

# Memo

DATE: October 12, 2021  
TO: City of Ashland Planning Commission  
FROM: Katrina Brown, City Attorney  
RE: Interpretation of AMC 18.5.3.060.F.

An applicant for a zoning permit has requested a formal interpretation of AMC 18.5.3.060.F., specifically the phrase "not more than 200 feet," in the context of Ashland's Land Use Ordinance. This request has been referred to the Planning Commission pursuant to AMC 18.1.5.020. Such an interpretation is to be consistent with the opinion of the City Attorney. (See AMC 18.1.5.030.C.)

The text of AMC 18.5.3.060.F. is as follows:

**F.** Flag drive grades shall not exceed a maximum grade of 15 percent. Variances may be granted for flag drives for grades in excess of 15 percent but no greater than 18 percent *for not more than 200 feet*. Such variances shall be required to meet all of the criteria for approval in chapter 18.5.5 Variances. (emphasis added).

I have received information from the City's Planning Division indicating that the phrase "not more than 200 feet" has historically been interpreted to mean that the combined length of all segments of a flag drive in excess of 15 percent cannot exceed the 200 feet limitation.

The interpretation of city ordinances is governed by the same rules as those that govern the construction of statutes. *Harris v. Sanders*, 142 Or App 126, 919 P.2d 512 (1996). One must first examine the text of the city ordinance in context and give the words their plain, natural, and ordinary meaning. See *PGE v. Bureau of Labor and Industries*, 317 Or 606, 859 P.2d 1143 (1993).

The text and context of AMC 18.5.3.060.F. is clear in light of the purpose of the Land Use Ordinance set forth in AMC 18.1.2.020. It is my opinion that the Planning Division has been correctly interpreting AMC 18.5.3.060.F. as set forth above, i.e. the 200 feet limitation is intended to apply to the combined length of all steep segments of a flag drive and not individual segments of the flag drive.

