

# Council Study Session

November 1, 2021

<b>Agenda Item</b>	Annexation Code Amendments	
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<b>Item Type</b>	Requested by Council <input checked="" type="checkbox"/> Update <input type="checkbox"/> Request for Direction <input type="checkbox"/> Presentation <input type="checkbox"/>	

## **SUMMARY**

This is a discussion item about the draft code amendments to the annexation standards. At the [August 3, 2021](#) Business Meeting, the City Council requested an update on the progress of the project prior to the initiation of the public hearing process at the Planning Commission.

## **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.

### **BACKGROUND AND ADDITIONAL INFORMATION**

The City Council initiated amendments to Chapter 18.5.8 Annexations at the [August 3, 2021](#) meeting. The Council directed staff and the Planning Commission to evaluate and draft code amendments to address issues raised on appeal before the Oregon Land Use Board of Appeals (LUBA) with the goal of addressing inconsistent and ambiguous language in the annexation chapter.

The Planning Commission discussed the LUBA appeal and proposed code amendments at three electronic public meetings including [May 25, 2021](#), [August 24, 2021](#), and [September 28, 2021](#). The Planning Commission is scheduled to hold a public hearing on the proposed code amendments and make a recommendation to the City Council on November 9, 2021.

Staff is presented the draft code amendments to the Transportation Commission on October 21, 2021. The Transportation Commission discussed the importance of retaining the “safe and accessible” language in the annexation standards pertaining to pedestrian and bicycle improvements. The Commission made the following motion at the meeting. The minutes from the Transportation Commission meeting were not available at the time writing.

**“Graf made a motion that a recommendation be made to the Planning Commission and City Council that language says ‘safe and accessible to transportation engineering standards’. Danner seconded. Brouillard requested to also include Peterson-Adams’ previous statement. Danner seconded. All ayes except Claypool-Barnes who briefly left the meeting.”**

The previous statement that the above is referring to made by Linda Peterson-Adams, Chair of the Transportation Commission, is as follows:

“Peterson-Adams then stated that the mission of the Transportation Commission is for people to be able to move through the city by mode of their choice, and the commission must consider safety. She went on to state that the Transportation Network Planning System that the Transportation Commission uses is the same one that the state uses, and they resolve to build a transportation system that increases safety, therefore requirements for annexation leading to development should include safety as well. Peterson-Adams also noted that ‘accessibility’ is not specifically talking about ADA requirements but is more general.”

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” to city adopted street standards because the application did not include a development proposal. Under the Ashland Municipal Code, Exceptions 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 goal of the project is to address inconsistent and ambiguous language in Chapter 18.5.8 Annexations. While the issues raised on appeal before LUBA warrant a review of the annexation standards, there are two additional reasons for evaluating and amending the standards – 1) to provide clear standards for the evaluation of needed housing and 2) to provide clarity and responsiveness in Ashland’s development process.

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 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.*

A large part of the Community Development Departments work over the past 15 years has been focused on making the development process clearer and more predictable, and improving customer service. For example, a previous City Council goal was to “Increase the clarity, responsiveness and certainty of the development process. Develop a specific action plan to respond to the recommendation of the 2006 Zucker and Siegel reports.” Creating a Unified Land Use Code was a recommendation of the Siegel report (i.e., Land Use Ordinance Review by Siegel Planning Services, LLC, 2006) and this project was completed in 2015.

In 2017, the Community Development Department held a Developer Forum in which 30 professionals from the development fields were invited to a facilitated discussion of potential customer service improvements. Subsequently, a series of changes were made in the review process for planning and building permits including the implementation of a new permitting software program, training other City departments in commenting on pre-applications and permit applications in the new software, and the creation of the Development Services Coordinator position. The issue of removing barriers in the development process for housing projects was raised in the City Council discussion on [August 3, 2021](#).

**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.

**DISCUSSION QUESTIONS**

Does the City Council have questions or concerns regarding the draft land use code amendments to the annexation standards?

**SUGGESTED NEXT STEPS**

The annexation code amendments are scheduled for a public hearing at the Planning Commission on November 9, 2021. Pending the Planning Commission review and recommendation, staff recommends the City Council hold the required public hearing and first reading at the November 16, 2021 Business Meeting.

**REFERENCES & ATTACHMENTS**

Draft of annexation code amendments

1 **ORDINANCE NO. 3204**

2  
3 **AN ORDINANCE AMENDING CHAPTERS 18.4.1, 18.4.6, 18.5.8 AND 18.6.1 OF THE**  
4 **ASHLAND LAND USE ORDINANCE REGARDING ANNEXATIONS.**  
5

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

8  
9 **WHEREAS**, Article 2. Section 1 of the Ashland City Charter provides:

10 Powers of the City The City shall have all powers which the constitutions, statutes, and  
11 common law of the United States and of this State expressly or impliedly grant or allow  
12 municipalities, as fully as though this Charter specifically enumerated each of those  
13 powers, as well as all powers not inconsistent with the foregoing; and, in addition thereto,  
14 shall possess all powers hereinafter specifically granted. All the authority thereof shall  
15 have perpetual succession.; and

16  
17 **WHEREAS**, the above referenced grant of power has been interpreted as affording all legislative  
18 powers home rule constitutional provisions reserved to Oregon Cities. City of Beaverton v.  
19 International Ass'n of Firefighters, Local 1660, Beaverton Shop 20 Or. App. 293; 531 P 2d 730,  
20 734 (1975).; and

21  
22 **WHEREAS**, the City of Ashland is required to perform a housing capacity analysis every eight  
23 years as required by ORS 197.296 and OAR 660-0008-0045. House Bill 2003 passed in the 2019  
24 Oregon legislative session and amended the previously mentioned state laws and rules to require  
25 cities in Oregon to perform the housing capacity analysis and housing production strategy.; and

26  
27 **WHEREAS**, there is a need to provide clear standards for the evaluation of housing that is  
28 proposed as a part of an annexation to the City of Ashland. The 2021-2041 Housing Capacity  
29 Analysis (HCA) was adopted as a technical study supporting the Ashland Comprehensive Plan  
30 by the Ashland City Council on August 17, 2021 and found that annexation of land from the

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 [REDACTED] 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 [REDACTED].; 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 planing 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.

27 **18.5.8.020 ~~Applicability and~~ Application Submission Requirements**

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

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

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

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

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

### 8 **18.5.8.030 Applicability and Review Procedure**

9 All annexations shall be processed under the Type III procedure. **Except for City-initiated**  
10 **annexations, annexation applications require an accompanying planning application for**  
11 **the development of the entirety of the annexed area in accordance with applicable**  
12 **procedure and approval criteria in chapter 18.5.1.General Review Procedures concurrent**  
13 **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**  
19 **and standards in accordance with subsection 18.5.8.050.I.**

### 20 **18.5.8.040 Initiation by City Council or Planning Commission**

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

### 30 **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. An application for an annexation may be approved if the proposal**  
**meets the applicable criteria in subsections A through H below. The approval authority**  
**may, in approving the application, impose conditions of approval consistent with the**  
**applicable criteria and standards, and grant exceptions and variances to the criteria and**



1 standards in this section in accordance with subsection 18.5.8.050.I.

2 A. The landannexed area is within the City's Urban Growth Boundary.

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

7 C. The landannexed area is currently contiguous with the present-city limits.

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

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

17 1. For vehicular transportation a minimum 2022-foot wide paved access exists, or can and  
18 will be constructed, ~~along the full frontage of the project site~~providing access to the  
19 ~~annexed area~~ ~~to~~from the nearest fully improved collector or arterial street. All streets  
20 ~~adjacent to~~bordering on the annexed area shall be improved, at a minimum, to an  
21 applicable City half-street standard ~~with a minimum 20-foot wide driving surface~~.

21 The City approval authority may, after assessing the impact of the development,  
22 require the full improvement of streets ~~adjacent to~~bordering on the annexed area. All  
23 streets located within annexed areas shall be fully improved to City standards unless  
24 exception criteria apply. Where future street dedications are indicated on the Street  
25 Dedication Map or required by the City, provisions shall be made for the dedication and  
26 improvement of these streets and included with the application for annexation.

25 2. ~~For bicycle transportation safe and accessible bicycle facilities exist, or can and~~  
26 ~~will be constructed.~~ Should the ~~annexation be adjacent to~~annexed area border an  
27 arterial street, bike lanes shall be ~~provided on or adjacent to the arterial~~  
28 ~~street~~constructed along the arterial street frontage of the annexed area. Likely  
29 bicycle destinations within a quarter of a mile from the ~~project site~~annexed area shall  
30 be determined and ~~safe and accessible bicycle facilities serving those 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

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concurrently with the annexation.

- 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~~ 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 those 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 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 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 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, 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 annexed area for the purposes of ~~this calculation~~ calculating the total number of affordable units in this section shall exclude any undevelopable unbuildable lots, parcels, or portions of the

1 **propertyannexed area** such as **existing streets and associated rights-of-way, railroad**  
2 **facilities and property**, wetlands, floodplain corridor lands, water resource areas, slopes  
3 greater than 35 percent, or land area dedicated as a public park.

- 4 a. Ownership units restricted to households earning at or below 120 percent the area  
5 median income shall have an equivalency value of 0.75 unit.
- 6 b. Ownership units restricted to households earning at or below 100 percent the area  
7 median income shall have an equivalency value of 1.0 unit.
- 8 c. Ownership or rental units restricted to households earning at or below 80 percent the  
9 area median income shall have an equivalency value of 1.25 unit.
- 10 2. As alternative to providing affordable units per section 18.5.8.050.G.1, above, the  
11 applicant may provide title to a sufficient amount of buildable land for development  
12 complying with subsection 18.5.8.050.G.1.b, above, through transfer to a non-profit (IRC  
13 501(3)(c) affordable housing developer or public corporation created under ORS  
14 456.055 to 456.235.
- 15 a. The land to be transferred shall be located within the project meeting the standards  
16 set forth in **sections 18.5.8.050.G.5 and, subsections 5 – 6 and 18.5.8.050.G.6.**
- 17 b. All needed public facilities shall be extended to the area or areas proposed for  
18 transfer.
- 19 c. Prior to commencement of the project, title to the land shall be transferred to the City,  
20 an affordable housing developer which must either be a unit of government, a non-  
21 profit 501(C)(3) organization, or public corporation created under ORS 456.055 to  
22 456.235.
- 23 d. The land to be transferred shall be deed restricted to comply with Ashland's  
24 affordable housing program requirements.
- 25 e. Transfer of title of buildable land in accordance with this subsection shall exempt the  
26 project from the development schedule requirements set forth in 18.5.8.050.G.4.
- 27 3. The affordable units shall be comparable in bedroom mix with the market rate units in  
28 the development.
- 29 a. The number of bedrooms per dwelling unit in the affordable units within the  
30 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 **area** 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.

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<b>Table 18.5.8.050.G.3 – Minimum Required Floor Area for Affordable Units</b>	
<b>Unit Type</b>	<b>Minimum Required Unit Floor Area (Square Feet)</b>
Studio	350
1 Bedroom	500
2 Bedroom	800
3 Bedroom	1,000
4 Bedroom	1,250

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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 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.
  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 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

1 ~~18.5.8.050.G.6~~**18.5.8.050.G.5**, are necessary due to local, State, or Federal  
2 Affordable Housing standards or financing limitations.

- 3 7. The total number of affordable units described in this section 18.5.8.050.G shall be  
4 determined by rounding down fractional answers to the nearest whole unit. A deed  
5 restriction or similar legal instrument shall be used to guarantee compliance with  
6 affordable criteria for a period of not less than 60 years for units qualified as affordable  
7 rental housing, or 30 years for units qualified as affordable for-purchase housing.

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

9 ~~1. The proposed area for annexation is to be residentially zoned, under the~~  
10 ~~Comprehensive Plan, and that the applicant will obtain planning action approval~~  
11 ~~for an outright permitted use, special permitted use, or conditional use in~~  
12 ~~conformance with the annexation request. The annexation proposal shall meet the~~  
13 ~~requirements of subsection 18.5.8.080.B, above.~~

14 ~~2. The proposed lot or lots will be zoned M-1, CM, E-1, or C-1 under the~~  
15 ~~Comprehensive Plan, and that the applicant will obtain Site Design Review~~  
16 ~~approval for an outright permitted use, or special permitted use concurrent with~~  
17 ~~the annexation request.~~

18 ~~32.~~ A current or probable danger to public health ~~hazard~~ exists within the proposed area  
19 for annexation due to lack of full City sanitary sewer or water services in accordance  
20 with the criteria in ORS Chapter 222.

21 ~~43.~~ Existing development in the proposed area for annexation has inadequate water or  
22 sanitary sewer service, or the service will become inadequate within one year.

23 ~~54.~~ The ~~area~~ proposed area for annexation has existing City water or sanitary sewer service  
24 extended, connected, and in use, and a signed consent to annexation agreement has  
25 been filed and accepted by the City.

26 ~~65.~~ The ~~lot or lots~~ proposed area for annexation are an island ~~completely~~ surrounded by  
27 lands within the city limits.

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

### 18.5.8.060 Boundaries

32 When an annexation is initiated by ~~a private individual~~ an applicant other than the City, the  
33 Staff Advisor may include other ~~parcels of property~~ land in the proposed annexation in order  
34 to make a boundary extension more logical, to address the effective extension of public  
35 facilities, and/or to avoid ~~parcels~~ an area of land which are not incorporated but are  
36 partially or wholly surrounded by the City. The Staff Advisor, in a report to the Planning  
37 Commission and City Council, shall justify the inclusion of any ~~parcels~~ land other than the  
38 ~~parcel~~ land for which the ~~petition~~ planning action is filed. ~~The purpose of this section is to~~

1 ~~permit the Commission and Council to make annexations extending the City's~~  
2 ~~boundaries more logical and orderly.~~

3 **18.5.8.070 Statutory Procedures**

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

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

9  
10 **18.6.1.030 Definitions**

11 The following definitions are organized alphabetically.

12 **Adjacent.** Adjacent means abutting or located directly across a street right-of-way.

13  
14 **Annexed Area.** A property or group of adjacent properties, including public right-of-way,  
15 to be annexed.

16  
17 **Contiguous.** That a lot, parcel, site, or annexed area has a common boundary, including a  
18 boundary that only touches a common point. For purposes of annexation,  
19 “contiguous” also means a property or group of adjacent properties, including public  
20 right-of-way to be annexed, that touch the city limits at any point along any exterior  
21 boundary of the territory to be annexed or that is separated from the city limits only  
22 by a public right-of-way or a stream, bay, lake or other body of water).

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

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

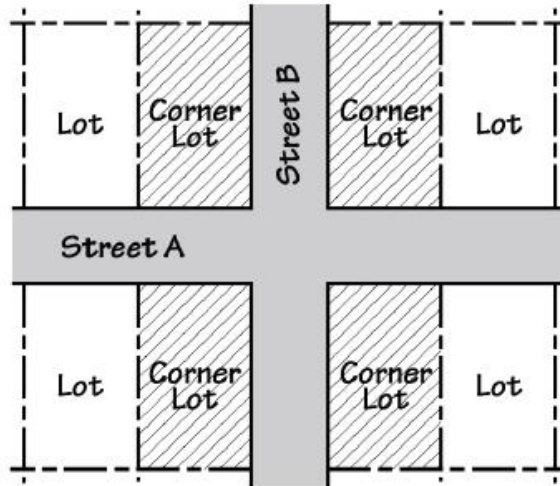


Figure 3  
Corner Lots

**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.

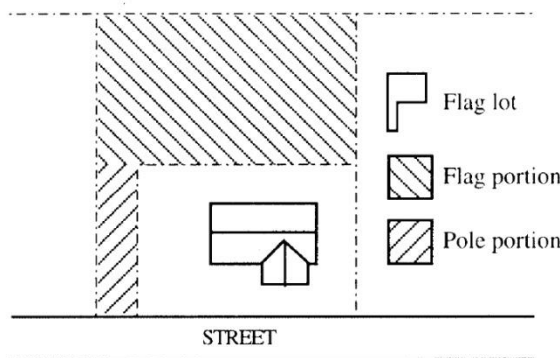


Figure 4  
Flag Lot

- **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 are of land created through a partition.

**Planning Action or Planning Application.** A planning action is an application filed pursuant to ORDINANCE NO. 3204

1 the requirements of this ordinance. A planning action is a proceeding pursuant to this  
2 ordinance in which the legal rights, duties, or privileges of specific parties are determined,  
3 and any appeal or review of such proceeding pursuant to the provisions of this ordinance. **A  
4 planning action does not include a ministerial action or legislative amendment.**

- 5 - **Type I Procedure (Administrative Decision With Notice).** Type I decisions are made  
6 by the Staff Advisor with public notice and an opportunity for appeal to the Planning  
7 Commission. See section 18.5.1.050 for the procedures for Type I actions.
- 8 - **Type II Procedure (Quasi-Judicial Review/Public Hearing Review).** Type II decisions  
9 are made by the Planning Commission after a public hearing, with an opportunity for  
10 appeal to the City Council. See section 18.5.1.060 for the procedures for Type II actions.

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

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

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

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

28  
29 The foregoing ordinance was first read by title only in accordance with Article X,

30 Section 2(C) of the City Charter on the \_\_\_<sup>th</sup> day of \_\_\_\_\_, 2021,

and duly PASSED and ADOPTED this \_\_\_<sup>th</sup> day of \_\_\_\_\_, 2021,

ORDINANCE NO. 3204



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\_\_\_\_\_  
Melissa Huhtala, City Recorder

SIGNED and APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Julie Akins, Mayor

Reviewed as to form:  
\_\_\_\_\_  
Katrina Brown, City Attorney