

Council Business Meeting

December 7, 2021

Agenda Item	Public Hearing and First Reading for Annexation Code Amendments	
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SUMMARY

The City Council is being asked to hold a public hearing and make a decision on the proposed land use code amendments to the annexations standards in Chapter 18.5.8 Annexations of the Ashland Municipal Code (AMC). The draft code amendments and meeting materials are available on the project web page at www.ashland.or.us/annexationcodeupdate.

The annexation code amendments are intended to: 1) address the issues raised before the Land Use Board of Appeals (LUBA) in the appeal of the city's annexation approval that included two parcels totaling 16.87 acres located at 1511 Highway 99N (Applicant: Kendrick Enterprise LLC and Casita Developments); 2) provide clear standards for the evaluation of needed housing; and 3) to provide clarity and responsiveness in Ashland's development process.

The annexation code amendments are focused in three areas – providing a process for the approval authority to consider requests for relief from the annexation standards (e.g., exceptions and variances), creating consistency in terminology (e.g., site, parcel, lot), and providing clear, measurable standards for connections to and improvements of public utilities and the transportation system.

The Planning Commission held a public hearing on [November 9, 2021](#) and unanimously recommended approval of the attached ordinance amending AMC Title 18 Land Use. The ordinance recommended by the Planning Commission includes the suggested amendment from the November 1, 2021 City Council study session that the number of affordable units required of an annexation are rounded up rather than rounded down. This change is included on page 10 of the attached ordinance in 18.5.8.050.G.7.

POLICIES, PLANS & GOALS SUPPORTED

The annexation standards and application process affect the amount of land brought into the city limits for development, including the housing needed to accommodate existing and future residents. The clarity of the and annexation standards and the predictability of the annexation process impacts the supply of land available to accommodate future growth and housing.

The *2019-2021 City Council Biennial Goals* identify housing needs as a moderate priority for developing and/or enhancing value services.

The 2021-2041 Housing Capacity Analysis (HCA) found that annexation of land from the urbanizing area (UGB) into the city limits is necessary to accommodate Ashland's population growth over the next 20 years. The HCA recommended the city identify opportunities to create greater certainty and clarity in the annexation process to ensure Ashland has an adequate supply of land available and serviced to accommodate

future growth. The HCA is a technical study required by state law and was adopted by the City Council on [August 17, 2021](#) as a technical report and supporting document to the *Ashland Comprehensive Plan*.

Similarly, the 2019 Ashland Housing Strategy Implementation Plan found that a lack of clarity in annexation policies can impede the development of needed housing:

Existing [annexation] 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.

The *Ashland Comprehensive Plan* includes a goal in the Housing Element to “ensure a range of different dwelling types that provide living opportunities for the total cross section of Ashland’s population (6.10.01).” Included with this goal are the following applicable policies: “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.” The Housing Element includes another goal to “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 (6.10.02).” Annexation proposals are required to provide affordable housing.

PREVIOUS COUNCIL ACTION

The City Council received a project update at the November 1, 2021 study session meeting.

BACKGROUND AND ADDITIONAL INFORMATION

1. Public Meetings

The City Council initiated the legislative amendment to Chapter 18.5.8 Annexations to address issues raised on appeal before the Oregon Land Use Board of Appeals (LUBA) at the [August 3, 2021](#) meeting. The Ashland Municipal Code (AMC) allows the Commission to initiate a Type III legislative action by motion (see code excerpt below).

18.5.1.070 Type III (Legislative Decision)

Type III actions are reviewed by the Planning Commission, which makes a recommendation to City Council. The Council makes final decisions on legislative proposals through enactment of an ordinance.

A. Initiation of Requests. The City Council, Planning Commission, or any property owner or resident of the city may initiate an application for a legislative decision under this ordinance. Legislative requests are not subject to the 120-day review period under subsection 18.5.1.090.B (ORS 227.178).

On May 12, 2021, LUBA provided their Final Opinion and Order and reversed the city's annexation approval that included two parcels totaling 16.87 acres at 1511 Highway 99N (Applicant: Kendrick Enterprise LLC and Casita Developments). In reversing the city's approval, LUBA determined that the city's annexation approval criteria do not allow for exceptions because AMC 18.5.8.050 requires either full conformance at the time of the decision or future full conformance through the imposition of conditions. Under the AMC, exceptions to the street standards apply to proposals for new development or land divisions, neither of which were proposed as part of the annexation. A summary of the appellant’s points raised before LUBA is included in the staff memo included in the [August 3, 2021](#) City Council meeting materials.

The Planning Commission reviewed the LUBA appeal and proposed annexation code amendments at three electronic public meetings including [May 25, 2021](#), [August 24, 2021](#), and [September 28, 2021](#). The Planning

Commission held a public hearing on [November 9, 2021](#) and recommended approval of the attached ordinance.

Staff presented the code amendments to the Transportation Commission on [October 21, 2021](#). The Transportation Commission recommended retaining the “safe and accessible” language in the annexation standards pertaining to pedestrian and bicycle improvements.

Staff updated the City Council on the project at the November 1, 2021 study session. At this meeting, an amendment was suggested to change the number of affordable units required of an annexation to be rounded up rather than rounded down. This change is included on page 10 of the ordinance in 18.5.8.050.G.7.

At the time of writing, the Planning Commission is scheduled to review the draft findings document at their December 14, 2021 meeting. The findings document addresses the City’s approval criteria for a legislative amendment as well as the Statewide Planning Goals and applicable Oregon Administrative Rules and will be included for the City Council review at the scheduled second reading on December 21, 2021.

2. Proposed Amendments

The annexation code amendments are focused in three areas – providing a process for the approval authority to consider requests for relief from the annexation standards (e.g., exceptions and variances), creating consistency in terminology (e.g., site, parcel, lot), and providing clear, measurable standards for connections to and improvements of public utilities and the transportation system. The amendments are summarized below.

- **Process for exceptions and variances to annexation standards**
 - 18.4.6.020.A – clarifies that public facility requirements including the street standards apply to annexations.
 - 18.4.6.020.B.1 – makes the approval criteria for the Exception to the Street Standards the same as for the Exception to the Site Design and Use Standards by providing flexibility for the approval authority to approve an alternate design that meets the purpose and intent of the street design standards.
 - 18.5.8.050 – permits the approval authority to grant exceptions and variances to the annexation standards.
 - 18.5.8.050.I – clarifies that the approval criteria in the Exception to Street Standards or Variance sections can be used by the approval authority to grant exceptions and variances to the annexation standards.
- **Consistency in Terminology**
 - A variety of terms – property, site, etc. – are replaced throughout the annexation chapter with “annexed area.” A new definition of annexed area is added.
 - New definitions added for the terms contiguous, parcel and tract.
 - The definitions of lot and parcel are revised to make it clear that the terms are used throughout the land use code interchangeably. This is the approach and language is used in the Oregon Department of Land Conservation and Development’s model code.
- **Measureable Standards for Transportation Improvements**
 - 18.5.8.030.A – clarifies that the City Council may require public facility improvements in addition to those required in the annexation standards, as well as grant exceptions and variances to the standards.

- 18.5.8.050.E – annexation standards for improvements to the public utilities and transportation system are reworded to make requirements clear, per the 2021 Housing Capacity Analysis recommendations. The standards are reworded to require specific improvements bordering and within the annexed area, as well as connecting an annexed area to likely bicycle or pedestrian destinations within ¼ mile of the annexed area. The Planning Commission recommended retaining the safe and accessible bicycle and pedestrian facility requirement for annexations with the revisions included in the attached ordinance. The revised standard for safe and accessible bicycle and pedestrian facilities provides a clear expectation of the transportation engineering analysis required of an annexation application. The background on the safe and accessible bicycle and pedestrian facility standards are on pages 2 - 4 of the staff report in the [Record for Planning Action PA-L-2021-00012](#).
- **Other amendments**
 - Concurrent planning application – language added in 18.5.8.020.F and 18.5.8.030 requiring concurrent filing of a planning application for the development of the annexed area except for City-initiated annexations.
 - 18.5.8.060 – clarifies that additional areas can be included in the annexation by the Staff Advisory to make the boundary more logical, to efficiently extend public facilities **or** to avoid creating islands that are surrounded by the City.

3. Review Procedure

AMC 18.5.9.020.B permits legislative amendments to meet changes in circumstances and conditions.

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.

FISCAL IMPACTS

The review of development proposals, including annexations, is currently part of the work flow for Planning Division staff. The amendments to the annexation standards are not expected to impact existing workload, but rather anticipated to increase the efficiency of the City’s land use review and approval process.

STAFF RECOMMENDATION

Staff recommends adoption of the annexation code amendments as recommended by the Planning Commission. The attached ordinance reflects the Planning Commission recommendation.

ACTIONS, OPTIONS & POTENTIAL MOTIONS

A motion for approval of first reading of the ordinances is included below should the Council decide to approve first reading as presented.

1. Motion for Approval

The attached ordinances reflect the Planning Commission recommendation.

- I move to approve first reading of Ordinance 3204, which is titled, “An ordinance amending chapters 18.4.6, 18.5.8 and 18.61 of the Ashland Land Use Ordinance regarding annexations” and to move the ordinance to second reading at the December 21, 2021 meeting.

REFERENCES & ATTACHMENTS

1. Ordinance 3204, An ordinance amending chapters 18.4.6, 18.5.8 and 18.61 of the Ashland Land Use Ordinance regarding annexations.
2. [Record for Planning Action PA-L-2021-00012](#)
3. Meeting Materials www.ashland.or.us/annexationcodeupdate

1 urbanizing area (UGB) into the city limits is necessary to accommodate Ashland’s population
2 growth over the next 20 years. The HCA recommended the City identify opportunities to create
3 greater certainty and clarity in the annexation process to ensure Ashland has an adequate supply
4 of land available and serviced to accommodate future growth.; and

5
6 **WHEREAS**, the 2019 Ashland Housing Strategy Implementation Plan also found that a lack of
7 clarity in annexation policies can impede the development of needed housing; and

8
9 **WHEREAS**, the annexation approval criteria put forth in chapter 18.5.8.050 of the Ashland
10 Municipal Code do not allow the city to approve exceptions and variances to the annexation
11 approval criteria.; and

12
13 **WHEREAS**, the standards and approval criteria for development within the City Limits allow
14 the City Planning Commission or City Council to consider approval of variances under chapter
15 18.5.5 Variances, and exceptions under Section 18.4.6.020.B.1.; and

16
17 **WHEREAS**, amendments to the annexation criteria in 18.5.8.050 are needed to allow for
18 consideration of exceptions and variances to accommodate unique or unusual conditions and
19 provide for an equitable review process that is consistent with the planning application process
20 that is applied to developments within the City Limits.; and

21
22 **WHEREAS**, the City of Ashland Planning Commission conducted on November 9, 2021 a duly
23 advertised public hearing on amendments to the Ashland Land Use Ordinance concerning the
24 standards relating to annexations, and following deliberations recommended approval of the
25 amendments.; and

26
27 **WHEREAS**, the City Council of the City of Ashland conducted a duly advertised public hearing
28 on the above-referenced amendments December 7, 2021.; and

1 **WHEREAS**, the City Council of the City of Ashland, following the close of the public hearing
2 and record, deliberated and conducted first and second readings approving adoption of the
3 Ordinance in accordance with Article 10 of the Ashland City Charter.; and
4

5 **WHEREAS**, the City Council of the City of Ashland has determined that in order to protect and
6 benefit the health, safety and welfare of existing and future residents of the City, it is necessary to
7 amend the Ashland Municipal Code and Land Use Ordinance in manner proposed, that an adequate
8 factual base exists for the amendments, the amendments are consistent with the comprehensive
9 plan and that such amendments are fully supported by the record of this proceeding.
10

11 **THE PEOPLE OF THE CITY OF ASHLAND DO ORDAIN AS FOLLOWS:**
12

13 **SECTION 1.** The above recitations are true and correct and are incorporated herein by this
14 reference.
15

16 **SECTION 2.** Section 18.4.6.020 [Applicability – Public Facilities] of the Ashland Land Use
17 Ordinance is hereby amended to read as follows:

18 **18.4.6.020 Applicability**

19 **A. Applicability.** Chapter 18.4.6 applies to all new development, ~~including projects subject~~
20 ~~to Land Division (Subdivision or Partition) approval and developments subject to Site~~
21 ~~Design Review, and planning actions requiring a Type I, Type II, or Type III review~~
22 ~~procedure~~ where public facility improvements are required. All public facility improvements
within the City shall occur in accordance with the standards and procedures of this chapter.

23 **B. Exceptions and Variances.** Requests to depart from the requirements of this chapter are
24 subject to chapter 18.5.5 Variances, except that deviations from section 18.4.6.040 Street
25 Design Standards are subject to 18.4.6.020.B.1 Exceptions to the Street Design Standards,
below.

26 1. Exception to the Street Design Standards. The approval authority may approve exceptions
27 to the ~~standards section in 18.4.6.040~~ Street Design Standards in section 18.4.6.040 if **all**
28 **of the following circumstances the circumstances in either subsection a or b below,**
are found to exist.

- 29 a. There is demonstrable difficulty in meeting the specific requirements of this chapter
30 due to a unique or unusual aspect of the site or proposed use of the site; and the
exception is the minimum necessary to alleviate the difficulty; and the
exception is consistent with the Purpose, Intent, and Background of the Street

1 Design Standards in subsection 18.4.6.040.A; and the exception will result in
2 equal or superior transportation facilities and connectivity considering the
3 following factors where applicable.

4 ~~b. The exception will result in equal or superior transportation facilities and~~
5 ~~connectivity considering the following factors where applicable.~~

- 6 i. For transit facilities and related improvements, access, wait time, and ride
7 experience.
8 ii. For bicycle facilities, feeling of safety, quality of experience (i.e., comfort level of
9 bicycling along the roadway), and frequency of conflicts with vehicle cross traffic.
10 iii. For pedestrian facilities, feeling of safety, quality of experience (i.e., comfort level
11 of walking along roadway), and ability to safety and efficiency crossing roadway.;

12 or

13 ~~c. The exception is the minimum necessary to alleviate the difficulty.~~

14 ~~d. The exception is consistent with the Purpose and Intent of the Street~~
15 ~~Standards in subsection 18.4.6.040.A.~~

16 b. There is no demonstrable difficulty in meeting the specific requirements, but
17 granting the exception will result in a design that equally or better achieves the
18 stated Purposes, Intent, and Background of the Street Design Standards in
19 subsection 18.4.6.040.A.

20 **SECTION 3.** The Annexations Chapter of Ashland Land Use Ordinance is hereby amended as
21 follows:

22 **18.5.8.010 Purpose**

23 ~~This chapter contains~~ The purpose of this chapter is to establish procedures and approval
24 criteria for the ~~Annexation~~ annexation of land to provide for the orderly expansion of the City
25 and ~~adequate provision of~~ public facilities and services, consistent with the provisions of
26 the Oregon Revised Statutes (ORS) including ORS Chapter 222 or successor state
27 statute.

28 **18.5.8.020 Applicability and Application Submission Requirements**

29 Except for annexations initiated pursuant to section 18.5.8.040, application for annexation shall
30 include the following information.

- 31 **A.** Consent to annexation, which is non-revocable for a period of one year from its date.
32 **B.** Agreement to deposit an amount sufficient to retire any outstanding indebtedness of special
33 districts defined in ORS 222.510.
34 **C.** Boundary description and map prepared in accordance with ORS 308.225. Such description
35 and map shall be prepared by a registered land surveyor. The boundaries shall be surveyed
36 and monumented as required by statute subsequent to City Council approval of the

1 proposed annexation.

2 **D. Written findings addressing the criteria and standards in section ~~18.5.8.040~~18.5.8.050.**

3 **E. Written request by the property owner for a zone change. Provided, however, no written**
4 **request shall be necessary if the annexation has been approved by a majority vote in an**
5 **election meeting the requirements of Section 11g of Article XI of the Oregon Constitution**
(Ballot Measure No. 47).

6 **F. For annexation applications not initiated by the City, a concurrent filing of a planning**
7 **application (e.g., Site Design Review, Subdivision, or Land Division) for the**
8 **development of the annexed area.**

9 **18.5.8.030 Applicability and Review Procedure**

10 All annexations shall be processed under the Type III procedure. **Except for City-initiated**
11 **annexations, annexation applications require an accompanying planning application for**
12 **the development of the entirety of the annexed area in accordance with applicable**
13 **procedure and approval criteria in chapter 18.5.1. General Review Procedures concurrent**
with the annexation application.

14 **A. Legislative Authority. Annexations are a legislative decision and the City Council**
15 **makes the final decision on annexations in accordance with subsection**
16 **18.5.1.010.B.4. The City Council may require improvements to public facilities, such**
17 **as utilities and streets, as a condition to annexation approval, in addition to the**
18 **requirements of section 18.5.8.050, and grant exceptions and variances to the criteria**
and standards in accordance with subsection 18.5.8.050.I.

19 **18.5.8.040 Initiation by City Council or Planning Commission**

20 The City Council or Planning Commission on its own motion may initiate a proposal for
21 annexation. The **applicable** approval criteria and standards in section 18.5.8.050 shall apply **to**
22 **City-initiated annexation applications. Provided, however, that in the case of annexation**
23 **pursuant to section 18.5.8.050.H.3 (current or probable public health hazard due to lack**
24 **of full City sanitary sewer or water services) or section 18.5.8.030.H.6 (the lot or lots**
proposed for annexation are an island completely surrounded by lands within the city
limits), the approval standards in subsections 18.5.7.050.E, F and G shall not apply.
25 **Annexations initiated to address dangers to public health shall follow the process and be**
26 **subject to the criteria in ORS Chapter 222 or successor state statute.**

27 **18.5.8.050 Approval Criteria and Standards**

28 **An annexation may be approved if the proposed request for annexation conforms, or can**
29 **be made to conform through the imposition of conditions, with all of the following**
30 **approval criteria. An application for an annexation may be approved if the proposal**
meets the applicable criteria in subsections A through H below. The approval authority

1 may, in approving the application, impose conditions of approval consistent with the
2 applicable criteria and standards, and grant exceptions and variances to the criteria and
3 standards in this section in accordance with subsection 18.5.8.050.I.

4 A. The ~~land~~annexed area is within the City's Urban Growth Boundary.

5 ~~B. The proposed zoning for the annexed area is in conformance with the designation~~
6 ~~indicated on the Comprehensive Plan Map, and the project, if proposed concurrently~~
7 ~~with the annexation, is an allowed use within the proposed zoning. The annexation~~
8 ~~proposal is consistent with the Comprehensive Plan plan designations applicable to~~
9 ~~the annexed area, including any applicable adopted neighborhood, master, or area~~
10 ~~plan, and is an allowed use within the proposed zoning.~~

11 C. The ~~land~~annexed area is ~~currently~~ contiguous with the ~~present~~ city limits.

12 D. Adequate City facilities for the provision of water to the ~~site~~annexed area as determined by
13 the Public Works Department; the transport of sewage from the ~~site~~annexed area to the
14 ~~waste water treatment plant~~an approved waste water treatment facility as determined
15 by the Public Works Department; the provision of electricity to the ~~site~~annexed area as
16 determined by the Electric Department; urban storm drainage as determined by the Public
17 Works Department can and will be provided ~~to and through~~from the ~~subject~~
18 ~~property~~annexed area. Unless the City has declared a moratorium based upon a shortage
19 of water, sewer, or electricity, it is recognized that adequate capacity exists system-wide for
20 these facilities. All required public facility improvements shall be constructed and
21 installed in accordance with 18.4.6.030.A.

22 E. Adequate transportation can and will be provided ~~to and through~~to serve the ~~subject~~
23 ~~property~~annexed area. For the purposes of this section "adequate transportation" for
24 annexations consists of vehicular, bicycle, pedestrian, and transit transportation meeting the
25 following standards.

- 26 1. For vehicular transportation a minimum 2022-foot wide paved access exists, or can and
27 will be constructed, ~~along the full frontage of the project site~~providing access to the
28 annexed area ~~to from~~ the nearest fully improved collector or arterial street. All streets
29 ~~adjacent to bordering on~~ the annexed area shall be improved, at a minimum, to an
30 applicable City half-street standard ~~with a minimum 20-foot wide driving surface~~.
The City approval authority may, after assessing the impact of the development,
require the full improvement of streets ~~adjacent to bordering on~~ the annexed area. All
streets located within annexed areas shall be fully improved to City standards unless
exception criteria apply. 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 reasonably safe and accessible bicycle facilities according
to the safety analysis and standards of the governing jurisdiction of the facility or
street (e.g., City of Ashland, Jackson County, Oregon Department of
Transportation) exist, or can and will be constructed. Should the ~~annexation be~~
~~adjacent to~~annexed area border an arterial street, bike lanes shall be ~~provided on or~~
~~adjacent to the arterial street~~constructed along the arterial street frontage of the

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annexed area. Likely bicycle destinations within a quarter of a mile from the ~~project site~~annexed area shall be determined and ~~safe and accessible bicycle facilities serving these destinations shall be indicated~~the approval authority may require the construction of bicycle lanes or multi-use paths connecting the annexed area to the likely bicycle destinations after assessing the impact of the development proposed concurrently with the annexation.

3. For pedestrian transportation reasonably safe and accessible pedestrian facilities according to the safety analysis and standards of the governing jurisdiction of the facility or street (e.g., City of Ashland, Jackson County, Oregon Department of Transportation), exist, or can and will be constructed. Full sidewalk improvements shall be provided on one side ~~adjacent to the annexation for~~of all streets ~~adjacent to~~bordering on the proposed annexed area. Sidewalks shall be provided as required by ordinance on all streets within the annexed area. Where the ~~project site~~annexed area is within a quarter of a mile of an existing sidewalk system or a location with demonstrated significant pedestrian activity, the approval authority may require sidewalks, walkways or multi-use paths, the sidewalks from the project site shall to be constructed ~~to extend~~ and connect to either or both the existing system and locations with significant pedestrian activity. Likely pedestrian destinations from the project site shall be determined and the safe and accessible pedestrian facilities serving these destinations shall be indicated.

4. For transit transportation, should transit service be available to the ~~site~~annexed area, or be likely to be extended to the ~~site~~annexed area in the future based on information from the local public transit provider, ~~provisions shall be made for~~ the approval authority may require 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.~~

5. Timing of Transportation Improvements. All required transportation improvements shall be constructed and installed in accordance with 18.4.6.030.A.

F. For all residential annexations, a plan shall be provided demonstrating that the development of the ~~entire property~~annexed area 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~~are necessary to accommodate significant natural features, topography, access limitations, or similar physical constraints. The owner or owners of the ~~property~~annexed area 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~~unbuildable lots, parcels, or portions of the annexed area such as existing streets and associated rights-of-way, railroad facilities and property, wetlands, floodplain corridor lands, slopes greater than 35 percent, or land area dedicated as a public park, 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,

1 employment or industrial lands with a Residential Overlay (R-Overlay) shall meet the
2 following requirements.

- 3 1. The total number of affordable units provided to qualifying buyers, or to qualifying renters,
4 shall be equal to or exceed 25 percent of the base density as calculated using the unit
5 equivalency values set forth herein. The base density of the **propertyannexed area** for the
6 purposes of ~~this calculation~~ **calculating the total number of affordable units in this**
7 **section** shall exclude any ~~undevelopable~~ **unbuildable lots, parcels, or** portions of the
8 **propertyannexed area** such as **existing streets and associated rights-of-way, railroad**
9 **facilities and property**, wetlands, floodplain corridor lands, water resource areas, slopes
10 greater than 35 percent, or land area dedicated as a public park.
- 11 a. Ownership units restricted to households earning at or below 120 percent the area
12 median income shall have an equivalency value of 0.75 unit.
 - 13 b. Ownership units restricted to households earning at or below 100 percent the area
14 median income shall have an equivalency value of 1.0 unit.
 - 15 c. Ownership or rental units restricted to households earning at or below 80 percent the
16 area median income shall have an equivalency value of 1.25 unit.
- 17 2. As alternative to providing affordable units per section 18.5.8.050.G.1, above, the
18 applicant may provide title to a sufficient amount of buildable land for development
19 complying with subsection 18.5.8.050.G.1.b, above, through transfer to a non-profit (IRC
20 501(3)(c) affordable housing developer or public corporation created under ORS
21 456.055 to 456.235.
- 22 a. The land to be transferred shall be located within the project meeting the standards
23 set forth in **sections 18.5.8.050.G.5 and, ~~subsections 5 – 6 and 18.5.8.050.G.6.~~**
 - 24 b. All needed public facilities shall be extended to the area or areas proposed for
25 transfer.
 - 26 c. Prior to commencement of the project, title to the land shall be transferred to the City,
27 an affordable housing developer which must either be a unit of government, a non-
28 profit 501(C)(3) organization, or public corporation created under ORS 456.055 to
29 456.235.
 - 30 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 18.5.8.050.G.4.
3. The affordable units shall be comparable in bedroom mix 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

1 shall comply with the minimum required floor area based as set forth in Table
2 18.5.8.050.G.3, or as established by the U.S. Department of Housing and Urban
3 Development (HUD) for dwelling units developed under the HOME program.

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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

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- 12 4. A development schedule shall be provided that demonstrates that that the affordable
13 housing units per subsection 18.5.8.050.G shall be developed, and made available for
14 occupancy, as follows.
- 15 a. That 50 percent of the affordable units shall have been issued building permits prior
16 to issuance of a certificate of occupancy for the last of the first 50 percent of the
17 market rate units.
- 18 b. Prior to issuance of a building permit for the final ten percent of the market rate units,
19 the final 50 percent of the affordable units shall have been issued certificates of
20 occupancy.
- 21 5. That affordable housing units shall be constructed using comparable building materials
22 and include equivalent amenities as the market rate units.
- 23 a. The exterior appearance of the affordable units in any residential development shall
24 be visually compatible with the market-rate units in the development. External
25 building materials and finishes shall be substantially the same in type and quality for
26 affordable units as for market-rate units
- 27 b. Affordable units may differ from market-rate units with regard to floor area, interior
28 finishes and materials, and housing type provided that the affordable housing units
29 are provided with comparable features to the market rate units, and shall have
30 generally comparable improvements related to energy efficiency, including plumbing,
insulation, windows, appliances, and heating and cooling systems.
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, then would development
meeting the on-site dedication requirement of subsection 18.5.8.050.G.2.

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- 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.
 - 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~~18.5.8.050.G.5, are necessary due to local, State, or Federal Affordable Housing standards or financing limitations.
7. The total number of affordable units described in this section 18.5.8.050.G shall be determined by rounding ~~down~~up 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.

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

- ~~1. The proposed area for annexation is to be residentially zoned, 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. The annexation proposal shall meet the requirements of subsection 18.5.8.080.B, above.~~
- ~~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.~~
- ~~32.~~ A current or probable danger to public health ~~hazard~~ exists within the proposed area for annexation due to lack of full City sanitary sewer or water services in accordance with the criteria in ORS Chapter 222 or successor state statute.
- ~~43.~~ Existing development in the proposed area for annexation has inadequate water or sanitary sewer service, or the service will become inadequate within one year.
- ~~54.~~ The ~~area~~ proposed area 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.
- ~~65.~~ The ~~lot or lots~~ proposed area for annexation areis an island completely surrounded by lands within the city limits.

I. Exceptions and Variances to the Annexation Approval Criteria and Standards. The approval authority may approve exceptions to and variances from the approval criteria and standards in this section using the criteria in section 18.4.6.020.B.1 Exceptions to the Street Design Standards or chapter 18.5.5. Variances.

18.5.8.060 Boundaries

When an annexation is initiated by ~~a private individual~~ an applicant other than the City, the

1 Staff Advisor may include other ~~parcels of property~~land in the proposed annexation in order
2 to make a boundary extension more logical, to address the effective extension of public
3 facilities, and/or to avoid ~~parcels~~an area of land which ~~are~~is not incorporated but ~~are~~is
4 partially or wholly surrounded by the City. The Staff Advisor, in a report to the Planning
5 Commission and City Council, shall justify the inclusion of any ~~parcels~~land other than the
6 ~~parcell~~land for which the ~~petition~~annexation is filed. ~~The purpose of this section is to permit~~
7 ~~the Commission and Council to make annexations extending the City's boundaries more~~
8 ~~logical and orderly.~~

7 **18.5.8.070 Statutory Procedures**

8 The applicant for the annexation shall also declare which procedure under ORS chapter 222 the
9 applicant proposes that the Council use, and supply evidence that the approval through this
10 procedure is likely.

11 **SECTION 4.** Section 18.6.1.030 [Definitions - Definitions] of the Ashland Land Use Ordinance
12 is hereby amended to read as follows:

13 **18.6.1.030 Definitions**

14 The following definitions are organized alphabetically.

15
16 **Annexed Area. A property or group of adjacent properties, including public right-of-way,**
17 **to be annexed.**

18
19 **Contiguous. That a lot, parcel, site, or annexed area has a common boundary, including a**
20 **boundary that only touches a common point. For purposes of annexation,**
21 **“contiguous” also means a property or group of adjacent properties, including public**
22 **right-of-way to be annexed, that touch the city limits at any point along any exterior**
23 **boundary of the territory to be annexed or that is separated from the city limits only**
24 **by a public right-of-way or a stream, bay, lake or other body of water.**

25 ~~Lot. A unit of land created by a subdivision~~ **A legally created piece of land other than a**
26 **tract that is the result of land division,** or a unit or contiguous units of land under single
27 ownership, which complies with all applicable laws at the time such lots were created. ~~Any~~
28 ~~contiguous ownership of non-conforming lots will be considered one tract of land.~~
29 ~~The term “lot” is used in this ordinance to apply to the state definition of both lot, the~~
30 ~~result of subdividing, and parcel, the result of partitioning, unless otherwise noted.~~

- **Corner Lot.** A lot abutting the intersection of two or more streets other than an alley.
See Figure below.

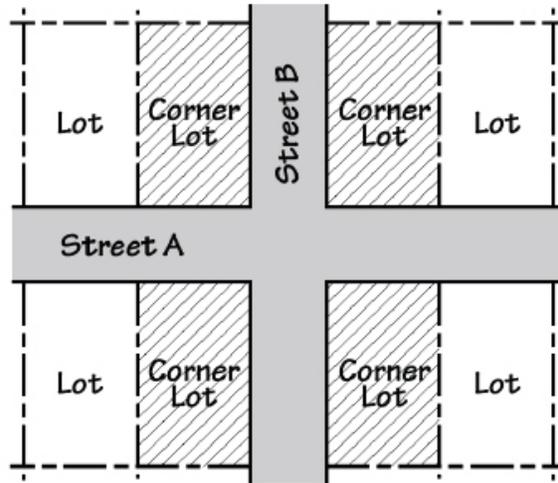


Figure 3
Corner Lots

Flag Lot. A lot with two distinct parts. See Figure below.

1. The flag, which is the building site; and is located behind another lot.
2. The pole, which connects the flag to the street; provides the only street frontage for the lot with less than 40 feet of frontage on a street; and unless an alley provides access, includes a driveway providing access.

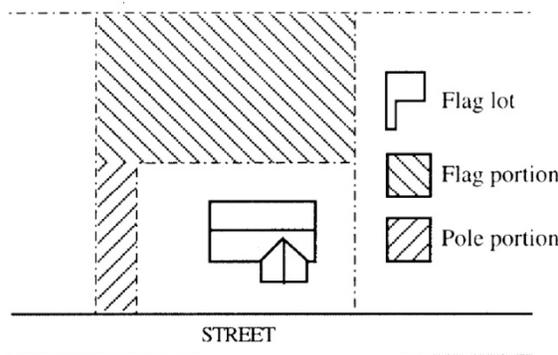


Figure 4
Flag Lot

- **Interior Lot.** A lot other than a corner or flag lot.
- **Through Lot.** An interior lot having frontage on two parallel or approximately parallel streets other than alleys. Such a lot has one front yard fronting on the primary public street.

Parcel. A legally defined area of land created through a partition or otherwise lawfully created pursuant to state law. The term “parcel” is used in this ordinance to apply to the state definition of both lot, the result of subdividing, and parcel, the result of partitioning, unless otherwise noted.

1 **Partition.** To divide an area or tract of land into not more than three parcels within 12 months.
2 **For the purpose of this definition, parcel means a legally defined are of land created**
3 **through a partition.**

- 4 - Major Land Partition. A partition which necessitates the creation of a road or street.
- 5 - Minor Land Partition. A partition that does not necessitate the creation of a road or street.

6 **Tract. A piece of land within a platted subdivision reserved for open space, utility**
7 **corridor, recreation facilities, sensitive lands, or other purpose; may be dedicated to**
8 **an owner's association or other entity for maintenance.**

9 **SECTION 5. Codification.** In preparing this ordinance for publication and distribution, the City
10 Recorder shall not alter the sense, meaning, effect, or substance of the ordinance, but within such
11 limitations, may:

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

20
21 **SECTION 6. Severability.** Each section of this ordinance, and any part thereof, is severable,
22 and if any part of this ordinance is held invalid by a court of competent jurisdiction, the
23 remainder of this ordinance shall remain in full force and effect.

24
25 The foregoing ordinance was first read by title only in accordance with Article X,
26 Section 2(C) of the City Charter on the ___th day of _____, 2021,
27 and duly PASSED and ADOPTED this ___th day of _____, 2021,
28

29 _____
30 Melissa Huhtala, City Recorder

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SIGNED and APPROVED this ____ day of _____, 2021.

Julie Akins, Mayor

Reviewed as to form:

Katrina Brown, City Attorney