

Council Business Meeting

December 1, 2020

Agenda Item	Second Reading of Ordinance No. 3195 Amending the Ashland Land Use Ordinance relating to Requirements for Affordable Housing and Affordable Housing Standards and Adoption of Resolution No. 2020-24, a Resolution Amending Resolution 2006-13	
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SUMMARY

The City Council is being asked to take action on second reading of an ordinance amending land use requirements that regulate affordable housing that is provided in association with zone changes, annexations, density bonuses for affordable housing, and conversion of apartments into condominiums. The City Council held a public hearing and approved first reading of the ordinance at the November 17, 2020 meeting. There were no changes suggested between first and second reading.

The City Council is also being asked to adopt Resolution 2020-24, which will amend the Resolution 2006-13, the current resolution that outlines the policies and procedures for enacting the terms of the newly adopted Affordable Housing Ordinance. Staff identified the update and adoption of a new affordable housing resolution at second reading as a necessary step for ensuring that the resolution is consistent with the changes to the ordinance.

The City's Affordable Housing Program has been in effect for over 25 years. It is important to periodically review the performance of the housing program in consideration of changes in market conditions, demographic changes, and the effectiveness of the program in enabling low- and moderate-income families to afford quality housing.

During the 2019 and 2020 calendar years, the Housing and Human Services Commission, Planning Commission, and Staff, have been working on amendments to Ashland's Affordable Housing Program intended to make the program easier to understand, increase predictability for those that will participate in the program including households, non-profit and market rate developers, grant funders, and lenders. Several of the ordinance amendments presented for consideration increase the effectiveness and efficiency of program administration on the part of the City's Housing Program Specialist.

The attached ordinance was approved with no changes at first reading. The attached resolution is newly available for Council review. The amendments to the existing resolution that governs the City's housing program, Resolution 2006-16, are presented in a new resolution, Resolution 2020-24, which brings the policies and procedures in line with the changes identified in the Affordable Housing Program Ordinance.

POLICIES, PLANS & GOALS SUPPORTED

The project addresses a variety of City Council goals and adopted City policies and is consistent with the *Ashland Comprehensive Plan*.

City Council Goals:

The City Council's "Ashland 2020" goals and objectives that relate to the Affordable Housing Standards include:

- Support and promote, through policy, programs that make the City affordable to live in. Pursue affordable housing opportunities, especially workforce housing. Identify specific incentives for developers to build more affordable housing. (high priority for 2015-2017)
- Support land-use plans and policies that encourage family-friendly neighborhoods. Draft pocket neighborhood code that allows for the construction of small scale, cottage housing projects.

Comprehensive Plan Goals and Policies:

The Housing Element of the Ashland Comprehensive Plan was amended in 2019 and includes the following goals and policies which are applicable to the ordinance amendments proposed:

Goal 1: Ensure a range of different dwelling types that provide living opportunities for the total cross section of Ashland’s population.

- Policy 1: Provide for a mix of housing types that are attractive and affordable to a diversity of ages, incomes, household sizes, and household types
- Policy 4 Housing opportunities should be available to all residents without discrimination and consistent with local, state, and federally recognized protected classes under fair housing law.
- Policy 9: Support the retention and development of rental housing.

Goal 2 : Support the creation and preservation of housing that is affordable to low and moderate income households and that is commensurate with the incomes of Ashland’s workforce.

- Policy 10: Encourage the preservation of affordable housing, including housing that is subject to a term of affordability, to avoid the net loss of safe, healthy, affordable housing.
- Policy 12: Cooperate with for-profit and non-profit affordable housing providers in locating low- and moderate-income units in Ashland.

Goal 3: Encourage the development of housing in ways that protect the natural environment and encourage development patterns that reduce the effects of climate change.

- Policy 18: Development standards shall be used to fit development to topography, generally following the concept that density should decrease on physically and environmentally constrained lands.
- Policy 19: Promote infill and compact development patterns to encourage housing affordability, maximize existing land resources, and conserve habitat and environmentally sensitive areas.

Goal 4: Forecast and plan for changing housing needs over time in relation to land supply and housing production.

- Policy 23: Encourage development of vacant land within the City Limits, while looking to the lands within the Urban Growth Boundary to provide sufficient land for future housing needs.

Ashland Land Use Ordinance

- 18.2.3.200 Multiple-Family Rental Unit Conversion to For-Purchase Units
- 18.2.5.050 Affordable Housing Standards
- 18.5.8.050 [Annexation] Approval Criteria and Standards

18.5.9.020 Applicability and Review Procedures [Applications for Plan Amendments and Zone Changes]

Statewide Land Use Goals - Housing Goal 10

The City’s Comprehensive plan is required to be consistent with the State of Oregon’s planning goals. Goal 10 of the Statewide planning goals specifies that each city must plan for and accommodate all needed housing types (OAR 660-015-0000(10)). The State requires each city to inventory its buildable residential lands, project future housing needs, and provide the appropriate types and amounts of land within the urban growth boundary necessary to meet those needs. The statewide housing goal further specifies that each city must plan for and accommodate needed housing types:

“...plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density.”

PREVIOUS COUNCIL ACTION

The City Council held a public hearing and approved first reading of the ordinance at the November 17, 2020 meeting.

BACKGROUND AND ADDITIONAL INFORMATION

No changes were suggested at first reading. Staff identified the update and adoption of a new affordable housing resolution at second reading as a necessary step for ensuring that the resolution is consistent with the changes to the ordinance. Staff has prepared a separate resolution to amend [Resolution 2006-13](#) which sets forth the methodology for qualifying affordable ownership and affordable rental units, establishing rent levels for qualifying households, and deferral of System Development Charges for eligible units. This amended resolution, Resolution 2020-24, attached is presented for Council review and approval concurrent with Second Reading of the draft ordinance to be in effect concurrent with the land use ordinance amendments as approved.

Public Meetings and Public Hearings

The Housing and Human Services Commission (HHSC) held study sessions on August 22, 2019 and [July 23, 2020](#) to discuss land use ordinance amendments relating to the provision of affordable housing. The HHSC reviewed the proposed ordinance at their regular meeting on [September 24, 2020](#) and unanimously recommended approval of the ordinance as presented.

The Planning Commission held a study session to discuss land use ordinance amendments relating to the provision of affordable housing on [March 10, 2020](#). The Planning Commission held a public hearing on [October 27, 2020](#) and unanimously recommended approval of the ordinance with a suggested wording change intended to improve clarity regarding the scheduling of the transfer of land to an affordable housing provider (18.5.8.050G.2). The suggestions recommended by the Planning Commission have been incorporated into the draft ordinance as presented to the City Council for consideration.

The City Council held a public hearing and approved first reading of the ordinance at the November 17, 2020 meeting, and unanimously approved first reading of the ordinance with no suggested changes. At that time the City Council also directed staff to draft a resolution to reflect the ordinance amendments.

FISCAL IMPACTS

The changes to the Affordable Housing Program ordinance and Resolution 2020-24 may result in recapture of City subsidy for some affordable ownership units that leave the affordable housing program after 30 years to sell at market rate. Deferred System Development Charges, Community Development Fees, and Engineering fees for units that leave the program after 30 years, but prior to completing 60 years within the affordable housing program, will have to repay the deferred fees in full, or in part, plus accrued interest. Under the current resolution (2006-13)

which is to be replaced, deferred fees are forgiven for ownership units after a period of 30 years with no recapture requirement.

STAFF RECOMMENDATION

Staff recommends approval of Second Reading of the draft ordinance, and adoption of the findings and orders for Planning Action 2020-00009, as presented. Staff also recommends approval of the draft Resolution 2020-24 as presented.

ACTIONS, OPTIONS & POTENTIAL MOTIONS

A motion for approval of second reading of the ordinance is included below should the Council decide to move the proposed ordinance amendments to second reading as presented. A separate motion for approval of Resolution 2020-24 is also included below should the Council decide to approve those changes as presented.

Motion for Approval

I move to approve second reading of Ordinance #3195 titled, “*An Ordinance amending chapters 18.2.3, 18.2.5, 18.5.8 and 18.5.9 of the Ashland Land Use Ordinance Regarding Conversion of Multi-family Rental Units into For-purchase Housing, Affordable Housing Standards, and Approval Standards for Zone Changes and Annexations*”, and a adoption of the findings and orders for Planning Action 2020-00009.

I move to approve Resolution 2020-24 which amends Resolution 2006-13 to reflect the ordinance amendments as approved by Council at first reading on November 17, 2020.

REFERENCES & ATTACHMENTS

Attachment 1: Draft Ordinance No. 3195

Attachment 2: Draft Resolution No. 2020-24 Amending Resolution No. 2006-13

Attachment 3: Findings and Orders for PA-L-2020-00009

Documents Presented at First Reading:

Attachment 4: Planning Staff Report PA-L-2020-00009 dated 10/27/2020

Attachment 5: Stakeholder Meeting Feedback Memo

Attachment 6: Sample SDC payback schedule

[Resolution 2006-13](#)

[Council Minutes December 17, 2018](#)

[Planning Commission Minutes March 10, 2020](#)

[Housing and Human Services Commission Minutes July 23, 2020](#)

[Housing and Human Services Commission Minutes September 24, 2020](#)

[Planning Commission Special Meeting October 27, 2020](#)

Public Comments

- [Fair Housing Council of Oregon letter dated 10/26/2020](#)
- [Kendrick letter dated 11/05/2020](#)

ORDINANCE NO. 3195

AN ORDINANCE AMENDING CHAPTERS 18.2.3, 18.2.5, 18.5.8 AND 18.5.9 OF THE ASHLAND LAND USE ORDINANCE REGARDING CONVERSION OF MULTI-FAMILY RENTAL UNITS INTO FOR-PURCHASE HOUSING, AFFORDABLE HOUSING STANDARDS, AND APPROVAL STANDARDS FOR ZONE CHANGES AND ANNEXATIONS.

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 above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. City of Beaverton v. International Ass'n of Firefighters, Local 1660, Beaverton Shop 20 Or. App. 293; 531 P 2d 730, 734 (1975); and

WHEREAS the City of Ashland recognizes that under Goal 10 of Oregon's Statewide Planning Goals & Guidelines (OAR 660-015-0000(10)) that jurisdictions shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density; and

WHEREAS, the Housing Element of the City of Ashland Comprehensive Plan establishes the goal of supporting the creation and preservation of housing that is affordable to low- and moderate-income households and that is commensurate with the incomes of Ashland's workforce; and

WHEREAS the City of Ashland City Council recognizes that for a healthy community the provision of a range of affordable housing is a top priority for the City of Ashland; and

WHEREAS, the City Council of the City of Ashland has determined that neither the private market, nor the public sector, has yet provided the levels of housing affordability necessary to maintain a balanced community, local government must take an active lead to ensure an adequate supply of housing for residents and working people of all income levels;

WHEREAS, the City of Ashland Housing and Human Services Commission conducted on September 24th, 2020 a duly advertised public meeting on amendments to the Ashland Land Use Ordinance concerning the standards relating to affordable housing, and standards for zone changes and annexations, and following deliberations recommended approval of the amendments;

WHEREAS, the City of Ashland Planning Commission conducted on October 27th, 2020 a duly advertised public hearing on amendments to the Ashland Land Use Ordinance concerning the standards relating to affordable housing, and standards for zone changes and annexations, 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 above-referenced amendments November 17, 2020; 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.

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. The Special Use Standards Chapter of Ashland Land Use Ordinance, sub-section 18.2.3.200.C.5 is hereby amended as follows:

18.2.3.200 Multiple-Family Rental Unit Conversion to For-Purchase Units

18.2.3.200.C

5. Affordable Housing Units provided under 18.2.3.200.C.2 and 18.2.3.200.C.3 shall meet the following affordability standards:

a. Affordable Rental Units shall be affordable for rent by households earning at or below ~~60~~ **80** percent of the AMI in accordance with the standards established by section 18.2.5.050 (~~Resolution 2006-13~~).

b. Affordable Ownership Units shall be affordable for purchase by households earning at or below 80 percent of the AMI in accordance with the standards established by section 18.2.5.050 (~~Resolution 2006-13~~).

SECTION 3. The Standards for Residential Zones Chapter of Ashland Land Use Ordinance subsection 18.2.5.050, Affordable Housing Standards, is hereby amended as follows:

18.2.5.050 Affordable Housing Standards

A. General Eligibility – Rental and Purchased Housing.

1. All qualifying ownership or rental units required to be affordable through density bonuses, annexation, zone change, condominium conversion, or other land use approval under this ordinance shall not be eligible to receive a waiver of the Community Development and Engineering Services fees associated with the development of said affordable units unless a waiver is approved by the City Council.
2. All qualifying ownership or rental units required to be affordable through density bonuses, annexation, zone change, condominium conversion, or other land use approval under this ordinance shall be eligible to receive a deferral of the System Development Charges associated with the development of said affordable units.
3. All qualifying ownership or rental units voluntarily provided as affordable to low income households, consistent with subsections 18.2.5.050.A.1 and 18.2.5.050.A.2, above, shall be eligible for a System Development Charge, Engineering Service, and Community Development Fee deferral or waiver without obtaining approval from the Council.
4. Affordable Housing Units covered under this section can only be sold or rented to occupant households from the same income category as the original purchasers or renters for a period of not less than 30 years, or as required through the condition of approval for a unit required to be affordable through a land use approval.
5. System Development Charges, Engineering Services, and Community Development Fees may be deferred or waived when units are sold or rented to low-income persons. For purposes of this subsection, "low-income persons" means:
 - a. With regard to rental housing, persons with an income at or below 60 percent of the area median income (AMI) as determined by the State Housing Council based on information from the United States Department of Housing and Urban Development (HUD); and
 - b. With regard to home ownership housing and lease to purchase home ownership housing, persons with an income at or below 80 percent of the AMI as determined by the State Housing Council based on information from HUD.

B. Rental Housing. Units designated for affordable rental housing in developments which have qualified for density bonuses, annexation, zone change, condominium conversion, or other land use approval under this ordinance shall be rented to individuals or households whose annual income is consistent with the target income identified in the planning approval. Incomes

shall be qualified as being equal to or less than either at the 60 percent or 80 percent median income levels maximums annually established for households in the Medford-Ashland Metropolitan Statistical Area (MSA). This figure shall be known as the "qualifying household income" and shall be determined by the City's Community Development Department in May of each year from the annual family incomes published by HUD for the Medford-Ashland MSA.

1. Area Median Income – 60 and 80 percent. The rent charged for such affordable rental housing benefiting households earning 60 percent Area Median Income or less, and 80 percent AMI of Area Median Income or greater-less, including any home-owners association or maintenance fees, shall not exceed 23 percent of the qualifying monthly income (qualifying family income divided by twelve) as provided in the following formulas: not exceed 23 percent of the qualifying monthly income (qualifying family income divided by twelve) as provided in the following formulas: comply with the maximum rents established by U.S. Department of Housing and Urban Development (HUD) for the HOME program for the corresponding bedroom size.

~~Table 18.2.5.050.B. Rent Charges for Affordable Rental Housing~~

Unit Type	Maximum Rent Charges
Studio Apartment	23% of the average of 1 & 2 person qualifying monthly incomes
1 Bedroom	23% of the average of 2 & 3 person qualifying monthly incomes
2 Bedroom	23% of the average of 3, 4, & 5 person qualifying monthly incomes
3 Bedroom	23% of the average of 4, 5, 6, & 7 person qualifying monthly incomes
4 Bedroom	23% of the average of 5, 6, 7, & 8 person qualifying monthly incomes

- a. The City's Community Development Department shall maintain a table of maximum rent levels permitted pursuant to the formulas of Table 18.2.5.050.B established by U.S. Department of Housing and Urban Development (HUD) for the HOME program and shall annually update the table in May of each year.
- b. The HUD "Low Rent" limit shall apply to units targeted toward households earning 60% of Area Median Income or less.

- c. The HUD “High Rent” limit shall apply to units targeted toward households earning greater than 60% Area Median Income up to and including 80% of Area Median Income.
- d. Low-Income Housing Tax Credit (LIHTC) assisted affordable rental housing units, subject to rent control through the LIHTC program, may utilize the rent limits established by the LIHTC program as an alternative to the rent levels established by U.S. Department of Housing and Urban Development (HUD) for the HOME program. Upon completion of the LIHTC compliance period the maximum rent levels established in 18.2.5.050.B.1.a-c shall apply through the remaining term of affordability.

~~2. Area Median Income – 60 percent or lower. The rent charged for such affordable rental housing benefiting households earning 60 percent AMI or less, including any home-owners association or maintenance fees, shall comply with the maximum rents established by the State of Oregon HOME Program based on the target income qualification as adjusted annually by HUD for the Medford-Ashland MSA. The HOME program indexed allowable rents are adjusted annually by the State of Oregon Housing and Community Services Department (OHCS).~~

3. Owner’s Obligation. The owner of the affordable rental housing shall sign a 30-year agreement, or longer depending on the period of affordability established through **this ordinance a planning action approval or legislative land use decision**, with the City that guarantees these rent levels will not be exceeded and that the owner will rent only to households meeting the income limits. The agreement shall bind subsequent owners who purchase the rental housing during the established period of affordability. The agreement shall also require the owner to allow the unit to be rented to HUD Section 8 qualified applicants and agree to accept rent vouchers for all of the affordable units when applicable. The City shall file the agreement for recordation in the County Clerk deed records, Jackson County, Oregon.

4. Certification of qualifying occupants. The owner of record, or the designated agent of the record, owner, shall annually file with the City a signed certificate stating the occupants of the record owner’s rental housing units continue to be qualified households, or are a household that qualified at its initial occupancy, within the meaning of this resolution, and any amendment made to it. The City shall provide the record owner or the record owner’s agent with access to a form to complete and sign to comply with this provision.

C. Purchased Houses – Qualifying. Units designated for affordable housing available for purchase in developments which have qualified for **affordable housing** density bonuses, annexation, zone change, condominium conversion, or other land use approval under this ordinance must satisfy the criteria in subsections 18.2.5.050.C.1 and 18.2.5.050.C.2, below:

1. They shall only be sold to occupant households whose:
 - a. Annual income is consistent with the target income identified in the planning approval for the development. Incomes shall be qualified at the applicable ~~60 percent~~, 80 percent, 100 percent, or 120 percent median income levels for households based on number of people per household as adjusted annually by HUD for the Medford-Ashland **MSA Metropolitan Service Area (MSA)**.

b. The maximum initial purchase price shall be determined on the date the designated affordable unit enters the affordable housing program. The maximum initial purchase price is based on a formula that accounts for what a qualifying household can afford to pay as a maximum monthly housing payment. The formula used to calculate the maximum monthly housing payment incorporates the following:

- i. **The maximum monthly housing payment shall not exceed 30% of the monthly income for the target income level indicated in subsection 18.2.5.050.C.1.a.**
- ii. **The formula used to calculate the monthly housing payment shall include Principal, Interest, Taxes, and Insurance (PITI) and any homeowners or regular maintenance fees.**
- iii. **The formula used to calculate the monthly housing payment will assume a down payment equal to 10% of the purchase price.**
- iv. **The formula used to calculate monthly housing payment will assume a 30-year fixed-rate mortgage with an interest rate of 5%.**

~~b. c.~~ The maximum monthly **housing** payment for a covered unit shall be established to not exceed the affordability limits, established in ~~the paragraph above this section~~, and pursuant to the occupancy number indicated in Table 18.2.5.050.C.

Table 18.2.5.050.C. Occupancy Basis for Affordable ~~Rental~~ Ownership Housing

Unit Type		Occupancy
Households with a greater or lesser number of occupants shall remain eligible for covered units but the sale price shall not be adjusted due to household size above the limits established above.		
Studio	=	1 person household income for the designated income level
1 Bedroom	=	2 person household income for the designated income level

Unit Type		Occupancy
2 Bedroom	=	4 <u>3</u> person household income for the designated income level
3 Bedroom <u>or greater</u>	=	6 <u>5</u> person household income for the designated income level
4 Bedroom	=	7 person household income for the designated income level

c. Net assets, excluding pension plans and IRAs and excluding the down payment and closing costs, do not exceed ~~\$20,000~~ \$25,000 for a household or ~~\$130,000~~ \$175,000 if one household member is 65 years or older.

~~d. Mortgage payment does not exceed more than 30 percent of the monthly income for the target income level indicated in subsection 18.2.5.050.C.1.a, above on total housing costs which includes principal, interest, taxes, insurance, and any homeowners or regular maintenance fees.~~

~~e. The maximum monthly payment for a covered unit shall be calculated by utilizing the interest rate for the Oregon Bond Loan Rate Advantage as updated by the OHCS.~~

2. They shall remain affordable as follows:

~~a. The purchasers of the affordable housing units shall agree to the City of Ashland Affordable Housing Resale Restriction Agreement establishing a period of affordability of not less than 30 years. In no event will a purchaser be required to sell the unit subject to the aforementioned Agreement for less than his or her original purchase price, plus any applicable closing costs and realtor fees.~~

b. The maximum resale price will be calculated using the current seller's initial purchase price plus an additional 0.125% of said initial purchase price for each full month the current seller has owned the home.

c. In no event will a purchaser be required to sell the unit subject to the Affordable Housing Resale Restriction Agreement for less than his or her original purchase price, plus any applicable closing costs and realtor fees.

~~b. For housing financed by Farmer's Home Administration (FHA), the affordability shall be assured by the FHA's recapture provisions FHA which require sellers to repay FHA for all the subsidies accrued during the period the sellers resided in the housing unit.~~

SECTION 4. The Annexations Chapter of Ashland Land Use Ordinance, sub-sections 18.5.8.050.C, 18.5.8.050.G and 18.5.8.050.H are hereby amended as follows:

Annexation

18.5.8.050 Approval Criteria and Standards

An annexation may be approved if the proposed request for annexation conforms, or can be made to conform through the imposition of conditions, with all of the following approval criteria.

- A.** The land is within the City's Urban Growth Boundary.
- B.** The proposed zoning for the annexed area is in conformance with the designation indicated on the Comprehensive Plan Map, and the project, if proposed concurrently with the annexation, is an allowed use within the proposed zoning.
- C.** The land is currently contiguous with the present city limits.
- D.** Adequate City facilities for the provision of water to the site as determined by the Public Works Department; the transport of sewage from the site to the waste water treatment plant as determined by the Public Works Department; the provision of electricity to the site as determined by the Electric Department; urban storm drainage as determined by the Public Works Department can and will be provided to and through the subject property. Unless the City has declared a moratorium based upon a shortage of water, sewer, or electricity, it is recognized that adequate capacity exists system-wide for these facilities.
- E.** Adequate transportation can and will be provided to and through the subject property. For the purposes of this section "adequate transportation" for annexations consists of vehicular, bicycle, pedestrian, and transit transportation meeting the following standards.
 - 1. For vehicular transportation a 20-foot wide paved access exists, or can and will be constructed, along the full frontage of the project site to the nearest fully improved collector or arterial street. All streets adjacent to the annexed area shall be improved, at a minimum, to a half-street standard with a minimum 20-foot wide driving surface. The City may, after assessing the impact of the development, require the full improvement of streets adjacent to the annexed area. All streets located within annexed areas shall be fully improved to City standards. Where future street dedications are indicated on the Street Dedication Map or required by the City, provisions shall be made for the dedication and improvement of these streets and included with the application for annexation.
 - 2. For bicycle transportation safe and accessible bicycle facilities exist, or can and will be constructed. Should the annexation be adjacent to an arterial street, bike lanes shall be provided on or adjacent to the arterial street. Likely bicycle destinations from the project site shall be determined and safe and accessible bicycle facilities serving those destinations shall be indicated.

3. For pedestrian transportation safe and accessible pedestrian facilities exist, or can and will be constructed. Full sidewalk improvements shall be provided on one side adjacent to the annexation for all streets adjacent to the proposed annexed area. Sidewalks shall be provided as required by ordinance on all streets within the annexed area. Where the project site is within a quarter of a mile of an existing sidewalk system, the sidewalks from the project site shall be constructed to extend and connect to the existing system. Likely pedestrian destinations from the project site shall be determined and the safe and accessible pedestrian facilities serving those destinations shall be indicated.

4. For transit transportation, should transit service be available to the site, or be likely to be extended to the site in the future based on information from the local public transit provider, provisions shall be made for the construction of adequate transit facilities, such as bus shelters and bus turn-out lanes. All required transportation improvements shall be constructed and installed prior to the issuance of a certificate of occupancy for any new structures on the annexed property.

F. For all residential annexations, a plan shall be provided demonstrating that the development of the entire property will ultimately occur at a minimum density of 90 percent of the base density for the zone, unless reductions in the total number of units is necessary to accommodate significant natural features, topography, access limitations, or similar physical constraints. The owner or owners of the property shall sign an agreement, to be recorded with the county clerk after approval of the annexation, ensuring that future development will occur in accord with the minimum density indicated in the development plan. For purposes of computing maximum density, portions of the annexed area containing undevelopable areas such as wetlands, floodplain corridor lands, or slopes greater than 35 percent, shall not be included.

G. Except as provided in 18.5.8.050.G.7, below, annexations with a density or potential density of four residential units or greater and involving residential zoned lands, or commercial, employment or industrial lands with a Residential Overlay (R-Overlay) shall meet the following requirements.

1. The total number of affordable units provided to qualifying buyers, or to qualifying renters, shall be equal to or exceed 25 percent of the base density as calculated using the unit equivalency values set forth herein. **The base density of the property for the purposes of this calculation shall exclude any undevelopable portions of the property such as wetlands, floodplain corridor lands, water resource areas, slopes greater than 35 percent, or land area dedicated as a public park.**

a. Ownership units restricted to households earning at or below 120 percent the area median income shall have an equivalency value of 0.75 unit.

b. Ownership units restricted to households earning at or below 100 percent the area median income shall have an equivalency value of 1.0 unit.

c. Ownership **or rental** units restricted to households earning at or below 80 percent the area median income shall have an equivalency value of 1.25 unit.

~~**d. Ownership or Rental units restricted to households earning at or below 60 percent the area median income shall have an equivalency value of 1.5 unit.**~~

2. As alternative to providing affordable units per section 18.5.8.050.G.1, above, the applicant may provide title to a sufficient amount of buildable land for development complying with subsection 18.5.8.050.G.1.b, above, through transfer to a non-profit (IRC 501(3)(c) affordable housing developer or public corporation created under ORS 456.055 to 456.235.

a. The land to be transferred shall be located within the project meeting the standards set forth in 18.5.8.050.G, subsections ~~4~~ **5** - 6.

b. All needed public facilities shall be extended to the area or areas proposed for transfer.

c. Prior to commencement of the project, title to the land shall be transferred to the City, an affordable housing developer which must either be a unit of government, a non-profit 501(C)(3) organization, or public corporation created under ORS 456.055 to 456.235.

d. The land to be transferred shall be deed restricted to comply with Ashland's affordable housing program requirements.

e. Transfer of title of buildable land in accordance with this subsection shall exempt the project from the development schedule requirements set forth in 18.5.8.050G.4.

3. The affordable units shall be comparable in bedroom mix ~~and housing type~~ with the market rate units in the development.

a. The number of bedrooms per dwelling unit in the affordable units within the residential development shall be in equal proportion to the number of bedrooms per dwelling unit in the market-rate units within the residential development. This provision is not intended to require the same floor area in affordable units as compared to market-rate units. The minimum square footage of each affordable unit shall comply with the minimum required floor based as set forth in Table 18.5.8.050.G.3 , **or as established by the U.S. Department of Housing and Urban Development (HUD) for dwelling units developed under the HOME program.**

Table 18.5.8.050.G.3.

Unit Type	Minimum Required Unit Floor Area (Square Feet)
Studio	350
1 Bedroom	500
2 Bedroom	800
3 Bedroom	1,000
4 Bedroom	1,250

~~**b. The required on-site affordable units shall be comprised of the different unit types in the same proportion as the market dwelling units within the development.**~~

4. A development schedule shall be provided that demonstrates that that the affordable housing units per subsection 18.5.8.050.G shall be developed, and made available for occupancy, as follows.

a. That 50 percent of the affordable units shall have been issued building permits prior to issuance of a certificate of occupancy for the last of the first 50 percent of the market rate units.

b. Prior to issuance of a building permit for the final ten percent of the market rate units, the final 50 percent of the affordable units shall have been issued certificates of occupancy.

~~**5. That affordable housing units shall be distributed throughout the project.**~~

~~**6-5.**~~ That affordable housing units shall be constructed using comparable building materials and include equivalent amenities as the market rate units.

a. The exterior appearance of the affordable units in any residential development shall be visually compatible with the market-rate units in the development. External building materials and finishes shall be substantially the same in type and quality for affordable units as for market-rate units.

b. Affordable units may differ from market-rate units with regard to floor area, interior finishes and materials, and housing type provided that the affordable housing units are provided with comparable features to the market rate units, and shall have generally comparable improvements related to energy efficiency, including plumbing, insulation, windows, appliances, and heating and cooling systems.

~~**7-6.**~~ Exceptions to the requirements of 18.5.8.050, subsections G.2 – G.5, above, may be approved by the City Council upon consideration of one or more of the following.

a. That an alternative land dedication as proposed would accomplish additional benefits for the City, consistent with the purposes of this chapter, than would development meeting the on-site dedication requirement of subsection 18.5.8.050.G.2.

~~b. That an alternative mix of housing types not meeting the requirements of subsection 18.5.8.050.G.3.b would accomplish additional benefits to the City consistent with this chapter, than would the development providing a proportional mix of unit types.~~

~~c. b.~~ That the alternative phasing proposal not meeting subsection 18.5.8.050.G.4 provided by the applicant provides adequate assurance that the affordable housing units will be provided in a timely fashion.

~~d. That the distribution of affordable units within the development not meeting subsection 18.5.8.050.G.5 is necessary for development of an affordable housing project that provides onsite staff with supportive services.~~

~~e. That the distribution of affordable units within the development as proposed would accomplish additional benefits for the city, consistent with the purposes of this chapter, than would development meeting the distribution requirement of subsection 18.5.8.050.G.5.~~

~~f. c.~~ That the materials and amenities applied to the affordable units within the development, that are not equivalent to the market rate units per subsection 18.5.8.050.G.6, are necessary due to local, State, or Federal Affordable Housing standards or financing limitations.

~~8.7. The total number of affordable units described in this section 18.5.8.050.G shall be determined by rounding down fractional answers to the nearest whole unit. A deed restriction or similar legal instrument shall be used to guarantee compliance with affordable criteria for a period of not less than 60 years for units qualified as affordable rental housing, or 30 years for units qualified as affordable for-purchase housing. Properties providing affordable units as part of the annexation process shall qualify for a maximum density bonus of 25 percent.~~

H. One or more of the following standards are met.

1. The proposed area for annexation is to be residentially zoned, ~~and there is less than a five-year supply of vacant and redevelopable land in the proposed land use classification within the current city limits. "Redevelopable land" means land zoned for residential use on which development has already occurred but on which, due to present or expected market forces, there exists the likelihood that existing development will be converted to more intensive residential uses during the planning period. The five-year supply shall be determined from vacant and redevelopable land inventories and by the methodology for land need projections from the Housing Element of the Comprehensive Plan, under the Comprehensive Plan, and that the~~

applicant will obtain planning action approval for an outright permitted use, special permitted use, or conditional use in conformance with the annexation request.

2. The proposed lot or lots will be zoned **M-1**, CM, E-1, or C-1 under the Comprehensive Plan, and that the applicant will obtain Site Design Review approval for an outright permitted use, or special permitted use concurrent with the annexation request.
3. A current or probable public health hazard exists due to lack of full City sanitary sewer or water services.
4. Existing development in the proposed annexation has inadequate water or sanitary sewer service, or the service will become inadequate within one year.
5. The area proposed for annexation has existing City water or sanitary sewer service extended, connected, and in use, and a signed consent to annexation agreement has been filed and accepted by the City.
6. The lot or lots proposed for annexation are an island completely surrounded by lands within the city limits.

SECTION 5. The Application Review Procedures and Approval Criteria Chapter of Ashland Land Use Ordinance, subsection 18.5.9.020.A is hereby amended as follows:

18.5.9.020 Applicability and Review Procedure

Applications for Plan Amendments and Zone Changes are as follows:

A. Type II. The Type II procedure is used for applications involving zoning map amendments consistent with the Comprehensive Plan map, and minor map amendments or corrections. Amendments under this section may be approved if in compliance with the Comprehensive Plan and the application demonstrates that one or more of the following.

1. The change implements a public need, ~~other than the provision of affordable housing,~~ supported by the Comprehensive Plan.
2. A substantial change in circumstances has occurred since the existing zoning or Plan designation was proposed, necessitating the need to adjust to the changed circumstances.
3. Circumstances relating to the general public welfare exist that require such an action.
4. Proposed increases in residential zoning density resulting from a change from one zoning district to another zoning district, will provide 25 percent of the proposed base density as affordable housing consistent with the approval standards set forth in subsection 18.5.8.050.G.
5. Increases in residential zoning density of four units or greater on commercial, employment, or industrial zoned lands (i.e., Residential Overlay), will not negatively impact the City's commercial and industrial land supply as required in the Comprehensive Plan,

and will provide 25 percent of the proposed base density as affordable housing consistent with the approval standards set forth in subsection 18.5.8.050.G.

6. The total number of affordable units described in 18.5.9.020.A, subsections 4 or 5, above, shall be determined by rounding down fractional answers to the nearest whole unit.

7. A deed restriction, or similar legal instrument, shall be used to guarantee compliance with affordable criteria for a period of not less than 60 years **for units qualified as affordable rental housing, or 30 years for units qualified as affordable for-purchase housing.** 18.5.9.020.A subsections 4 and 5 do not apply to Council initiated actions.

SECTION 6. 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 7. Codification. Provisions of this Ordinance shall be incorporated in the City Comprehensive Plan 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 (i.e. Sections 1, 6-7) need not be codified. In preparing this ordinance for publication and distribution, the City Recorder shall not alter the sense, meaning, effect, or substance of the ordinance, but within such limitations, may:

- (a) Renumber sections and parts of sections of the ordinance;
- (b) Rearrange sections;
- (c) Change reference numbers to agree with renumbered chapters, sections or other parts;
- (d) Delete references to repealed sections;
- (e) Substitute the proper subsection, section, or chapter numbers;
- (f) Change capitalization and spelling for the purpose of uniformity;
- (g) Add headings for purposes of grouping like sections together for ease of reference; and
- (h) Correct manifest clerical, grammatical, or typographical errors.

The foregoing ordinance was first read by title only in accordance with Ashland Municipal Code §2.04.090 on the [redacted] day of [redacted], 2020, and duly PASSED and ADOPTED this ____ day of _____, 2020.

Melissa Huhtala, City Recorder

SIGNED and APPROVED this ____ day of _____, 2020.

John Stromberg, Mayor

Reviewed as to form:

David Lohman, City Attorney

1 **RESOLUTION NO. 2020-24**

2 **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ASHLAND**

3 **AMENDING RESOLUTION 2006-13**

4 **RECITALS:**

- 5 A. WHEREAS, The City of Ashland recognizes that a healthy and sustainable community is
6 contingent on diversity, equality, and a sense of community among its residents; and
- 7 B. WHEREAS, The City of Ashland values the ability of people of all ages and abilities, across
8 a variety of diverse backgrounds and professions, to live in our community and have equal
9 and fair housing rental and purchase opportunities in the City; and
- 10 C. WHEREAS, The City of Ashland understands that ongoing efforts to improve the affordable
11 housing program are essential to ensure the availability of moderately-priced dwelling units
12 that families and individuals earning 60 to 120 percent of the area median income (AMI) can
13 afford; and
- 14 D. WHEREAS, in 1993, the City of Ashland passed Resolution 1993-39 which established
15 affordable housing income levels and rental and purchased cost levels; and
- 16 E. WHEREAS, in 2005, the City of Ashland passed Resolution 2005-46 which amended
17 Resolution 1993-39 and required provisions for homeowner and maintenance fees to be
18 included in the affordability calculations for its affordable housing program; and
- 19 F. WHEREAS, in 2006, the City of Ashland passed Resolution 2006-13 which amended
20 Resolution 2005-46 and contained provisions establishing rent levels or purchase price levels
21 for households earning 60%, 80% 100% or 120% of the area median income (AMI); and
- 22 G. WHEREAS Resolution 2006-13 established rent levels for households earning 60% Area
23 Median Income (AMI) using a formula based on 23% of a qualifying families income, and
24 the current resolution seeks to replace the maximum rental amount formula with the U.S.
25 Department of Housing and Urban Development (HUD) HOME program rent index for
26 households earning 60% AMI and 80% AMI in the Medford-Ashland Metropolitan Service
27 Area, and allow for the Low Income Housing Tax Credit (LIHTC) rent index to be applied
28 to rental units developed under the LIHTC program; and
- 29 H. WHEREAS, resolution 2006-13 required Principal, Interest, Taxes and Insurance
30

1 (PITI) and Home Owner Association (HOA) Dues to be included in the maximum housing
2 costs of eligible households in the affordability calculations for the purchasing part of its
3 affordable housing program; and

4 I. WHEREAS resolution 2006-13 established a maximum resale purchase price formula which
5 including Principal, Interest, Taxes and Insurance (PITI), Home Owner Association Dues,
6 and "percent of household income". This resale formula created significant variation in
7 forecasting future sales prices, and the current resolution seeks to replace the maximum resale
8 purchase price formula with a fixed-rate (1.5%) annual appreciation formula which provides
9 greater predictability and clarity in future resale value; and

10 J. WHEREAS the City of Ashland City Council is able to reduce the costs of building
11 affordable housing by deferring the amount of development fees and System Development
12 Charges, and the current Resolution establishes the terms of affordability and recapture
13 provisions for deferred fees and charges for qualified ownership units that remain in the
14 affordable housing program for at least 30 years but less than 60 years.

15 **NOW THEREFORE THE CITY OF ASHLAND RESOLVES AS FOLLOWS:**

16 Resolutions 1993-39, 2005-46, and 2006-13 are hereby amended in their entirety as follows:

17 **SECTION 1. GENERAL ELIGIBILITY - RENTAL AND PURCHASED HOUSING**

18 1.1 All qualifying ownership or rental units required to be affordable through density
19 bonuses, annexation, zone change, condominium conversion, or other land use approval under
20 the Ashland Land Use Ordinance ALUO shall not be eligible to receive a waiver of the
21 Community Development and Engineering Services fees associated with the development of said
22 affordable units unless a waiver is approved by the Ashland City Council.

23 1.2 All qualifying ownership or rental units required to be affordable through density
24 bonuses, annexation, zone change, condominium conversion, or other land use approval under
25 the ALUO shall be eligible to receive a deferral of the System Development Charges associated
26 with the development of said affordable units.

27 1.3 All qualifying ownership or rental units voluntarily provided as affordable to low income
28 households consistent with section 1.1 and 1.2 above shall be eligible for a System Development
29 Charge Engineering Service and Community Development Fee deferral or waiver without
30 obtaining approval from the Ashland City Council.

1 1.4 System Development Charges, Engineering Services and Community Development Fees,
2 may be deferred or waived when units are sold or rented to low income persons. For purposes
3 of this subsection, “low-income persons” means:

4 a. With regard to rental housing persons with an income at or below 60 percent of the
5 area median income as determined by the United States Department of Housing and
6 Urban Development, and

7 b. With regard to home ownership housing and lease to purchase home ownership
8 housing persons with an income at or below 80 percent of the area median income as
9 determined by the United States Department of Housing and Urban Development.

10 1.5 Affordable Housing Units covered under this Resolution can only be sold or rented to
11 occupant households from the same income category as the original purchasers or renters for a
12 period of not less than 30 years for ownership units, or 60 years for rental units, or as required
13 through the condition of approval for a unit required to be affordable through a land use
14 approval.

15 **2. RENTAL HOUSING** - Units designated for affordable rental housing in developments
16 which have qualified for density bonuses, annexation, zone change, condominium conversion, or
17 other land use approval under the ALUO shall be rented to individuals or households whose
18 annual income is consistent with the target income identified in the planning approval. Incomes
19 shall be qualified at either the 60% or 80% median income levels for households in the Medford
20 - Ashland Metropolitan Statistical Area (MSA). This figure shall be known as the “qualifying
21 household income” and shall be determined by the City’s Department of Community
22 Development in May of each year from the annual family incomes published by the U.S.
23 Department of Housing and Urban Development HUD for the Medford Ashland Metropolitan
24 Service Area MSA.

25 **2.1 Area Median Income** – 60% and 80%. The rent charged for ~~such~~ affordable rental housing
26 benefiting households earning up to and including 60% Area Median Income (AMI), or 80%
27 AMI or less, shall comply with the maximum rents based on number of bedrooms in the unit(s)
28 as established by U.S. Department of Housing and Urban Development (HUD) for the HOME
29 program within the State of Oregon.
30

- 1 a. For the purposes of the Ashland Affordable Housing Program, the HOME program
2 “Low Rent” limit shall apply to units targeted toward households earning 60% of Area
3 Median Income or less.
- 4 b. For the purposes of the Ashland Affordable Housing Program, the HOME program
5 “High Rent” limit shall apply to units targeted toward households earning greater than
6 60% Area Median Income up to and including 80% of Area Median Income.
- 7 c. For the purposes of the Ashland Affordable Housing Program Low-Income Housing
8 Tax Credit (LIHTC) assisted affordable rental housing units, subject to rent control
9 through the LIHTC program, may utilize the rent limits established by the LIHTC
10 program as an alternative to the rent levels established by the HOME program. Upon
11 completion of the LIHTC compliance period the applicable maximum rent levels
12 established in either 2.1.a or 2.1.b shall apply through the remaining term of affordability.
- 13 d. The City’s Department of Community Development shall maintain a table of maximum
14 rent levels based on number of bedrooms and qualifying household incomes in
15 compliance with the U.S. Department of Housing and Urban Development (HUD) for the
16 HOME program, and shall annually make available an updated table in May of each year.
- 17 e. Affordable housing projects developed under the Low-Income Housing Tax Credit
18 Program shall provide the City with the maximum rental amounts for covered affordable
19 units on an annual basis throughout the established period of affordability.

20 2.2 Owner’s Obligation. The owner of the affordable rental housing shall sign a 60-year
21 agreement or longer depending on the period of affordability established through the land use
22 approval under the Ashland Land Use Ordinance with the City of Ashland that guarantees these
23 rent levels will not be exceeded and that the owner will rent only to households meeting the
24 income limits. The agreement shall bind subsequent owners who purchase the rental housing
25 during the established period of affordability. The agreement shall also require the owner to
26 allow the unit to be rented to HUD Section 8 qualified applicants and agree to accept rent
27 vouchers for all of the affordable units when applicable. The City shall file the agreement for
28 recordation in the County Clerk deed records Jackson County Oregon.

29 2.2.1 Certification of qualifying occupants. The owner of record or the designated agent of the
30 record owner shall annually, or at any change of occupancy, file with the City of Ashland a
signed certificate stating the occupants of the record owner’s rental housing units continue to be

1 qualified households or are a household that qualified at its initial occupancy within the meaning
2 of this Resolution and any amendment made to it. The City of Ashland shall provide the record
3 owner or the record owner's agent with access to a form to complete and sign to comply with
4 this provision.

5 **3. PURCHASED HOUSES – QUALIFYING.** Units designated for affordable housing
6 available for purchase in developments which have qualified for density bonuses, annexation,
7 zone change, condominium conversion, or other land use approval under the ALUO must satisfy
8 two criteria.

9 3.1. They shall only be sold to occupant households whose:

10 a. Annual income is consistent with the target income identified in the land use approval
11 under the Ashland Land Use Ordinance for the development. Incomes shall be qualified
12 at the applicable ~~60%~~, 80%, 100%, or 120% median income levels for households based
13 on number of people per household as adjusted annually by the Department of Housing
14 and Urban Development for the Medford - Ashland Metropolitan Service Area.

15 i. The maximum monthly payment for a covered unit shall be established to not
16 exceed the affordability limits, established, by average household size by the
17 covered units number of bedrooms as indicated in following table:

18 Studio	1-person household income for the designated income level
19 1 Bedroom	2-person household income for the designated income level
20 2 Bedroom	3-person household income for the designated income level
21 3 Bedroom	5-person household income for the designated income level

22 Households with a greater or lesser number of occupants shall remain eligible for
23 covered units but the sale price shall not be adjusted due to household size above
24 the limits established above.

25 b. Net assets, excluding pension plans and IRA's and excluding the down payment and
26 closing costs, do not exceed \$25,000 for a household or \$175,000 if one household
27 member is 65 years old or older. The asset limitations herein shall increase annually per
28 the Consumer Price Index for All Urban Consumers, West Region (All Items), as most
29 recently published by the Bureau of Labor Statistics.

30 c. Maximum initial purchase price shall be determined upon entering the affordable

1 housing program. The formula will not exceed more than 30% of the monthly income for
2 the target income level indicated in 3.1 (a)(i) on total housing costs which includes and
3 PITI and any homeowners or regular maintenance fees. The formula will assume an
4 interest rate that is consistent with the Oregon Bond Rate Advantage program as updated
5 by the State of Oregon Housing and Community Services Department.

6 d. Maximum resale price will be calculated using the current seller's initial purchase
7 price plus an additional 0.125% of said initial purchase price for each full month the
8 current seller has owned the home.

9 3.2. They shall remain affordable as follows:

10 a. The purchasers of the affordable housing units shall agree to the City of Ashland
11 Affordable Housing Resale Restriction Agreement establishing a period of affordability
12 of not less than 30 years. After the completion of 30 years of affordability the
13 homeowner can sell the unit at market rate upon paying back the amount of deferred
14 System Development Charges (SDCs), Community Development Fee, and Engineering
15 Services Fee, including an assessment of inflationary cost impacts. The inflationary cost
16 impacts for deferred charges and fees shall be an annual assessment for each year the unit
17 was in the affordable housing program utilizing the Engineering News Record (ENR)
18 Construction Index for Seattle Washington inflation rate at the time of sale. In no event
19 will a purchaser be required to sell the unit subject to the aforementioned Agreement for
20 less than his or her original purchase price plus any applicable closing costs and realtor
21 fees.

22 b. or housing financed by Farmer Home Administration FHA the affordability shall be
23 assured by the FHA's recapture provisions FHA which require sellers to repay FHA for
24 all the subsidies accrued during the period the sellers resided in the housing unit.

25 c. For purchasers of the affordable ownership housing units that maintain qualified
26 ownership beyond the required thirty (30) year term of affordability, the deferred System
27 Development Charges, Community Development Fee, Engineering Fee, and calculated
28 inflationary cost owed will be reduced by one thirtieth ($1/30^{\text{th}}$) for each year after the first
29 30 years of affordability, and upon completion of 60 years of affordability the deferred
30 charges and fees will be forgiven in their entirety.

1 3.3 Right to Opt-In. Homeowners of affordable housing units covered under the Ashland
2 Affordable Housing Program, which have a resale restriction covenant that references a prior
3 resolution, may voluntarily choose to amend the existing resale restriction covenant to be subject
4 to the terms of the current resolution, including maximum resale formula and fee recapture
5 assessments, effective on the date the resale restriction covenant is amended.

6 **SECTION 2.** Resolution 2006-13 is replaced in its entirety upon passage of this resolution.

7 **SECTION 3.** This resolution was duly PASSED and ADOPTED this ____ day of December
8 2020 and takes effect upon signing by the Mayor.

9 ATTEST:

10 _____
11
12 Melissa Huhtala, City Recorder

13 SIGNED and APPROVED this _____ day of December, 2020.

14
15
16 _____
17 John Stromberg, Mayor

18 Reviewed as to form:
19
20 _____
21 David H. Lohman, City Attorney

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

December 1, 2020

In the Matter of Planning Action PA-L-2020-00009)	FINIDNGS OF
Relating to Ordinance No. 3195, Amending Chapters)	FACTAND
18.2.3, 18.2.5, 18.5.8, and 18.5.9 of the Ashland Land)	CONCLUSIONS OF
Use Ordinance Regarding Conversion of Multi-Family)	LAW
Rental Housing into for For-Purchase Housing,)	
Affordable Housing Standards, and approval Standards)	
for Zone Changes and Annexations.)	

PURPOSE:

The ordinance amendments are proposed for a variety of reasons including provision of a clear and predicable methodology for calculating maximum rent and purchase prices for covered affordable housing units; incentivizing affordable housing production through removing barriers to coordination between non-profit and for-profit housing developers; achieving a mixture of unit types commensurate with community housing needs; and improving administrative efficiency and effectiveness of the affordable housing program.

The purpose of the findings in this document are to demonstrate that the ordinance amendments proposed in PA-L-2020-0009 are consistent with Statewide Planning Goals (Goals), Oregon Revised Statutes (ORS), Oregon Administrative Rule (OAR) requirements, and the City of Ashland Comprehensive Plan (Plan).

PUBLIC HEARINGS:

A public involvement process was undertaken to understand the existing housing and demographic conditions within the community, and to develop and refine the affordable housing standards within the Ashland Land Use Ordinance. In total there have been six (6) public meetings, including two (2) stakeholder meetings with non-profit and market rate housing providers. Through this process members of the general public, occupants of affordable housing units, appointed Commissioners, and the City Council have informed the development of the land use ordinance amendments contained in Ordinance No. 3195.

The Housing and Human Services Commission held a public hearing on September 24th, 2020, and a study session on July 23, 2020. The Planning Commission held a public hearing on October 27th, 2020 and held a study session on March 10,2020. The City Council held a public hearing on November 17th, 2020 and held a study session on July 20,2020.

Newspaper notices were published in accordance with AMC 18.5.1.070.D.3 in the Ashland Tidings on October 16, 2020 prior to the October 27th Planning Commission

public hearing and the November 17th City Council public hearing and first reading of the ordinance. Notice of a proposed change to land use regulations within the Ashland Land Use Ordinance was sent to the Oregon Department of Land Conservation and Development on September 8, 2020.

REVIEW CRITERIA

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

- A. Consistency with City of Ashland Requirements for Legislative Amendments in AMC 18.5.9.020.B
- B. Consistency with City of Ashland Comprehensive Plan and other applicable City of Ashland Goals and Policies
- C. Consistency with Oregon land use laws.

EVALUATION AND COUNCIL FINDINGS:

The City Council considered the public testimony and written comments provided at the public hearing.

The City Council finds the proposed amendments to the Ashland Land Use Ordinance in Ordinance No. 3195 are supported by the minutes from the Housing and Human Services Commission and Planning Commission public hearing minutes, the Planning Staff Report dated October 27, 2020, public comments received, staff presentations, and other material in the record.

- A. ***Consistency with City of Ashland Requirements for Legislative Amendments in AMC 18.5.9.020.B.***
- B. Type III. It may be necessary from time to time to make legislative amendments in order to conform with the Comprehensive Plan or to meet other changes in circumstances or conditions. The Type III procedure applies to the creation, revision, or large-scale implementation of public policy requiring City Council approval and enactment of an ordinance; this includes adoption of regulations, zone changes for large areas, zone changes requiring comprehensive plan amendment, comprehensive plan map or text amendment, annexations (see chapter 18.5.8 for annexation information), and urban growth boundary amendments. The following planning actions shall be subject to the Type III procedure.
 - 1. Zone changes or amendments to the Zoning Map or other official maps, except where minor amendments or corrections may be processed through the Type II procedure pursuant to subsection 18.5.9.020.A, above.
 - 2. Comprehensive Plan changes, including text and map changes or changes to other official maps.

3. Land Use Ordinance amendments.
4. Urban Growth Boundary amendments.

AMC 18.5.9.020.B permits legislative amendments to meet changes in circumstances and conditions. The ordinance amendments to the Ashland Land Use Ordinance (ALUO) simplify methodology by which affordable housing rents and purchase prices are determined, allow greater flexibility in siting and design of affordable housing units required through annexations and zone changes, clarify that provision of affordable housing on a site is not subject to certain density requirements, and simplifies the annexation process for residential developments. These changes are intended to remove barriers to development of qualified affordable housing development to help increase housing options.

The Council finds that the affordable housing standards established in 2006 are no longer reflective of existing housing market conditions, household demographics, and development constraints within the City and Urban Growth Boundary, and that the ordinance amendments will assist in facilitating the development of needed housing.

The City Council finds and determines that the Ordinance No. 3195 amendments to Chapters 18.2.3, 18.2.5, 18.5.8 and 18.5.9 are consistent with the requirements for Legislative Amendments in AMC 18.5.9.020.B.

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

The City's Comprehensive Plan was acknowledged by the State of Oregon. The City follows the post-acknowledgement plan amendment (PAPA) process to update the Plan with new state and regional regulations as necessary and relies in part upon these prior state review processes to demonstrate compliance with all necessary requirements.

The ordinance amendments of PA-L-2020-00009 are consistent with the Ashland Comprehensive Plan. The Housing Element of the Ashland Comprehensive Plan was amended and acknowledged in 2019 and includes the following goals which are applicable to the ordinance amendments:

Goal 1: Ensure a range of different dwelling types that provide living opportunities for the total cross section of Ashland's population.

The Council finds that the ordinance amendments provide greater flexibility in the siting and housing types permissible for affordable housing units. These changes will better provide for a mix of housing types that are attractive and affordable to a diversity of ages, incomes, household sizes, and household types.

Goal 2 : Support the creation and preservation of housing that is affordable to low and moderate income households and that is commensurate with the incomes of Ashland's

workforce.

The Council finds that the ordinance amendments relating to the required terms of affordability (60 years for multi-family rentals, and 30 years ownership units) encourages the preservation of affordable housing to avoid the net loss of safe, healthy, affordable housing. The Council finds that the ordinance amendments provide greater opportunities for needed rental housing that is affordable to households earning 80% the Area Median Income (AMI), and that the flexibility provided to allow a 30 year term of affordability for affordable ownership units, and fixed rate appreciation for calculating resale prices, provides greater opportunities for ownership housing for households earning 80%, 100% and 120% AMI.

The Council finds that the ordinance amendments relating to the eligible transfer of land to a non-profit affordable housing provider will facilitate cooperation between for-profit and non-profit affordable housing providers in developing low- and moderate-income units in Ashland.

Goal 3: Encourage the development of housing in ways that protect the natural environment and encourage development patterns that reduce the effects of climate change.

The Council finds that the ordinance amendments relating to calculating the requisite affordable housing density of a development, to allow exclusion of environmentally sensitive areas, allows a development to fit the topography and generally follow the concept that density should decrease on physically and environmentally constrained lands. The City of Ashland's adopted *2017 Climate Energy Action Plan* further identified that regulation of new housing development to be more resilient to climate change impacts was considered beneficial to the community and preservation of natural areas supports the resilience of the community. The ability to transfer a site's allowable density onto developable portions of a property further maximizes existing land resources, and conserves habitat and environmentally sensitive areas.

Goal 4: Forecast and plan for changing housing needs over time in relation to land supply and housing production.

The Council finds that the existing requirement that residential annexation proposals demonstrate that there is currently less than a 5-year supply of land within the City Limits as a criteria of annexation can create an obstacle to annexing land within the UGB for housing. The Council finds removing this requirement, and clarifying that provision of affordable housing satisfies a public need, will facilitate annexation of residential lands within the Urban Growth Boundary to provide for needed housing. Removal of this requirement was a recommendation of the Ashland Housing Strategy Implementation Plan which was presented to the City Council in May of 2019 which explained that the 5-year supply requirement could contribute to higher land costs and greater difficulty in locating sufficient land area for larger housing developments.

C. Consistency with Oregon land use laws.

Statewide Planning Goal 1 -"Citizen Participation" *"To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process."*

The actions taken by this ordinance do not amend or affect Ashland's state acknowledged citizen involvement program. Therefore, Statewide Planning Goal 1 does not directly apply to these City actions. The City's citizen involvement program was adopted into the Ashland Land Use Ordinance (Chapter 18.5.9) which includes a formal land use review procedure with public notification, meetings and hearings. The public engagement actions for the land use regulation changes were completed consistently with the acknowledged citizen involvement program to ensure that citizens had opportunities to be involved in the process. Therefore, the amendments are consistent with Goal 1. Based on the information contained within the record, and facts and findings in support of the proposed land use ordinance amendments, the City has conducted the planning process in compliance with Ashland's adopted review procedures and in compliance with statewide planning Goal 1.

Statewide Planning Goal 2: "Land Use planning" This goal is to establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to insure an adequate factual basis for such decisions and actions. The City of Ashland Comprehensive Plan and its implementation measure, the Ashland Land Use Ordinance, was adopted by the Ashland City Council after public hearings and acknowledged by the Department of Land Conservation and Development. Opportunities for review and comment by citizens and affected governmental units were provided during preparation, review, and revision of the plan and implementing ordinances. The land use ordinance amendments are integrated and consistent with the planning process and policy framework; specifically, the amendments further compliance with existing policies to support the inclusion of affordable housing created through annexations and zone changes. Therefore, the amendments are consistent with Goal 2.

Statewide Planning Goal 3: "Agricultural Lands" The areas affected by the land use ordinance amendments are located within the City's Urban Growth Boundary. The area is currently designated for urban development and will remain as such. No agricultural lands will be affected by the amendments. Therefore, Goal 3 is not applicable.

Statewide Planning Goal 4: "Forest Lands" The areas affected by the land use ordinance amendments are located within the City's Urban Growth Boundary. The area is designated for urban development. Moreover, the affected areas do not contain any designated forest lands. Therefore, Goal 4 is not applicable.

Statewide Planning Goal 5: "Open Spaces, Scenic and Historic Areas and Natural Resources" The land use ordinance amendments do not directly authorize any development inconsistent with the aesthetic nature of the sites, there is no impact on such open space, scenic, or historic resources. The amendments proposed primary address the

type of housing, period of affordability, and methods for calculating affordable rents and ownership amounts. As such the nature of development and potential impacts upon open space, scenic and historic resources would be unchanged from the existing standards. Further, as no Historic Resources are identified within the areas outside the City Limits, yet within the urban growth boundary, amendments to the Annexation standards will have no impact on historic resources. Therefore, the land use ordinance amendments are consistent with Goal 5.

Statewide Planning Goal 6: “Air, Water and Land Resources Quality” Because the proposed amendments relate to uses already allowed under the existing zoning ordinance, the land use ordinance amendments will not serve to increase the waste already anticipated within the affected areas. The findings concerning the City of Ashland’s Comprehensive Plan Environmental Element are incorporated herein by this reference. Therefore, the land use ordinance amendments are consistent with Goal 6.

Statewide Planning Goal 7: “Areas Subject to Natural Disasters and Hazards” The areas affected by the land use ordinance amendments include some identified Natural Hazards areas including steep slopes, floodplains, wildfire areas, and other physically constrained lands. The City already has acknowledged ordinance standards relating to development in these areas, and the land use ordinance amendments relating to the affordable housing standards do not authorize, or exempt, any development inconsistent with these natural hazard standards. The findings concerning the Natural Hazard Element are incorporated herein by this reference. Therefore the land use ordinance amendments are consistent with Goal 7.

Statewide Planning Goal 8: “Recreational Needs” The land use ordinance amendments do not authorize any development inconsistent with the recreational needs of the community, region, or state. Therefore, the land use ordinance amendments are consistent with Goal 8.

Statewide Planning Goal 9: “Economic Development” The land use ordinance amendments relate to the development and annexation of residential lands, and do not affect the availability of land suitable for industrial and commercial development. The findings concerning the Economic Element are incorporated herein by this reference. Therefore, the land use ordinance amendments are consistent with Goal 9.

Statewide Planning Goal 10: “Housing”-- *“To provide for the housing needs of citizens of the state.”* The City’s acknowledged Comprehensive Plan is required to be consistent with the State of Oregon’s Goal 10, which specifies that each city must plan for all needed housing types (OAR 660-015-0000(10)). The statewide housing goal further specifies that each city must plan for and accommodate needed housing types:

“...plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density.”

The State requires each city to inventory its buildable residential lands, project future housing needs, and provide the appropriate types and amounts of land within the urban growth boundary necessary to meet those needs. The City of Ashland has an acknowledged Housing Needs Analysis (2012) and Buildable Lands Inventory (2019) which provide a factual basis for needed housing types and available land supply. The City already has acknowledged zoning ordinance standards relating to residential development including provisions for housing density, setbacks, parking requirements, lot coverage, types, and development in environmentally or physically constrained areas. The land use ordinance amendments relating to the affordable housing standards do not amend these general residential development standards or authorize development inconsistent with these established requirements.

The City Council finds that land use ordinance amendments are supported by the adopted Housing Element of the City of Ashland Comprehensive Plan (2019) which sets forth local goals and policies that are consistent with Goal 10.

Statewide Planning Goal 11: “Public Facilities and Services” Existing City water and sewer infrastructure and treatment facilities will not be affected by the land use ordinance amendments, nor will their ability to serve surrounding properties be affected, because the amendments do not authorize any uses not already allowed by the zoning ordinance. The findings concerning the Public Services and Utilities Element are incorporated herein by this reference. Therefore, the land use ordinance amendments are consistent with Goal 11.

Statewide Planning Goal 12: “Transportation” The land use ordinance amendments are consistent with the City’s Comprehensive Plan and Transportation System Plan because they do not adversely affect any transportation facility since they relate only to uses of types already allowed. The findings concerning the Transportation Element are incorporated herein by this reference. Therefore, the land use ordinance amendments are consistent with Goal 12.

Statewide Planning Goal 13: “Energy Conservation” The land use ordinance amendments do not change any land use patterns and development already allowed and therefore will not have any effect on Energy Conservation. The findings concerning the Energy Element are incorporated herein by this reference. Therefore, the land use ordinance amendments are consistent with Goal 13.

Statewide Planning Goal 14: “Urbanization” The proposed land use ordinance does not decrease the density of housing to be developed within the Urban Growth Boundary. Development proposals which propose to increase the amount of affordable housing to be provided are eligible for an increased density bonus, which accordingly does not tend to promote the expansion of the Urban Growth Boundary. The findings concerning the Comprehensive Plan Land Use Element, Housing Element and Urbanization Element are incorporated herein by this reference. Therefore, the amendments are consistent with Goal 14.

Statewide Planning Goal 15: “Willamette River Greenway” The affected areas are not located within or adjacent to the Willamette River Greenway. Therefore, Goal 15 is not applicable.

Statewide Planning Goal 16: ‘Estuarine Resources’ The affected areas are not located within the or adjacent to a designated estuarine resource. Therefore, Goal 16 is not applicable.

Statewide Planning Goal 17: “Coastal Shorelands” There are no coastal shorelands within the vicinity of Ashland, therefore, Goal 17 is not applicable.

Statewide Planning Goal 18: “Beaches & Dunes” There are no designated beaches or dunes within the vicinity of Ashland, therefore, Goal 18 is not applicable.

Statewide Planning Goal 19: “Ocean Resources” There are no designated ocean resources within the vicinity of Ashland, therefore, Goal 19 is not applicable.

OVERALL COUNCIL CONCLUSIONS

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

The Council finds that the amendments are consistent with and implement applicable *Ashland Comprehensive Plan Goals and Policies* and other City of Ashland Goals and Policies. The Council finds and determines that the amendments are consistent Oregon land use laws and regulations..

Accordingly, based on the above Findings of Fact and Conclusions of Law, and based upon the evidence in the whole record, the City Council hereby APPROVES Planning Action PA-L-2020-0009 relating to the ADOPTION of the amendments to the Ashland Land Use Ordinance, as reflected in Ordinance No. 3195.

Ashland City Council Approval

John Stromberg, Mayor

Date

Signature authorized and approved by the full Council this 15th day of December, 2020.

Attest:

Melissa Huhtala, City Recorder

Approved as to form:

David Lohman, Ashland City Attorney

Date

ASHLAND PLANNING DIVISION
STAFF REPORT
October 27, 2020

PLANNING ACTION: PA-L-2020-00009

APPLICANT: City of Ashland

ORDINANCE REFERENCES:

AMC 18.2.3.200 Multiple-Family Rental Unit Conversion to For-Purchase Units

AMC 18.2.5.050 Affordable Housing Standards

AMC 18.5.8.050 [Annexation] Approval Criteria and Standards

AMC 18.5.9.020 Applicability and Review Procedures

REQUEST: Amendments to Ashland's Municipal Code

I. Relevant Facts

A. Background

Beginning in 2018, Planning staff began the process of evaluating the affordable housing program. The primary goal of the evaluation was to improve administrative efficiency of the affordable housing program for the many entities involved in the Affordable Housing process. These entities included homeowners, homebuyers, members of the development community and real-estate professionals. The changes proposed address specific concerns raised over the last several years from the wide range of entities involved in the affordable housing process.

The proposed amendments to the Land Use Ordinance relate specifically to units covered under the Ashland Affordable Housing Program which are required to be affordable due to a land use approval including annexations, zone changes, density bonuses for affordable housing, and conversion of apartments into condominiums. The Affordable Housing Program aims to balance long-term affordability while allowing a reasonable rate of return for homeowners and developers. Several of the proposed ordinance revisions aim to increase the effectiveness and efficiency of the program's administration, and several changes were made to address regulatory barriers or to help simplify existing processes. All of the proposed changes are expected to help to make the program more readily understood by affordable housing and private market developers, as well as to increase the coordination between affordable and private market developers. Lastly the proposed changes to simplify resale restrictions are designed to make the transfer of homes easier for participating households.

The Planning Commission held a study session to review the identifies issues on [March 10, 2020](#). The Housing and Human Services Commission held a meeting on [July 23, 2020](#) and the City Council held a Study Session on [July 20, 2020](#).

Staff presented the potential revisions to the Planning Commission, the Housing Commission and the City Council (at the meeting dates listed above) as well as to groups of private market and affordable housing developers, and real-estate professionals at two stakeholder meetings held on August 11th and August 14th, 2020. The feedback provided by the stakeholders and from the elected and appointed officials allowed staff to draft an ordinance that addressed concerns that were raised.

The Housing and Human Services Commission (HHSC) reviewed the proposed ordinance at their regular meeting on [September 24, 2020](#) and unanimously recommended approval of the ordinance as presented. Commissioners noted that the contributions from the participants at the stakeholder meeting were valuable and helped address the concerns that members of the HHSC had raised during the initial study sessions.

The Planning Commission public hearing on October 27, 2020, and the upcoming City Council public hearing on November 17, 2020, have both been publicly noticed in accordance with 18.5.1.070.D of the Ashland Land Use Ordinance, and the Department of Land Conservation and Developments requirements for legislative ordinance changes.

B. Policies, Plans and Goals Supported:

The amendments to the Affordable Housing Standards are necessary in order to address changes in market conditions, inconsistencies in the land use code, and update affordable housing program requirements to better enable low- and moderate-income families to afford quality housing.

Oregon Statewide Planning Goals - Goal 10 Housing

- To provide for the housing needs of citizens of the state.
 - Buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density.

The City Council's "Ashland 2020" goals and objectives that relate to the Affordable Housing Standards include:

- Support and promote, through policy, programs that make the City affordable to live in. Pursue affordable housing opportunities, especially workforce housing. Identify specific incentives for developers to build more affordable housing. (high priority for 2015-2017)
- Support land-use plans and policies that encourage family-friendly neighborhoods. Draft pocket neighborhood code that allows for the construction of small scale, cottage housing projects.

The Housing Element of the Ashland Comprehensive Plan was amended in 2019 and includes the following goals and policies which are applicable to the ordinance amendments proposed:

Goal 1: Ensure a range of different dwelling types that provide living opportunities for the total cross section of Ashland's population.

Policy 1: Provide for a mix of housing types that are attractive and affordable to a diversity of ages, incomes, household sizes, and household types

Policy 4: Housing opportunities should be available to all residents without discrimination and consistent with local, state, and federally recognized protected classes under fair housing law.

Policy 9: Support the retention and development of rental housing.

Goal 2 : Support the creation and preservation of housing that is affordable to low and moderate income households and that is commensurate with the incomes of Ashland's workforce.

Policy 10: Encourage the preservation of affordable housing, including housing that is subject to a term of affordability, to avoid the net loss of safe, healthy, affordable housing.

Policy 12: Cooperate with for-profit and non-profit affordable housing providers in locating low and moderate income units in Ashland.

Goal 3: Encourage the development of housing in ways that protect the natural environment and encourage development patterns that reduce the effects of climate change.

Policy 18: Development standards shall be used to fit development to topography, generally following the concept that density should decrease on physically and environmentally constrained lands.

Policy 19: Promote infill and compact development patterns to encourage housing affordability, maximize existing land resources, and conserve habitat and environmentally sensitive areas.

Goal 4: Forecast and plan for changing housing needs over time in relation to land supply and housing production.

Policy 23: Encourage development of vacant land within the City Limits, while looking to the lands within the Urban Growth Boundary to provide sufficient land for future housing needs.

C. Ordinance Amendments

The following provides a summary of proposed revisions to the Affordable Housing Standards within Ashland's Land Use Ordinance to be considered in order to address changes in market conditions, inconsistencies in the land use code, and housing program adjustments intended to better enable low- and moderate-income families to afford quality housing.

- Changes the method by which the maximum sale price is calculated from the formula referenced in Resolution 2006-13 to a fixed rate formula. Staff is suggesting a fixed rate formula calculation for establishing the maximum resale price at a monthly increase of 0.125% calculated for each full month of ownership based on the homeowner's initial purchase price, for an annual appreciation rate of 1.5%. The current variable calculation method which incorporates lending interest rates, taxes, and homeowner association (HOA) dues would still be utilized to calculate the initial sale price when an affordable

unit enters the program. Thereafter the 1.5% annual increase in the maximum purchase price would provide for a more predictable resale price for homeowners within the affordable housing program. Further this new method of calculating resale price would ensure homeowners are not faced with a stagnant home value due to increasing HOA dues or increasing interest rates. During the stakeholder meeting a concern was raised regarding taxes increasing at a rate faster than the rate of increase based on the proposed formula. The City of Ashland has an agreement in place with the Jackson County Assessor's office which ensures that the increase in assessed value of units deed restricted through the City's affordable housing program will be based on the maximum sales price of a given unit as determined by the City's affordable housing formula. This assures that the assessed value for the purpose of determining the annual tax rate is commensurate with the formula's rate of increase.

- Establishing a fixed rate method of valuation increase for the purposes of establishing the allowable resale price will allow homeowners to calculate their future return on investment in a predictable manner. Currently determining the resale price of a covered unit employs the use of a complex formula which considers current interest rates, median incomes by household size, changes in HOA dues, and ultimately requires consultation with City Housing Program Staff to derive the resulting maximum purchase price on an annual basis. A fixed-rate formula increase eliminates such complexity and will thus increase the efficiency of the City Housing Program Specialist's administration of the program.
- Amends the provisions of the Ashland Land Use Ordinance relating to the monthly rental amounts used in the affordable housing program (18.2.5.050.B.1). Instead of utilizing the existing table outlining rental charges for affordable rental housing (Table 18.2.5.050.B) feedback from stakeholders suggest referencing the maximum rents established by U.S. Department of Housing and Urban Development (HUD) for the HOME program for the corresponding bedroom size and for Low Income Housing Tax Credit (LIHTC) program for the corresponding bedroom size for those units financed with that funding source. As These rents are adjusted annually by HUD based on the median incomes in the Medford-Ashland Metropolitan Service area.
 - Correlating Ashland's maximum rental amounts with the HUD Low-rent and High-rent limits and the LIHTC programs for our area will allow our program to better align with affordable housing proposals that utilize state or federal funding for their projects. As many affordable housing providers are already subject to the HUD established HOME and LIHTC program rent limits due to their sources of funding, making our program consistent with those limits will simplify the application processes for affordable housing providers seeking State grant funding. Further, as the State of Oregon maintain and adjust these program limits each year, the City of Ashland will no longer be responsible to annually calculate and maintain a

unique maximum rental amount table for use only for covered units within the City of Ashland.

- Amends the provisions within the Ashland Land Use Ordinance relating to the base density calculation used for determining the number of required affordable housing units (18.5.8.050.G.1). Amending this section would clarify that the base density of the property shall be calculated using the area to be developed, excluding any portions of the property containing undevelopable areas such as wetlands, floodplain corridor lands, slopes greater than 35 percent, or land dedicated as a public park.
 - Presently the affordable housing requirements are based on the entire lot size, indiscriminate of any reductions of buildable area due to natural areas to be preserved. The way this standard is presently written differs from other Land Use provisions which otherwise allow the density of a development to be reduced in consideration of the unbuildable natural areas to be preserved. Not providing for a corresponding reduction in the density of affordable housing required can have the unintended consequence of effectively increasing the proportion of required affordable housing as a proportion of the housing units actually developed. This discrepancy can result in a scenario where the number of affordable housing units required for an annexation or zone change could exceed the number of market rate units that could otherwise be developed, thereby making a residential housing project no longer financially viable without substantial governmental subsidy.
- Amends the provisions within the Ashland Land Use Ordinance establishing equivalence values for affordable housing to newly allow rentals to households earning 80% Area Median Income (AMI) to qualify as 1.25 units for the purposes of calculating the affordable housing unit requirement (18.5.8.050.G.1.c).
 - Rental units affordable to households earning 80% AMI or less are not currently being provided by the market at the rates needed, allowing such to qualify as part of an annexation/zone change request could incentivize the creation of more rental units. Presently the market rents in Ashland exceed what households earning 80%AMI can afford without being cost burdened. Amending this standard for annexations and zone changes would help address this disparity and allow developers to provide units benefiting households earning up to 80% AMI while providing rental units that satisfy the affordable housing requirements.
- Removes the provisions within the Ashland Land Use Ordinance that allow newly constructed affordable homeownership and rental units to be targeted to households earning 60% AMI (18.5.8.050.G.1.d) for required affordable housing in annexation, zone changes, and condo-conversions.
 - Removing the 60% AMI target for ownership households, and instead focusing on households earning 80% AMI, 100% AMI, or 120% AMI, is

necessary in Staff’s assessment as there are no longer lending packages for the 60% AMI income bracket and units are therefore difficult to finance at change of ownership. Affordable housing providers (e.g. Habitat for Humanity) have indicated that households earning 60% AMI and below often do not qualify for loans (either subsidized and conventional) and thus such units can be difficult to develop, or resale once completed. Raising the qualifying incomes to 80% AMI or below for the lowest income bracket would not preclude a household earning 60% AMI from purchasing a qualified ownership unit, but it would enable households earning up to 80% AMI to qualify.

- Allowing for rental units targeted to households earning 80% AMI will help ensure rentals developed by the private market are financially viable. Due to the existing availability of the 60% AMI rental option, private developers select the 60% rental option simply to provide fewer affordable units, however the difficulty of developing and administering affordable units at this income level is often not fully considered. Non-Profit affordable housing providers (e.g. Housing Authority of Jackson County) will still be able to develop rental units reserved for households earning 60% AMI as such units will still qualify as meeting the “less than the 80%AMI” target.
- Amend the affordable housing household “occupancy basis” as described Table 18.2.5.050.C of the Land Use Ordinance. Potential changes include removing the 4-bedroom /7-person option; revising the 3-bedroom unit occupancy basis from 6 to 5 persons; revising the and 2-bedroom units occupancy basis from 4 to 2 persons. Households with a greater or lesser number of occupants shall remain eligible for covered units but the sale price shall not be adjusted based on the median incomes of the larger household sizes.

Table 18.2.5.050.C. Occupancy Basis for Affordable Rental Housing

Unit Type		Occupancy
Studio	=	1 person household income for the designated income level
1 Bedroom	=	2 person household income for the designated income level
2 Bedroom	=	4 person <u>3 person</u> household income for the designated income level
3 Bedroom	=	6 person <u>5 person</u> household income for the designated income level
4 Bedroom	=	7 person household income for the designated income level

- Given Ashland's average persons per household number (2.0 persons per household), the larger household sizes indicated in the table are not typically realized in covered affordable units. As the maximum sale price of a unit is based on household incomes, these large household sizes setting the occupancy basis within the existing table have the unintended effect of increasing the purchase price beyond the means of the more typical, smaller, household sizes.
- Amend the provisions within the Ashland Land Use Ordinance that establish the timing of the development of affordable units (18.2.5.050.G.4) to clarify that dedication of land through transfer of title to a non-profit affordable housing provider will satisfy these requirements and there would be no further timing obligation for the market rate units. There has been concern raised by private developers that they have no control over the timing of the development of affordable units after the property is transferred to an affordable housing partner.
- The Planning Commission had expressed concerns about the timing of the development of the affordable housing component of the overall development as well as ensuring that the units would be built as affordable. To address this concern language was added regarding the timing of the transfer of title and granting certificate of occupancy for the market rate units.
- Removes the provision within the Ashland Land Use Ordinance that requires affordable units be distributed throughout the project (18.2.5.050.G.5).
 - The City has approved numerous exceptions to this standard in finding that the efficient development of affordable housing often necessitates clustering the units together. Further, given the small scale of developments within Ashland, the concern intended to be addressed by this standard, that affordable units would be segregated and stigmatized within an area, has not been evident in recent developments. Given the requirement for annexations and zone changes to include affordable housing, such needed housing will ultimately be distributed widely around the community as a whole as individual proposals are developed over time.
 - Removing this requirement would provide developers more flexibility regarding the location of affordable housing units within a project. This is often requested as a condition of partnering with non-profit housing developers to complete the affordable housing units. Affordable housing providers can benefit from consolidating their affordable housing units into a contiguous area as it provides for efficiency in the initial building process, and further simplifies management of the affordable units over time.
 - Both private and affordable housing developers were in favor of this change. And while there were concerns raised regarding social justice issues and issues of stigmatism at the Housing and Human Services

Commission as well as at the stakeholder meeting. The evaluation and changes currently being proposed are in response to the barrier removal and issues that have been identified over the past several years. Social justice issues in affordable housing developments have not been identified as an issue, while the uncertainty of the development process when asking for exceptions to approval criteria has been brought up as a barrier to the development of affordable housing. Consequently, staff is recommending the removal of this requirement.

- Amends the provisions of the Ashland Land Use Ordinance relating to the comparable building materials used for required affordable housing units (18.2.5.050.G.6) to newly allow different housing types. By adding allowances for different “housing types”, the provision would be amended to newly permit affordable units which are of a different housing type than the market rate units. For example, in a new subdivision of detached single-family homes, the affordable units could be attached-SFR, cottages, or apartments and still comply with this standard provided they retain a comparable number of bedrooms to the market rate units. Essentially if a proposal included an affordable housing provider or private developer that wanted to provide apartments or cottages, of a compatible bedroom mix, that could be newly allowable.
 - The Affordable Housing Standards as established do presently require affordable units to be comparable in bedroom size, if all the market rate units are 3 bedrooms, then so to should be the affordable units. Staff believes the City could consider allowing different housing types that still provide the commensurate number of bedrooms required. The City has identified a need for rental housing, and for smaller ownership units (e.g cottages/townhomes). By clarifying within the ordinance that alternative housing types are permissible, proposals for annexation and zone changes could more readily provide for a mix of housing needs by providing apartments, cottages, or townhomes within what is otherwise proposed as a detached single-family subdivision.
- Amends the provisions of the Ashland Land Use Ordinance relating to the maximum net assets for households in the affordable housing program (18.2.5.050.C.1.c) to adjust the limits for consumer price index changes since 2005. The current \$20,000 asset limitation, or \$130,000 for retired households purchasing an affordable unit has been unchanged since Resolution 2006-13 was approved. Adjusting these figures to \$25,000 and \$175,000 respectively at this time will update the amounts to the 2020 equivalents. Furthermore, staff would suggest an annual CPI adjustment be included in the final ordinance and resolution language to account for changes over time.
- Amends the provisions of the Ashland Land Use Ordinance requiring a 60-year term of affordability for covered affordable units through annexation or zone changes (18.2.5.050.G.8).

- Although 60 years of affordability is of benefit to the City in providing affordable housing for longer, there have been concerns raised regarding issues with lenders, conventional lenders can be reluctant to loan on a property where a deed restriction has a term of affordability that extends beyond the typical 30-year term of a mortgage, and with affordable housing developers. Similarly, there were concerns about homeowners feeling like renters under such long deed restrictions. For these reasons Staff suggests deed restricting affordable housing units for 30 years for ownership units or 60 years for rental units as part of this update of the affordable housing standards.
- Both the Planning and Housing Commissions discussed concerns regarding the reduction of the term of affordability from 60 years to 30 years and wished to further examine potential equity recapture opportunities that could be considered through resale restrictions imposed on covered affordable housing units. To address this concern staff is proposing a recapture of the original SDC subsidy to be as follows: At year thirty the homeowner can sell the unit at market rate and pay back the full amount of deferred SDC's with interest at the current Engineering News Record (ENR) index utilized by the city's Public Works Department as the interest rate at the time of sale. For owners of the affordable housing units maintaining ownership beyond the 30-year term of affordability, the deferred system development charges will be reduced every year thereafter proportionately for a period of 30 years.
- Removes the provision of the Ashland Land Use Ordinance that limit the density bonus allowable for affordable housing provided as part of an annexation to 25% (18.2.5.050.G.8). This limit is less than is otherwise allowable through Performance Standards ordinance provisions which allow for 35% maximum density bonus for affordable housing ([18.3.9.050.B.4](#)) and a cumulative bonus of up to 60%, and as such is inconsistent with other density bonus allowances.
 - Amending this section of the ordinance is a good example of eliminating inconsistencies within different sections of the Land Use Ordinance, and therefore simplify the application and approval process for annexations. Specifically, this change will enable affordable housing developers to provide as many affordable housing units on a development requiring annexation as could otherwise be achieved upon a property already within the City limits. This promotes the creation of more needed affordable housing within the community.
- Amend the provisions of the Ashland Land Use Ordinance that relate to residential annexations requiring there be less than a five-year supply of vacant or redevelopable land in the current City Limits (18.2.5.050.H.1).
 - Removal of this requirement was a recommendation of the Ashland Housing Strategy Implementation Plan which was presented to the City Council in May of 2019:

- *“Revise the City’s annexation policies to eliminate the requirement to demonstrate less than a five-year supply of land. Existing policies were intended to help ensure orderly growth; however, this is the role of the City’s Urban Growth Boundary (UGB). Creating obstacles to annexing land within the UGB for housing contributes to higher land costs and makes it difficult to find land for larger housing developments.”*

II. Procedural

18.5.9.020 Applicability and Review Procedure

Applications for Plan Amendments and Zone Changes are as follows:

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

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

III. Conclusions and Recommendations

Staff recommends approval of the ordinance.

The Housing and Human Services Commission (HHSC) reviewed the proposed ordinance at their regular meeting on [September 24, 2020](#) and unanimously recommended approval of the ordinance as presented.

Commissioners Echo Fields / Chris Mahan m/s to recommend the Amendments to the Land Use Ordinance, regarding conversion of Multi-family rental housing into for purchase, Affordable Housing Standards, and Approval standards for Zone changes and Annexation changes. Voice Vote: All Ayes. Motion passed

The Planning Commission’s recommendations regarding the attached ordinance amendments will be presented to the City Council for consideration at the public hearing and First Reading scheduled on November 17, 2020.

Attachments:

Draft Ordinance

Stakeholder Meeting Feedback Memo

Sample SDC payback schedule

[Council Minutes December 17, 2018](#)

[Planning Commission Minutes March 10, 2020](#)

[Housing and Human Services Commission Minutes July 23, 2020](#)

[Housing and Human Services Commission Minutes Sept 24, 2020](#)

Memo

DATE: 9/24/2020

TO: Ashland Housing and Human Services Commission
Ashland Planning Commission
Ashland City Council

FROM: Brandon Goldman, Senior Planner
Linda Reid, Housing Program Specialist

RE: Affordable Housing Standards – Stakeholder meeting

On August 11th and August 14th, 2020 meetings were convened consisting of City Staff, Elected and Appointed officials, and members of the development communities representing both affordable housing providers and market-rate housing developers. Those in attendance at one or both meetings included:

Elected and Appointed Officials

Dennis Slattery, City Council
Alan Harper, Planning Commission
Rich Rohde, Housing & Human Services
Commission

Affordable Housing Providers

Cindy Dyer, Columbia Care
Denise James, Habitat for Humanity
Ryan Haynes, Housing Authority of
Jackson County
Brian Shelton-Kelley, NeighborWorks
Umpqua

City of Ashland Staff

Bill Molnar, Community Dev. Director
Brandon Goldman, Senior Planner
Linda Reid, Housing Specialist

Market Rate Developers

Kyle Taylor, Taylored Elements
Mark Knox, KDA Homes
Laz Ayala, KDA Homes
Rick Harris, Realtor

During the stakeholder meeting(s) open discussion among the participants explored the intended and potentially unintended consequences of the draft revisions to the affordable housing standards. The group explored Ashland's existing Affordable Housing Standards and discussed whether the changes being considered would help or hinder the production of affordable housing. Through these discussions it was evident that the production of affordable housing benefiting households earning less than 80% the area median income could best be achieved by coordination between market-rate developers and affordable housing providers. Below is a summary of various issues discussed by the meeting



participants. Staff was able to take these discussions into consideration and incorporate changes into the draft ordinance being presented to the Commissions and Council for consideration.

60-year versus a 30-year term of affordability:

Annexations and Zone Change standards within the Ashland Land Use Ordinance currently require the affordable units remain affordable for 60 years. Both market-rate developers and Affordable Housing Developers expressed that the standard applying equally to both rentals and ownership did not afford buyers of affordable housing units to realize equity returns. Specifically, Habitat for Humanity noted that the 60-year restriction was too long and did not work with Habitats equity share model where they sell the finished home to the homeowner for the appraised cost, then recapture a portion of the equity upon resale. Affordable housing providers further noted that a 60-year term for affordable rental housing did align with other restrictions from primary funding sources such as the Low-Income Housing Tax Program. It was further expressed that a 30-year cap for affordable ownership units would be better for lenders and homeowners. Additionally, it was stated that ownership housing is a tiered system that provides for upward mobility, and as such affordable housing can provide the entry tier for homeownership, and a 30-year term would better address this mobility objective. The Housing Authority of Jackson County noted that to be competitive in obtaining state or federal funding for an affordable rental housing project, a 60-year term is standard. This discussion raised the issue that instead of changing the existing 60-year requirement to 30 years for all affordable units, perhaps the final ordinance could provide differing periods of affordability for affordable rental housing and affordable ownership housing.

Distribution of affordable housing throughout the Development:

Annexations and Zone Change standards within the Ashland Land Use Ordinance currently require that the affordable units provided shall be distributed throughout the project. The stakeholders did discuss existing ordinance’s underlying intent to not cluster all the affordable units together and create a separate neighborhood of low-income residences. It was also expressed that the size of Ashland’s developable properties leads to smaller developments where such segregation or “stigmatization” of low-income housing has not been evident. Noting that as such small developments are not impacted by the social justice issue the ordinance intended to address, a market rate developer explained that needing to provide some of the the highest value land to the affordable units due to the distribution requirement undercuts the developer’s ability to “subsidize” the units through the sale of the market rate units. The participants in the meeting(s) were in general agreement that removal of the distribution requirement would help facilitate the development of affordable housing.

Transfer of land to a non-profit affordable housing provider:

Annexations and Zone Change standards within the Ashland Land Use Ordinance currently provide an option that a market rate developer can transfer land to an affordable housing provider or public corporation to satisfy the affordable housing requirement. However, this standard is presently unclear as to whether this also satisfies the timing requirements for affordable housing to be developed concurrent with the market rate homes. In discussing this potential clarification regarding transfer of land, the participants expressed that the creation of affordable housing has historically been accomplished through a transfer to an affordable housing provider. Private market developers explained that they don’t have the same access to affordable housing financing programs that the non-profits have and such partnership with an affordable housing provider is key. Further it was noted that holding costs of the property to the private market developer were a barrier and if they could transfer it to the affordable housing developer early in the process that would assist in their financial project pro formas. It was also noted



that upon receipt of transferred land, an affordable housing provider would seek development financing and that competitive process and award cycle is out of the control of the market rate development. As there was general agreement that the transfer of land to an affordable housing provider was advantageous to creating affordable housing, and that the market rate development should be able to move forward independent of the development of the affordable housing once the transfer is complete.

Maximum Resale and Maximum Rental Formulas.

The proposed changes to the affordable housing standards include revisions to how the resale value of ownership units is calculated, as well as changing the formula calculation for affordable rents. Stakeholder participants were favorable to moving the ownership calculation from the current variable formula to a fixed rate formula as it was noted that having such clarity in the resale formula is really helpful for homeowners and is beneficial in application with a land trust model. It was further supported in that a fixed rate formula provides some predictable equity return for the homeowner. There was concern that the 1.5% rate may be insufficient to keep up with market rate appreciation. Affordable rental providers were favorable to changing the rental rate formula to be indexed using the HOME program as proposed, but further questioned whether the formula could also consider the maximum rents per the Low Income Housing Tax Credit program for projects that receive LIHTC funding. In consideration of these differing indexes, and in acknowledging that LIHTC is a significant funding source for larger rental developments, Staff has modified the draft ordinance to address this issue.

Conclusion

Overall, the stakeholder meetings allowed members of the development community to review the proposals being considered and provide early input to help shape the final ordinance. In addition to providing direct feedback early in the process, the meetings also functioned to inform the participants of the potential changes, so they are better able to provide informed testimony at the future public hearings. Attendees voiced that workforce housing (moderate income/ownership) programs should be supported through the jurisdiction and Affordable housing (low-income/rentals) are best accomplished through transfer of land to affordable housing providers who are better equipped to undertake and manage such developments. The opportunity for market-rate developers and non-profit affordable housing developers to meet and discuss the program together further clarified that their efforts to develop affordable housing in Ashland is best accomplished through partnerships. The changes proposed to the Affordable Housing Standards within the Ashland Land Use Ordinance should function to facilitate such coordination.



**SDC Affordable Housing Payoff Estimate - Proration for staying in program
up to 60 years**

Year in Program	SDC Plus 1.5% annual increase (ENR avg)	Payback year 1-30	Year in Program	SDC Plus 1.5% annual increase (ENR avg)	Payback after year 30
Year 0	\$14,000.00	Not Eligible	Year 31	\$22,211	\$21,471
Year 1	\$14,210	Not Eligible	Year 32	\$22,545	\$21,042
Year 2	\$14,423	Not Eligible	Year 33	\$22,883	\$20,594
Year 3	\$14,640	Not Eligible	Year 34	\$23,226	\$20,129
Year 4	\$14,859	Not Eligible	Year 35	\$23,574	\$19,645
Year 5	\$15,082	Not Eligible	Year 36	\$23,928	\$19,142
Year 6	\$15,308	Not Eligible	Year 37	\$24,287	\$18,620
Year 7	\$15,538	Not Eligible	Year 38	\$24,651	\$18,078
Year 8	\$15,771	Not Eligible	Year 39	\$25,021	\$17,515
Year 9	\$16,007	Not Eligible	Year 40	\$25,396	\$16,931
Year 10	\$16,248	Not Eligible	Year 41	\$25,777	\$16,326
Year 11	\$16,491	Not Eligible	Year 42	\$26,164	\$15,698
Year 12	\$16,739	Not Eligible	Year 43	\$26,556	\$15,049
Year 13	\$16,990	Not Eligible	Year 44	\$26,955	\$14,376
Year 14	\$17,245	Not Eligible	Year 45	\$27,359	\$13,679
Year 15	\$17,503	Not Eligible	Year 46	\$27,769	\$12,959
Year 16	\$17,766	Not Eligible	Year 47	\$28,186	\$12,214
Year 17	\$18,032	Not Eligible	Year 48	\$28,609	\$11,443
Year 18	\$18,303	Not Eligible	Year 49	\$29,038	\$10,647
Year 19	\$18,577	Not Eligible	Year 50	\$29,473	\$9,824
Year 20	\$18,856	Not Eligible	Year 51	\$29,915	\$8,975
Year 21	\$19,139	Not Eligible	Year 52	\$30,364	\$8,097
Year 22	\$19,426	Not Eligible	Year 53	\$30,820	\$7,191
Year 23	\$19,717	Not Eligible	Year 54	\$31,282	\$6,256
Year 24	\$20,013	Not Eligible	Year 55	\$31,751	\$5,292
Year 25	\$20,313	Not Eligible	Year 56	\$32,227	\$4,297
Year 26	\$20,618	Not Eligible	Year 57	\$32,711	\$3,271
Year 27	\$20,927	Not Eligible	Year 58	\$33,202	\$2,213
Year 28	\$21,241	Not Eligible	Year 59	\$33,700	\$1,123
Year 29	\$21,560	Not Eligible	Year 60	\$34,205	\$0
Year 30	\$21,833	Not Eligible			