves to extend 3' into setbacks, allows rain barrels in side and rear yard setbacks, and establishes new standards for the keeping of chickens and associated structures.

Does the Adoption differ from proposal? Yes

Refinements to each proposed code were incorporated through the hearing process, including added requirements for the keeping of chickens, increased setbacks for chickens (*note subsequent to adoption of these ordinances the Council has directed staff to draft a new amendment to further address the setbacks for Chickens*), added height and structural support requirements for rain barrels, elimination of a capacity limit for rain barrels, revised "clear view" criteria for deer fencing.

Plan Map Changed from: **n/a**

to:

Zone Map Changed from: **n/a**

to:

Location: **n/a**

Acres Involved:

Specify Density: Previous: **n/a**

New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. 005-11 (19090) [17027]

Please list all affected State or Federal Agencies, Local Governments or Special Districts

none

Local Contact: **Brandon Goldman, Senior Planner** Phone: (541) 552-2076 Extension: **n/a**
Address: **20 E. Main Street** Fax Number: - -
City: **Ashland** Zip: **97520** E-mail Address: **Brandon.Goldman@ashland.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on **light green paper if available**.
3. Send this Form 2 and **one complete paper copy** (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on **8½ -1/2x11 green paper only if available**. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail **plan.amendments@state.or.us**.

ORDINANCE NO. 3061

AN ORDINANCE ESTABLISHING PROVISIONS FOR THE KEEPING OF CHICKENS WITHIN RESIDENTIAL DISTRICTS, AND REPEALING FENCE PROVISIONS WITHIN THE HEALTH AND SANITATION CHAPTER 9.08 OF THE ASHLAND MUNICIPAL CODE

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

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, Section 9.08.040 of the Municipal Code regulates the keeping of animals within the City;

WHEREAS, under the Municipal Code it is unlawful to keep poultry within 75 feet of another dwelling, which limits the opportunities for residents to keep chickens within the City;

WHEREAS, the City Council of City of Ashland, Oregon, finds that the keeping of a limited number of chickens in residential districts should be authorized, and that adoption of this Ordinance promotes more sustainable food practices and reasonably furthers the health, safety, and general welfare of the citizens of the City Ashland;

WHEREAS, Section 9.08.140 of the Municipal Code addresses requirements for fences which are more appropriately addressed in Chapter 18.68.010 of the Ashland Land Use Code which provides standards for fences location, construction and materials;

WHEREAS, the City Council of the City of Ashland conducted a duly advertised public hearing on the amendments to the Ashland Municipal Code and Land Use Ordinances on March 6, 2012;

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. The above recitations are true and correct and are incorporated herein by this reference.

SECTION 2. The purpose of these ordinance amendments is to provide standards for the keeping of domesticated chickens. It is intended to enable residents to keep a small number of female chickens (up to 5) on a non-commercial basis while creating standards and requirements that ensure that domesticated chickens do not adversely impact the neighborhood surrounding the property on which the chickens are kept.

SECTION 3. AMC Chapter 9.08.040 [*Health and Sanitation: Keeping of Animals*] is hereby amended to read as follows:

9.08.040 Keeping of Animals

A. Except as otherwise permitted by ordinance, no person shall keep or maintain more than three (3) dogs over the age of three (3) months on any one (1) parcel or tract of land.

B. No person shall keep or maintain swine. Notwithstanding the preceding sentence or the provisions of section 18.20.020, keeping or maintaining swine commonly referred to as Miniature Vietnamese, Chinese, or Oriental pot-bellied pigs (*sus scrofa vittatus*) is allowed, subject to the following:

1. Such pigs shall not exceed a maximum height of 18 inches at the shoulder or weigh more than 95 pounds.
2. No more than one such pig shall be kept at any one parcel or tract of land.
3. Such pigs shall:
 - a. Be confined by fence, leash or obedience training to the property of the person keeping or maintaining them or to the property of another if such other person has given express permission;
 - b. Be confined to a car or truck when off property where otherwise confined; or
 - c. Be on leash not longer than six feet in length.
4. Such pigs shall be kept in accordance with the standards of minimum care for domestic animals as set forth in ORS 167.310.
5. Notwithstanding any of the above, no such pig shall be allowed in any park.

C. No person shall keep or maintain poultry within seventy-five (75) feet of another dwelling, **except that chickens may be kept or maintained provided each of the following requirements is continuously met:**

1. **No more than five (5) chickens shall be kept or maintained on properties of less than five thousand (5000) square feet in area;**
2. **No more than one (1) chicken for each one thousand (1,000) square feet of lot area, up to a maximum of twenty (20) chickens, shall be kept or maintained on properties greater than five thousand (5000) square feet in area,**

3. No chickens shall be allowed on properties containing multi-family complexes, including duplexes;
4. In residential zones chickens shall be kept for personal use only, and not for the commercial exchange of goods or commodities with the exception of the sale of surplus eggs directly to the end consumer.
5. No roosters shall be allowed;
6. Chickens must be secured at all times and located at least seventy five feet (75') from dwellings on adjoining properties:
 - a. During non-daylight hours a secure chicken coop shall be provided to protect chickens from predators;
 - b. During daylight hours, chickens shall be located in a chicken run that meets the requirements of AMC 18.68.140(C)(2) or in a securely fenced backyard;
7. To protect public health, the areas in which chickens are kept must be maintained in compliance with AMC 9.08.060 and the following requirements:
 - a. Chicken feed must be kept in rodent- and raccoon-proof containers;
 - b. Chicken manure must be collected, stored, and removed from the property on a regular basis in accordance with the following requirements:
 - i. All stored manure shall be within a non-combustible, air-tight, container and located in accordance with the Oregon Fire Code relating to the outdoor storage of combustibles;
 - ii. No more than one 20-gallon container of manure shall be stored on any one property housing chickens; and
 - iii. All manure not used for composting or fertilizing shall be removed;
8. Chicken coops and runs shall be built in compliance with AMC 18.68.140(C)(2) and with all applicable building and zoning codes;
9. The requirements of AMC 18.20.020(D) regarding of the keeping of livestock shall not apply to the keeping of chickens or the buildings and structures that house chickens.
10. Noise resulting from the keeping or maintaining of chickens must not exceed the limitations set forth in AMC 9.08.170.

D. No person shall keep or maintain rabbits within one hundred (100) feet of another dwelling or within seventy-five (75) feet of a street or sidewalk.

E. No person shall keep or maintain a bee hive, bees, apiary, comb, or container of any kind or character wherein bees are hived, within one hundred fifty (150) feet of another dwelling or within one hundred fifty (150) feet of a street or sidewalk.

F. No person shall keep or maintain a stable within one hundred (100) feet of another dwelling.

G. Where the conditions imposed by subsections (B) to (F) of this section differ from those imposed by another ordinance, the provision which is more restrictive shall control.

H. The applicable minimum care requirements of ORS 167.310 shall apply to all animals identified in this section.

I. Keeping of animals is a Class III violation.

SECTION 4. AMC Chapter 09.08.140 [Fences] is hereby repealed as follows:

AMC 9.08.140 Fences

A. No owner or person in charge of property shall construct or maintain a barbed-wire fence thereon, or permit barbed-wire to remain as part of a fence, along a sidewalk or public way, except such wire may be placed above the top of other fencing not less than six (6) feet, six (6) inches high.

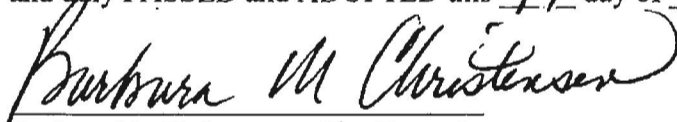
B. No owner or person in charge of property shall construct, maintain, or operate an electric fence along a sidewalk or public way or along the adjoining property line of another person.

C. Fences is a Class II violation.

SECTION 5. 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.

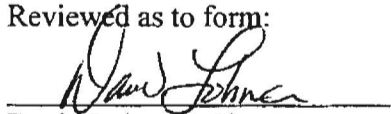
SECTION 6. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions, and text descriptions of amendments (i.e. Sections 1-2, 5-6) 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 6 day of March, 2012, and duly PASSED and ADOPTED this 17 day of April, 2012.



Barbara M. Christensen, City Recorder

SIGNED and APPROVED this ____ day of _____, 2012.

veto on 5/1/2012
John Stromberg, Mayor

Reviewed as to form:

David Lohman, City Attorney

ORD Approved by 2/3 Council vote.

** Effective date of ordinance 5/17/2012*


Green Codes Update 2012, (Deer Fencing, Poultry, Rain barrels, eave extensions, solar energy)

Reviews/Public Hearings

February 14 – Planning Commission Evidentiary Hearing
 March 6 – City Council First Reading
 March 20 (or April 3) – City Council Second Reading/Adoption

Key Dates

Dec 9th = 45 days prior to Jan 24 PC hearing date (DLCD Notice)
 Planning Application filed (PA#, authorized by City Admin)
 Dec 20 = Draft Ordinances completed/formatted – to legal for review
 Jan 31 = Staff Report, Final PC packets
 Feb 03 = 10 days prior to Jan 24 PC hearing date (Tidings publication)
 Feb 20 = 14 days prior to Mar 6 CC hearing date (Legal emails Council)
 Feb 24 = 10 days prior to Mar 6 CC hearing date (Tidings publication)
 Feb 27 = Council Communication complete
 March 12 Findings Complete
 Mar 26 – notice of adoption to DLCD

Feb 8 Historic

NOV 2011							DEC 2011						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
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06	07	08	09	10	11	12	04	05	06	07	08	09	10
13	14	15	16	17	18	19	11	12	13	14	15	16	17
20	21	22	23	24	25	26	18	19	20	21	22	23	24
27	28	29	30				25	26	27	28	29	30	31

JAN 2012							FEB 2012							MAR 2012							
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	
01	02	03	04	05	06	07				01	02	03	04					01	02	03	04
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29	30	31					26	27	28	29				25	26	27	28	29	30	31	

Process as Ordinance, Legislative Action, adopting Green Code revisions including DLCD Notice and public notice.

ORDINANCE NO. 3060

**AN ORDINANCE AMENDING THE DEFINITIONS CHAPTER (18.08)
AND GENERAL REGULATIONS CHAPTER (18.68) OF THE ASHLAND
MUNICIPAL CODE AND LAND USE ORDINANCE.**

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

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 Ashland City Council has determined that it would be advantageous and beneficial to the citizens of the City of Ashland to create procedures and incentives for the implementation of green building practices;

WHEREAS, the City Council of City of Ashland, Oregon, finds it is in the interest of the City and its citizens to provide standards for fences for the purposes of protecting vegetation from deer, and that adoption of this Ordinance promotes more sustainable food practices and reasonably furthers the health, safety, and general welfare of the citizens of the City Ashland;

WHEREAS, the City Council has determined that it is in the best interest of the citizens of the City to promote energy efficiency, water conservation, and increased self sufficiency;

WHEREAS, the City of Ashland Planning Commission considered the recommended amendments to the Ashland Municipal Code and Land Use Ordinances at a duly advertised public hearing on February 14, 2012, and following deliberations, recommended approval of the amendments;

WHEREAS, the City Council of the City of Ashland conducted a duly advertised public hearing on the amendments to the Ashland Municipal Code and Land Use Ordinances on March 6, 2012;

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

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 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. The above recitations are true and correct and are incorporated herein by this reference.

SECTION 2. AMC Chapter 18.08 [*Definitions*] is hereby amended to add a new definition to read as follows:

18.08.175 Deer Fence.

An open fence used to prevent entry by deer or other wildlife for the purpose of protecting gardens, vegetation and yards.

18.08.616 Rain Barrel:

A barrel used to collect and store rain water runoff from rooftops via rain gutters for non-potable use.

18.08.616 18.08.617 Reconstruct

To recreate or reassemble a structure or building with a new or replacement structure that recreates or reproduces its form, shape and location as originally built. (ORD 2951, 2008)

SECTION 3. AMC Chapter 18.68.010 [Fences] is hereby amended to read as follows:

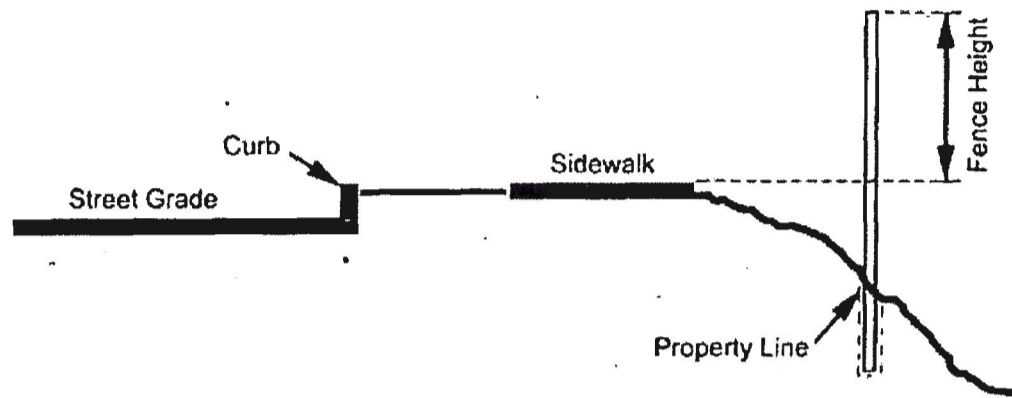
Section 18.68.010 Fences

Fences, walls, hedges and screen planting shall be subject to the following standards:

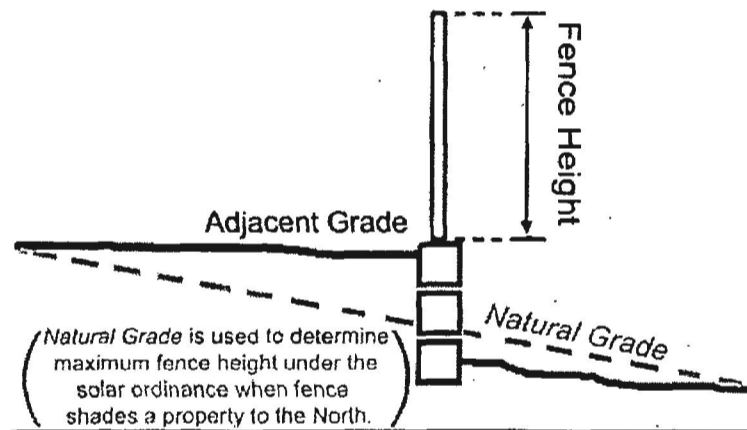
A. Height

- A.1** In any required front yard, provided they do not exceed three and one-half (3 ½) feet in height.
- B2.** In any rear or side yard, provided they do not exceed six and one-half (6 ½) feet in height.
- C3.** The height of fences or walls in rear or sideyard setback areas abutting a public street shall be ~~forty-eight (48) inches~~ **four (4) feet** or less if said fences or walls are within ten (10) feet of any public street except an alley.
- 4.** **The height of a fence is the vertical distance measured from the natural grade to the highest point of the fence, including the structural supports.**
 - a) Below-Grade Lots. On lots that are not generally level with the adjacent street, height may be measured from the top of the adjacent**

sidewalk or curb, or, where curbs are absent, from the crown of the adjacent street plus six inches.



b) When fences are built on top of retaining walls, or one lot is markedly higher than an adjacent lot, height shall be measured from the highest adjacent grade, except that the solar access of adjacent properties to the north shall be maintained in accordance with AMC 18. 70.



B. Construction

- D1.** The framework for newly constructed fences and walls shall face toward the builder's property, except where fences are jointly constructed.
- E2.** Fences shall lean at an angle from the vertical plane no greater than five (5%) percent. In cases where this limitation is exceeded and a written complaint is received by the Planning Department, the property owner shall be notified, in writing of the problem. The Planning Department shall take action only on the basis of a written complaint, or on its own action.
- 3.** Fences shall not be constructed across any waterway or stream identified on the official maps adopted pursuant to Section 18.62.060. Fences shall not be constructed within any designated floodway. Fences within water resource

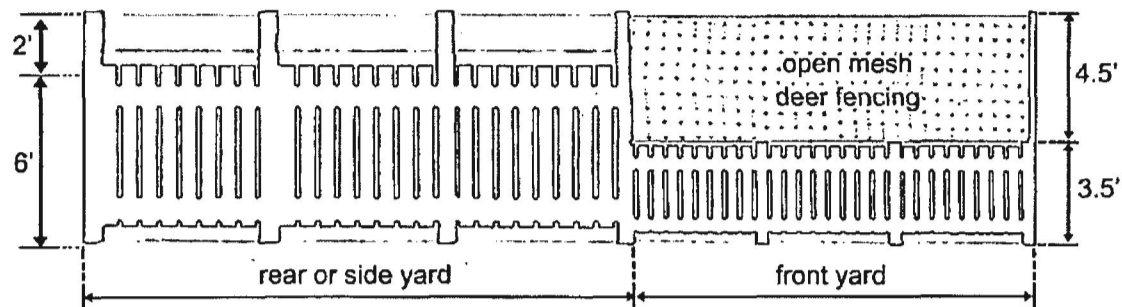
protection zones shall be located and constructed in accordance with Section 18.63.060.B.3.

C. Materials

- 1. The use of barbed wire, razor wire, electrified wire and similar security fencing materials shall be limited as follows:**
 - a) shall not be located adjacent to a sidewalk, a public way, or along the adjoining property line of another person;**
 - b) shall not be erected or maintained at less than six and a half (6½) feet above grade;**
 - c) may be located in commercial, employment or industrial lands if not visible from the public right of way, or with approval from the Community Development Director on properties deemed to be hazardous or in need of additional security.**

D. Deer Fencing

- 1. Deer fencing may be attached to a permitted front, side, or rear yard fences provided the area in excess of the allowable fence heights per 18.68.010 is designed and constructed to provide a clear view through the fence.**
 - a) Within required front yards at least eighty five percent (85%) of the surface shall be unobstructed to both light and air when viewed perpendicular to the plane of the fence.**
 - b) Within required side and rear yards at least eighty percent (80%), of the surface shall be unobstructed to both light and air when viewed perpendicular to the plane of the fence.**
- 2. Deer fencing shall have a minimum height of six and a half feet (6 ½') and shall not exceed eight feet (8') above grade.**
- 3. Permitted deer fencing materials may include, woven wire fencing, field fence, "hog panels", wire strand or polypropylene mesh net that is open and visible through the material. Within front yards all mesh material shall have a minimum open diameter of one and a half (1 ½) square inches.**
- 4. Deer fencing shall be supported by structural supports, or tension wires, that run along the top of the fence to prevent sagging.**
- 5. Chain link fences shall not be considered to be deer fences under this section even if they meet the criteria above.**



SECTION 4. AMC Chapter 18.68.040 [Yard Requirements] is hereby amended to read as follows:

Section 18.68.040 Yard Requirements

All yard measurements to and between buildings or structures or for the purpose of computing coverage or similar requirements shall be made to the building or nearest projection.

Architectural projections may intrude eighteen (18) inches into required yards. **Eaves and awnings may intrude three feet (3') into required yards.**

18.68.140 Accessory Buildings and Structures

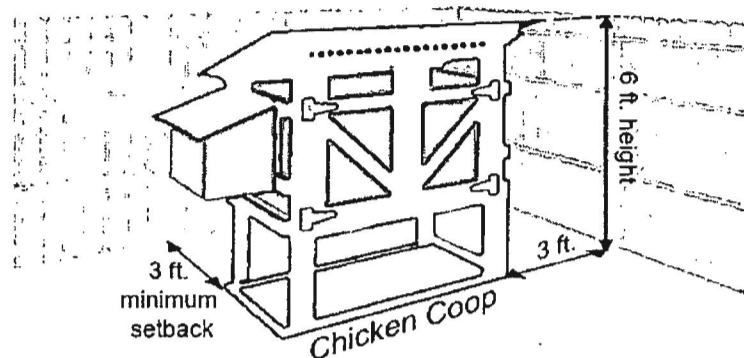
Accessory buildings and structures shall comply with all requirements for the principal use except where specifically modified by this Title and shall comply with the following limitations:

- A. A greenhouse or hothouse may be maintained accessory to a dwelling in an R district.
- B. A guest house may be maintained accessory to a single-family dwelling provided there are no kitchen cooking facilities in the guest house.

C. A chicken coop and a chicken run may be maintained accessory to a single family dwelling in a residential district provided the following conditions are met:

- 1) **No more than five (5) chickens shall be kept or maintained on properties of less than five thousand (5000) square feet in area;**
- 2) **No more than one (1) chicken for each one thousand (1,000) square feet of lot area, up to a maximum of twenty (20) chickens, shall be kept or maintained on properties greater than five thousand (5000) square feet in area,**
- 3) **No roosters shall be kept on the property at any time.**
- 4) **Chicken coops and chicken runs shall be constructed as follows:**
 - a) **they shall be located within a side or rear yard only, and shall be at least seventy five (75) feet from dwellings on adjoining properties.**
 - b) **structures shall not exceed six (6) feet in height.**
 - c) **chicken coops shall not exceed forty (40) square feet in area, or four (4) square feet per chicken, which ever is greater.**

d) chicken runs, as enclosed outdoor structures, shall not exceed one hundred (100) square feet in area, or ten (10) square feet per chicken, which ever is greater.



4) The keeping of chickens, and the maintenance of their environment, shall be in accordance with Keeping of Animals chapter of the Ashland Municipal Code (Ch. 9.08.040).

C. D Mechanical equipment shall not be located between the main structure on the site and any street adjacent to a front or side yard, and every attempt shall be made to place such equipment so that it is not visible from adjacent public streets. Mechanical equipment and associated enclosures, no taller than allowed fence heights, may be located within required side or rear yards, provided such installation and operation is consistent with other provisions of this Title or the Ashland Municipal Code, including but not limited to noise attenuation. Any installation of mechanical equipment shall require a building permit.

E. Rain barrels may be located within required side or rear yards provided such installation and operation is consistent with other provisions of this Title or the Ashland Municipal Code, and as follows:

- 1) Rain barrels shall not exceed six (6) feet in height; and**
- 2) Rain barrels shall be located so that a minimum clear width of three (3) feet is provided and maintained between the barrel and property line; and**
- 3) Rain barrels shall be secured and installed on a sturdy and level foundation, or platform, designed to support the rain barrel's full weight; and**
- 4) Every attempt shall be made to place rain barrels so that they are screened from view of adjacent properties and public streets.**


D.F Regardless of the side and rear yard requirements of the district, in a residential district, a side or rear yard may be reduced to three (3) feet for an accessory structure erected more than fifty (50) feet from any street, other than alleys, provided the structure is detached and separated from other buildings and structures by ten (10) feet or more, and is no more than fifteen (15) feet in height. Any conversion of such accessory structure to

an accessory residential unit shall conform to other requirements of this Title for accessory residential units, including any required planning action and/or site review.

SECTION 5. 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 6. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions, and text descriptions of amendments (i.e. Sections 1, 5-6) 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 6 day of March, 2012, and duly PASSED and ADOPTED this 17 day of April, 2012.


Barbara M. Christensen, City Recorder

SIGNED and APPROVED this ____ day of _____, 2012.

Veto on 5/1/2012
John Stromberg, Mayor

Reviewed as to form:


David Lohman, City Attorney

*ORD APPROVED BY
2/3 COUNCIL VOTE
* effective date
of ordinance 5/17/2012*

*10.5
11.1
11.2
11.3*

ORDINANCE NO. 3058

**AN ORDINANCE AMENDING THE SITE DESIGN AND REVIEW
CHAPTER (18.72) OF THE ASHLAND LAND USE ORDINANCE TO
EXEMPT SOLAR ENERGY SYSTEMS MEETING SPECIFIC
STANDARDS FROM SITE REVIEW REQUIREMENTS**

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

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, Oregon House Bill 3516, adopted in 2011, established that installation and use of solar photovoltaic energy systems or solar thermal energy systems on residential or commercial buildings shall be an outright permitted use in any zone where such structures are an allowed use.

WHEREAS, the Ashland City Council has determined that it is in the best interest of the citizens of the City to promote the use of solar energy systems to help reduce peak power demands, provide residents and business owners with an alternative source of power during power outages, and to help control the rising costs of electricity;

WHEREAS, the Ashland City Council has determined that it would be advantageous and beneficial to the citizens of the City of Ashland to create procedures and incentives for the implementation of green building practices including the installation of solar energy systems;

WHEREAS, the Ashland City Council has determined that it is appropriate to provide standardized requirements for the placement of solar energy systems within Ashland's designated historic districts to minimize the aesthetic impact upon the character of the historic resources;

WHEREAS, the City of Ashland Planning Commission considered the recommended amendments to the Ashland Municipal Code and Land Use Ordinances at a duly advertised public hearing on February 14, 2012, and following deliberations recommended approval of the amendments;

WHEREAS, the City Council of the City of Ashland conducted a duly advertised public hearing on the amendments to the Ashland Municipal Code and Land Use Ordinances on March 6, 2012;

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 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. The above recitations are true and correct and are incorporated herein by this reference.

SECTION 2 AMC Chapter 18.72.030 [*Site Design and Use Standards*] is hereby amended to read as follows:

18.72.030 Applicability

Site design standards shall apply to all zones of the city as outlined below.

A. Applicability. The following development is subject to Site Design Review:

1. Commercial, Industrial, Non-Residential and Mixed uses:
 - a. All new structures, additions or expansions in C-1, E-1, HC, CM and M-1 zones.
 - b. All new non-residential structures or additions (e.g. public buildings, schools, churches, etc.).
 - c. Mixed-use structures or developments containing commercial and residential uses in residential zoning districts within the Pedestrian Places Overlay.
 - d. Expansion of impervious surface area in excess of 10% of the area of the site or 1,000 square feet, whichever is less.
 - e. Expansion of parking lots, relocation of parking spaces on a site, or other changes which alters or affects circulation on adjacent property or a public right-of-way.
 - f. Any change of occupancy from a less intensive to a more intensive occupancy, as defined in the City building code, or any change in use which requires a greater number of parking spaces.
 - g. Any change in use of a lot from one general use category to another general use category, e.g., from residential to commercial, as defined by the zoning regulations of this Code.
 - h. Any exterior change to a structure which is listed on the National Register of Historic Places or to a contributing property within an Historic District on the National Register of Historic Places that requires a building permit, or includes the installation of Public Art.
 - i. Mechanical equipment not otherwise exempt from site design review per Section 18.72.030(B).
 - j. Installation of wireless communication facilities in accordance with Section 18.72.180.
2. Residential uses:
 - a. Two or more residential units on a single lot.

- b. Construction of attached single-family housing (e.g. town homes, condominiums, row houses, etc.) in all zoning districts.
- c. Residential development when off-street parking or landscaping, in conjunction with an approved Performance Standards Subdivision required by ordinance and not located within the boundaries of the individual unit parcel (e.g. shared parking).
- d. Any exterior change to a structure individually listed on the National Register of Historic Places that requires a building permit, or includes the installation of Public Art.
- e. Mechanical equipment not otherwise exempt from site design review per Section 18.72.030(B).
- f. Installation of wireless communication facilities in accordance with Section 18.72.180. (Ord 2984, amended, 05/19/2009; Ord 2951, amended, 07/01/2008; Ord 3036, amended, 08/17/2010, Ord 3054, amended 12/16/2011)

B. Exemptions. The following development is exempt from Site Design Review application and procedure requirements provided that the development complies with applicable standards as set forth by this Chapter.

- 1. Detached single family dwellings and associated accessory structures and uses.
- 2. Land divisions regulated by the following chapters: Partitioning (18.76), Subdivisions (18.80), Manufactured Housing (18.84) and Performance Standards (18.88).
- 3. The following mechanical equipment:
 - a. Private, non-commercial radio and television antennas not exceeding a height of seventy (70) feet above grade or thirty (30) feet above an existing structure, whichever height is greater and provided no part of such antenna shall be within the yards required by this Title. A building permit shall be required for any antenna mast, or tower over fifty (50) feet above grade or thirty (30) feet above an existing structure when the same is constructed on the roof of the structure.
 - b. Not more than three (3) parabolic disc antennas, each under one (1) meter in diameter, on any one lot or dwelling unit.
 - c. Roof-mounted solar collection devices in all zoning districts, with the exception of Employment and Commercial zoned properties located within designated historic districts. The devices shall comply with solar setback standards described in 18.70 and height requirements of the respective zoning district.
 - d. Roof-mounted solar collection devices on Employment and Commercial zoned properties located within designated historic districts if the footprint of the structure is not increased, the plane of the system is parallel to the slope of the roof and does not extend above the peak height of the roof or existing parapets, or is otherwise not visible from a public right of way. The devices shall comply with solar setback standards described in 18.70 and height requirements of the respective zoning district.**
 - d. e.** Installation of mechanical equipment not exempted by (a,b,c, **d**) above or (**e f**) below, and which is not visible from a public right-of-way or adjacent residentially zoned property and consistent with other provisions of this Title, including solar access, noise, and setback requirements of section 18.68.140(c).
 - e. f.** Routine maintenance and replacement of existing mechanical equipment in all zones.

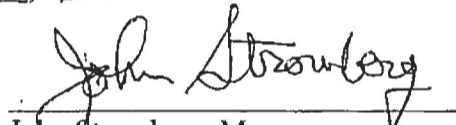
SECTION 3. Severability. *The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.*

SECTION 4. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions, and text descriptions of amendments (i.e. Sections 1, 3-4) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

The foregoing ordinance was first read by title only in accordance with Article X, Section 2(C) of the City Charter on the 3 day of April, 2012, and duly PASSED and ADOPTED this 17 day of April, 2012.


Barbara M. Christensen, City Recorder

SIGNED and APPROVED this 19 day of April, 2012.


John Stromberg, Mayor

Reviewed as to form:

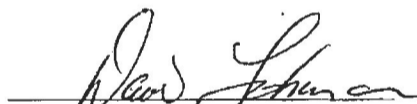

David Lohman, City Attorney

Exhibit A

**BEFORE THE PLANNING COMMISSION
City of Ashland, Jackson County, Oregon
February 28, 2011**

IN THE MATTER OF PLANNING ACTION # 2011-01731, A REQUEST)
TO AMEND THE DEFINITIONS CHAPTER (18.08), GENERAL)
REGULATIONS CHAPTER (18.68), AND SITE DESIGN AND USE)
STANDARDS (18.72) OF THE ASHLAND LAND USE ORDINANCE)
(ALUO) TO ADDRESS DEER FENCING, KEEPING OF CHICKENS,)
SOLAR ENERGY SYSTEMS ON COMMERCIAL AND EMPLOYMENT) **RECOMMENDATION**
ZONED BUILDINGS WITHIN DESIGNATED HISTORIC DISTRICTS,)
RAIN BARRELS, AND EAVE EXTENSIONS INTO REQUIRED YARD)
AREAS..)
)
)
)
APPLICANT: City of Ashland)
-----)

RECITALS:

1) The application is to amend the Definitions (18.08), General Regulations (18.68), and Site Design and Use Standards (18.72) chapters of the ALUO to provide new standards for deer fencing, the keeping of chickens, solar energy systems on commercial and employment zoned properties within Ashland's designated historic districts, and address yard requirements relating to rain barrels and eave extensions.

2) **The requirements for a Legislative Amendment are described in 18.108.170 and 18.08.345 as follows:**

18.108.170 Legislative Amendments

A. It may be necessary from time to time to amend the text of the Land Use Ordinance or make other legislative amendments in order to conform with the comprehensive plan or to meet other changes in circumstances and conditions. A legislative amendment is a legislative act solely within the authority of the Council.

B. A legislative amendment may be initiated by the Council, by the Commission, or by application of a property owner or resident of the City. The Commission shall conduct a public hearing on the proposed amendment at its earliest practicable meeting after it is submitted, and within thirty days after the hearing, recommend to the Council, approval, disapproval, or modification of the proposed amendment.

C. An application for amendment by a property owner or resident shall be filed with the Planning Department thirty days prior to the Commission meeting at which the proposal is to be first considered. The application shall be accompanied by the required fee.

D. Before taking final action on a proposed amendment, the Commission shall hold a public hearing. After receipt of the report on the amendment from the Commission, the Council shall hold a public hearing on the amendment. Notice of time and place of the public hearings and a brief description of the proposed amendment shall be given notice in a newspaper of general circulation in the City not less than ten days prior to the date of hearing.

E. No application of a property owner or resident for a legislative amendment shall be considered by the Commission within the twelve month period immediately following a previous denial of such request, except the Commission may permit a new application if, in the opinion of the Commission, new evidence or a change of circumstances warrant it.

SECTION 18.08.345. Legislative amendment.

An amendment to the text of the land use ordinance or the comprehensive plan or an amendment of the zoning map, comprehensive plan maps or other official maps including the street dedication map described in section 18.82.050, for land involving numerous parcels under diverse ownerships.

3) The Planning Commission, following proper public notice, held a public hearing on February 14, 2012, at which time testimony was received and exhibits were presented. The Planning Commission held their deliberations and recommended to the City Council approval of the amendments to the Definitions (18.08), General Regulations (18.68) and Site Design and Use Standards (18.72) chapters of the ALUO and further provided revisions regarding the proposed ordinances as described in Section 2.

Now, therefore, The Planning Commission of the City of Ashland recommends as follows:

SECTION 1. EXHIBITS

For the purposes of reference to this recommendation, the attached index of exhibits, data, and testimony will be used.

SECTION 2. RECOMMENDATION

2.1 The Planning Commission finds that it has received all information necessary to make a recommendation based on the Staff Report, public hearing testimony and the exhibits received. The public hearing at the Planning Commission on February 14, 2012 was noticed in the newspaper as required in 18.108.170.D.

2.2 The Planning Commission finds the proposed ordinance amendments exempting the installation of solar energy system installation on commercial and employment zoned properties within historic districts (18.72.030) from obtaining Site Design Review approval, are appropriate amendments necessary to promote energy conservation objectives and to retain the historic integrity of buildings within Ashland's Historic Districts. The Planning Commission recommends approval of this ordinance amendment as proposed.

2.3 The Planning Commission finds the proposed ordinance amendments addressing the

measurement of fence height, fence construction, and fence materials (18.68.010 A, B, &C), provide greater clarity in the ordinance and recommends the Council approve these amendments as proposed.

2.4 The Planning Commission finds the proposed ordinance amendments addressing deer fencing (18.68.010 D) will allow residents to better protect their gardens from the foraging of Ashland's urban deer population while preserving largely unobstructed views through the deer fencing materials. The Planning Commission recommends specific revisions to the proposed ordinance to ensure that deer fencing located within the front yard area is less visually obstructive than is proposed for rear and side yard deer fencing. Testimony provided at the hearing indicated there is a concern regarding section 18.68.10(D)3 as proposed which limits the size of structural supports adjacent to a public street to no greater than 2"x2". The Commission expressed that the approach proposed, to limit the size of structural supports, may unnecessarily restrict designs which are compatible with existing fences, and may be insufficient to provide adequate support for larger expanses of fencing when dimensional lumber is utilized instead of steel. To address these concerns and allow a greater degree of flexibility in structural materials used for deer fencing, the Planning Commission recommends 18.68.10(D)3 be stricken and that front yard deer fencing be instead regulated by establishing a higher percentage of visibility through the deer fence than is otherwise proposed for rear and side yard fences. The Commission recommends Staff evaluate a range of 85-90% clear view above the regular fence height to provide a recommendation to Council a standard that minimizes the visual prominence of front yard deer fences to the greatest degree feasible. Regarding front yard deer fences the Commission expressed concerns that wire and polypropylene mesh materials with a small diameters were either too visually obstructive (e.g. wire mesh used for rodent fencing) or not durable and prone to sagging (e.g. 3/4" square polypropylene mesh used as bird netting), and as such these materials were considered inappropriate for use as front yard deer fencing. The Commission requests that a minimum mesh diameter be further evaluated (i.e. greater than 1.5" square) to potentially exclude the use of small diameter mesh material in front yards. The Planning Commission recommends modifying the proposed provision requiring a monofilament line atop polypropylene fences (18.68.10(D)5) to instead require all types of mesh deer fencing be constructed with a support at the top of the fence that functions to prevent sagging. In consideration of the recommendations noted above the Commission recommends the Council approve these amendments.

2.5 The Planning Commission finds the proposed ordinance amendment allowing eaves, awnings, and gutters to intrude up to three feet into required yards (18.68.040) provides greater latitude to design buildings in a manner that capitalize on passive solar and natural cooling opportunities. The Planning Commission recommends approval of this amendment as proposed.

2.6 The Planning Commission finds the proposed ordinance amendments allowing chicken coops and chicken runs to be maintained as accessory structures on properties containing a single family dwelling in residential districts (18.68.140 C) provides increased opportunities for the keeping of chickens and thus promotes local food production. The Planning Commission

recommends that structures housing chickens need not be screened from the view of the public right-of-way or adjacent properties, and as such that subsection 18.68.140(C)2e should be stricken in its entirety. In consideration of the specific recommendation noted above the Commission recommends the Council approve these amendments.

2.7 The Planning Commission discussed proposed amendments to the Health and Sanitation Chapter (9.08) of the Ashland Municipal regarding the keeping of chickens as the proposed amendments to the Land Use Ordinance cite them by reference (18.68.140C3). The Commission suggested that the Council eliminate the provision that prohibited the slaughtering of chickens outdoors (9.08.040(D)3c) expressing that due to the limited number of chickens permitted on a given property (five or less) slaughtering would not be prevalent or adversely impact adjoining properties.

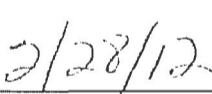
2.8 The Planning Commission finds the proposed amendment allowing rain barrels to be located within side and rear yard setbacks (18.68.140E) promotes individual water conservation practices. The Commission expressed concern that the proposed definition of rain barrels, as less than 90 gallons in size (18.08.616), may be too limiting in consideration of large capacity rain water storage systems presently available. The Commission recommends that Staff examine the size limitation as proposed in the interest of allowing larger rainwater storage systems in side and rear yard setbacks. In consideration of the specific concern noted above the Commission recommends the Council approve these amendments.

SECTION 3. DECISION

3.1 Based on the record of the Public Hearing on this matter, the Planning Commission recommends approval of Planning Action #2011-01731. The Planning Commission recommends the Council further consider revisions to the proposed ordinance amendments as described in Sections 2.3, 2.4, 2.6, 2.7 and 2.8.



Planning Commission Approval



Date

Exhibit C

ASHLAND PLANNING DEPARTMENT STAFF REPORT February 14, 2012

PLANNING ACTION: 2011-01731

APPLICANT: City of Ashland

ORDINANCE REFERENCES: AMC 18.08 [Definitions]
AMC18.68 [General Regulations]
AMC 18.72 [Site Design and Use Standards]
AMC 09.08 [Health and Sanitation]

REQUEST: Recommendation to the City Council regarding adoption of Ordinances amending the City of Ashland Municipal Code and Land Use Ordinance to provide new standards for deer fencing, the keeping of chickens, solar panels on commercial and employment zoned properties within Ashland's designated historic districts, and yard requirements relating to rain barrels and eave extensions.

I. Relevant Facts

A. Background

Proposed are three separate ordinances intended to encourage building and land use practices that save energy and water, and increase opportunities for local food production.

Each of the areas of code revision proposed appear to have widespread interest from homeowners, the public at large and individuals working in the local building trades. With the relatively minor code revisions as proposed, staff believes property owners can have more flexibility to pursue actions that increase local food production (e.g. deer fencing & keeping of chickens), decrease water consumption (e.g. harvest rainwater) and reduce energy consumption by lessening heat gains (e.g. greater allowance for roof eaves) and address potential impediments to solar collection installation (e.g. installation in Employment and Commercially zoned Historic District properties).

The Planning Commission held a study session on October 25th, 2011 to discuss each of the areas of code revision more fully described below. At that meeting the Commission expressed support for such ordinance revisions to be brought back to the commission for consideration.

The attached draft ordinance amendments to the Ashland Municipal Code (AMC) address the following categories:

- Solar Energy Systems
- Fencing
 - Deer Fences
 - Fence Heights
 - Barbed wire, razor wire, and electric fences
- Keeping of chickens
- Rain Barrel location in required yard areas
- Eave Extensions into required yard areas

Solar Energy Systems

The Oregon Legislature's 2011 session resulted in a bill (House Bill 3516) that directed jurisdictions throughout the state to permit the installation of solar photovoltaic and solar thermal energy systems on commercial and residential buildings without added Planning review processes and fees. The City ordinance currently allows solar energy systems outright on all residential properties and commercial properties outside of the designated historic districts. Commercial and Employment zoned properties within Ashland's designated Historic Districts currently must obtain Site Review approval prior to installation. Under the new State law the City retains some measure of latitude to regulate installation of solar systems specifically within designated Historic Districts.

In consideration of this latitude the proposed amendments would permit solar energy system installation on commercial and employment zoned properties within historic districts, without a land use review, only when all of the following conditions are met:

- the system is mounted parallel to slope of the roof
- the footprint of the structure is not increased;
- the system does not extend above the peak height of the roof, is screened by existing parapets, or is otherwise not visible from the public right of way.

These amendments would facilitate the installation of solar energy systems while providing standardized requirements for the placement of such systems within Ashland's designated historic districts in a manner that minimizes their aesthetic impact to preserve the character and integrity of the historic resources.

Proposed installations that meet the criteria would be able to simply obtain building permits for the system's installation and not be subjected to a planning Site Review process or incur the cost of the planning application fee. Applicants that design a system that does not meet the provisions above would still be required to obtain Site Review approval prior to installation under the proposed code and demonstrate how the installation could not be compliant with the standards above.

Numerous examples of solar energy system installations exist on commercial buildings within Ashland Historic Districts that received Site Review approval and met the standards noted above. Many installations are not visible from the street as

they are located on flat roofs and entirely screened by existing parapets such as the installation on the Standing Stone Brewery.

However some installations are readily visible from the street but were mounted parallel to the slope of the roof to retain a low profile. The Historic Ashland Armory's installation is one such example as pictured below. Such installations would be permitted outright under the proposed ordinance revisions.



Historic Ashland Armory Solar Panels

The Ashland Historic Commission is scheduled to review these specific changes at their regular meeting on February 8th, 2012, and their recommendations will be presented by staff during the Planning Commission Hearing.

Fences

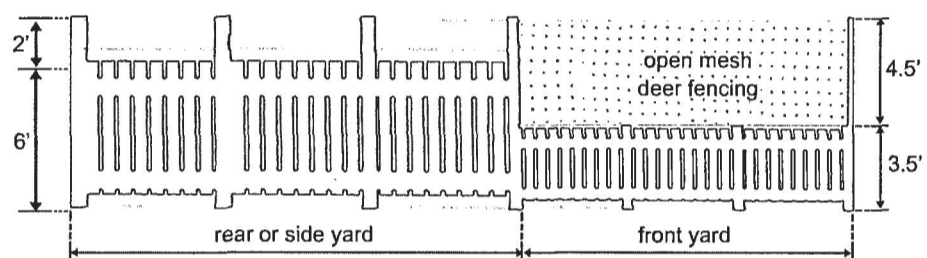
Deer Fencing

The City often receives requests from property owners to increase their fence height in order to maintain their gardens and properties from the foraging of Ashland's urban deer population. The *Fences* section of the Land Use Code (18.68.010) currently limits the height of a fence to three and one-half feet (3 ½') in front yards, six and one-half feet (6 ½') in rear yards, and four feet (4') within ten feet of a public street. Fencing is considered the most reliable way to exclude deer from an area however the existing fence height maximums are insufficient to limit deer access as they can readily jump over such fences.

A new subsection entitled "Deer Fencing" is proposed to provide standards for fences that exceed currently allowable fence heights which are specifically designed for the purpose of protecting vegetation and gardens from deer. The proposed ordinance aims to enable the addition of fencing up to eight feet tall that maintains a clear view above the regular fence height. An eight foot fence is typically considered sufficient to physically exclude deer from an area. Open wire and polypropylene mesh are commonly used materials for such deer fencing and would be permitted under the proposed ordinance.

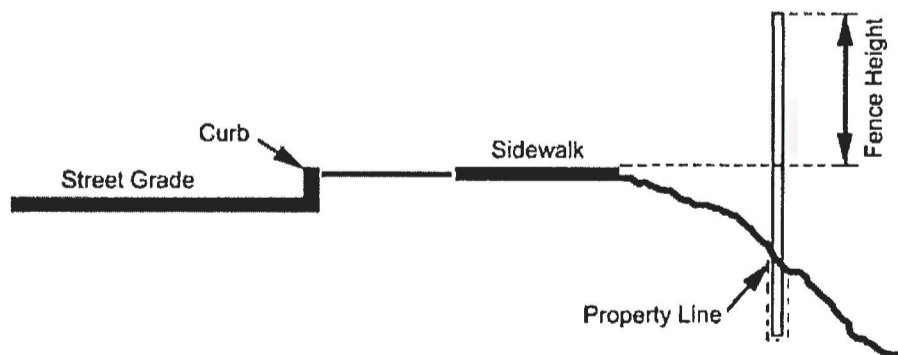
As proposed section 18.68.010D would establish the following standards:

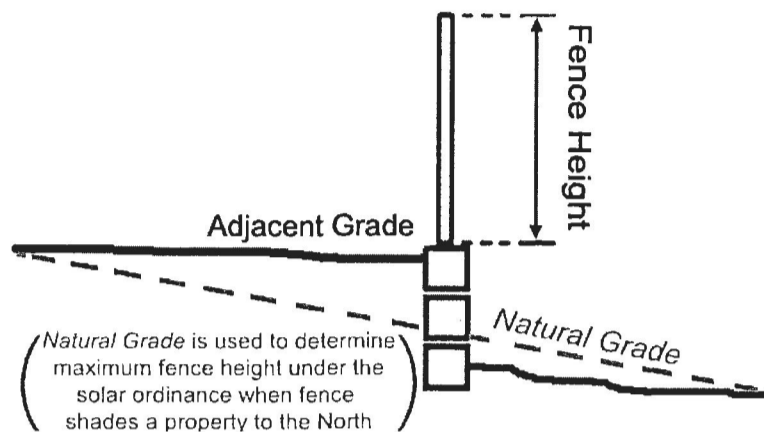
1. Deer fencing may be attached to a permitted front, side, or rear yard fences provided the area in excess of the allowable fence heights per 18.68.010 is designed and constructed to provide a clear view through the fence so that at least eighty percent (80%) of the surface is unobstructed to both light and air when viewed perpendicular to the plane of the fence.
2. Deer fencing shall not exceed eight (8) feet above grade.
3. Deer fencing structural supports within ten (10) feet of a public right of way, other than an alley, shall not exceed two (2) inches in width or depth.
4. Permitted deer fencing materials may include, woven wire fencing, field fence, "hog panels", wire strand or polypropylene mesh net that is open and visible through the material.
5. Polypropylene mesh deer fencing requires a monofilament line that runs along the top of the fence that supports the fence and prevents sagging.
6. Chain link fences shall not be considered as deer fences under this section even if they meet the criteria above.



Fence Height

Presently Chapter 18.68.010 provides standards for the maximum height of fences with the side or rear yard. These standard heights are unchanged by the proposed ordinance (excepting deer fencing as described above), however there is often confusion by applicants as to how the "height" of a fence is measured. Specifically questions have been continually raised regarding the application of fence height measurements along the street when a property is located below the existing street grade. To clarify within the ordinance how such heights are determined new code language is proposed within this section that would stipulate that the top of the existing sidewalk, curb, or 6" above the crown of a street (when no curb is present) can be used as the grade basis for measuring fence height.





The question of how a fence height is measured when a fence is built upon a retaining wall has been another area of the code subject to interpretation. The proposed amendments aim to codify the longstanding practices of determining height based on the highest adjacent grade. The proposed ordinance amendment further clarifies that such fence installations shall preserve the solar access of properties to the north.

Barbed Wire, Razor wire, Electric Fencing

The proposed ordinance amending the *Health and Sanitation Chapter* of the Ashland Municipal Code would repeal a section on fencing (9.08.140) which regulates use of barbed wire and electric fencing. These regulations would be relocated to the fences section within *General Regulations Chapter* (18.68). This relocation is intended to streamline the code and locate all regulations relating to fence materials and construction within the same section of code. Under the proposed ordinance in 18.68 the use of barbed wire, razor wire and electrical fencing would be limited as follows:

- shall not be located adjacent to a sidewalk, public way, or the property line of a different property owner.
- shall not be installed at less than 6 ½ feet above grade.
- a new provision stipulating that such security fencing used on commercial, employment and industrial properties shall not be visible from the public right of way.
 - An allowance is provided that if the Community Development Director determines a commercial, employment or industrial property is hazardous, or in need of additional security, such fencing may be installed however such fences would still be subject to the prohibitions noted in the two preceding bullet points above.

Keeping of Chickens

To allow the keeping of chickens within on single family properties within the City, two separate sections of the Ashland Municipal Code need to be amended. The *Health and Sanitation Chapter (9.08)* includes a *Nuisances* subsection that specifically addresses the requirements for the keeping of animals within the City. The second code provision to be amended is found within the Land Use Code concerning *Accessory Structures and Buildings (Ch. 18.68.140)*. Amending the *Accessory Buildings and Structures* subsection is necessary to provide clear standards for the minimum distance between chicken enclosures (coops and runs) and adjacent dwellings, and to delineate the allowable sizes for the structures built to house chickens.

Health and Sanitation

The AMC code section on the *Keeping of Animals (9.08.040)* currently precludes any poultry from being located within 75' of another dwelling. Given the lot sizes of the typical single family property in Ashland this provision alone limits the ability of the majority of residents from specifically raising chickens for food production on their properties. Further the existing code does not provide for standards to keep chickens in an environment that is clean and protects the welfare of the animals. An ordinance is proposed which amends section 9.08.040 to allow specifically for the keeping of chickens provided the following conditions are met:

- no more than 5 hens (no roosters) are permitted
- chickens kept are for personal use (not commercial).
- chicken slaughtering shall not be done outdoors.
- chickens are secured at all times
 - during daytime in a chicken run or fenced yard
 - during night within a coop
 - coops and runs shall be constructed in accordance with the section on accessory structures to be a minimum of 20' from dwellings on adjoining properties and not exceed six feet in height (18.68.140 amendments)
- feed is kept in rodent and raccoon proof containers.
- manure not used for composting or fertilizing shall be stored in an enclosed container (not more than 20 gallons) until removed.

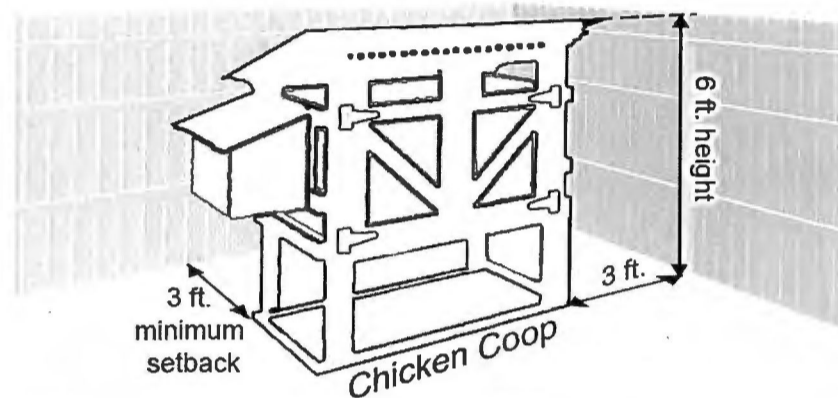
As drafted the amendments apply exclusively to chickens. All other poultry such as geese, ducks, and turkeys would still be held to the existing ordinance requirement that they be no closer than 75' from a dwelling.

Review and recommendations regarding amendments to AMC Chapter 9 fall outside of the Planning Commission's powers and duties, however this ordinance is presented for consideration as it directly relates to the Chapter 18 ordinance amendments described below.

Accessory Structures (chicken coops and runs)

The proposed amendments to the *Accessory Buildings and Structures* section of the Land Use Code (18.68.040D) would require such structures built to house chickens meet the following requirements:

- contain no more than 5 hens on any property.
- shall be at least 20 feet away from any dwelling on an adjoining property.
- shall be less than six feet (6') in height
- chicken coops shall be less than 40 square feet in area, and chicken run enclosures shall not exceed 100 square feet in size.
- shall be screened from view of adjacent properties and the public right of way with a combination of fencing and/or landscaping.



Note: The graphic above shows the reduced yard requirements currently codified (18.68.140D) which allows three foot (3') side and rear yard setbacks for any accessory structure that is further than 50' from a street (other than an alley), at least 10' from other buildings, and less than 15' in height. It is anticipated that many chicken coops would be eligible for this reduced setback.

Rain Barrels

The proposed amendments would allow rain barrels to be located within a property's side or rear yard. A new definition for Rain Barrels is proposed as follows: "A barrel with a capacity of ninety (90) gallons or less used to collect and store rain water runoff from rooftops via rain gutters for non-potable use." Barrels come in various sizes with a standard barrel being 55 gallons and most ready-made rain barrel kits having a 65 gallon capacity.

The *Accessory Buildings and Structures* section of the Land Use Code is amended to allow rain barrels (18.68.040E) within side or rear yards provided they installed so that every attempt is made to place rain barrels so that they are screened from view of adjacent properties and public streets.

Eave Extensions

To provide for greater latitude to design buildings that capitalize on passive solar and natural cooling opportunities, an ordinance amendment is proposed to allow eaves to extend up to three feet into required setbacks. Presently the code allows eaves to encroach up to 18 inches, which may be insufficient in some cases to optimize passive cooling opportunities. A relatively straight forward amendment to the *Yard*

Requirements subsection (18.68.04) would specifically allow Eaves, Awnings, and Gutters, to intrude up to three feet (3') into required yards.

II. Procedural

The procedure for a legislative amendment is described in 18.108.170 as follows:

- A. It may be necessary from time to time to amend the text of the Land Use Ordinance or make other legislative amendments in order to conform with the comprehensive plan or to meet other changes in circumstances and conditions. A legislative amendment is a legislative act solely within the authority of the Council.
- B. A legislative amendment may be initiated by the Council, by the Commission, or by application of a property owner or resident of the City. The Commission shall conduct a public hearing on the proposed amendment at its earliest practicable meeting after it is submitted, and within thirty days after the hearing, recommend to the Council, approval, disapproval, or modification of the proposed amendment.
- C. An application for amendment by a property owner or resident shall be filed with the Planning Department thirty days prior to the Commission meeting at which the proposal is to be first considered. The application shall be accompanied by the required fee.
- D. Before taking final action on a proposed amendment, the Commission shall hold a public hearing. After receipt of the report on the amendment from the Commission, the Council shall hold a public hearing on the amendment. Notice of time and place of the public hearings and a brief description of the proposed amendment shall be given notice in a newspaper of general circulation in the City not less than ten days prior to the date of hearing.
- E. No application of a property owner or resident for a legislative amendment shall be considered by the Commission within the twelve month period immediately following a previous denial of such request, except the Commission may permit a new application if, in the opinion of the Commission, new evidence or a change of circumstances warrant it.

III. Conclusions and Recommendations

The recommended zoning and ordinance amendments are intended to support community efforts to pursue local food production and to reduce energy and water use. Promoting such sustainable food practices and conservation efforts are in the best interest of the City and the ordinance amendments proposed will remove identified regulatory barriers that otherwise limit such opportunities.

Staff recommends approval of the proposed ordinance amendments.

Potential Motion

Two separate motions (one for each Chapter 18 Land Use ordinance)

Move to recommend approval to the City Council adoption of an Ordinance amending Chapter 18.72 of the Ashland Land Use Ordinance to exempt solar energy systems meeting specific standards from Site Review Requirements.

Move to recommend approval to the City Council adoption of an Ordinance amending Chapters 18.08 and 18.68 to establish standards for deer fencing, yard requirements relating to eaves, and standards for accessory structures including chicken enclosures and rain barrels.

Attached:

- Ordinance amending Chapter 18.08 [Definitions] and 18.68 [General Regulations]
- Ordinance amending Chapter 18.72 [Site Design and Use Standards]
- Ordinance amending Chapter 9.08 [Health and Sanitation]
- Planning Commission 10/25/2011 Study Session Minutes
- DRAFT Rain Barrel Guide



DEPT OF
MAY 07 2012
LAND CONSERVATION
AND DEVELOPMENT

CITY HALL
20 EAST MAIN STREET
ASHLAND, OR 97520

CITY OF
ASHLAND

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

