

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.

- o 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](#)