

**CITY OF FLORENCE  
ORDINANCE NO. 7 SERIES 2021**

**AN ORDINANCE APPROVING ANNEXATION OF 7.87 ACRES, ASSESSOR'S MAP  
REFERENCE 18-12-11-33, TAX LOTS 01900 & 01800.**

RECITALS:

1. The City of Florence was petitioned by the property owners, Hale et al, as required by Oregon Revised Statutes (ORS) 222.111(2) and Florence City Code (FCC) 10-1-1-4.
2. The signed petitions to annex were received constituting more than half of the owners of land in the territory consenting in writing to the annexation, the owners consenting to annex own more than half of the land in the contiguous territory, and the owners consenting to annex representing more than half of the assessed value of property in the territory in accordance with ORS 222.170(1);
3. The territory proposed to be annexed is within the Florence Urban Growth Boundary of the Florence Realization 2020 Comprehensive Plan and is contiguous to the City limits as required by ORS 222.111 (1).
4. The Planning Commission determined, after review of the proposal, testimony, and evidence in the record, that the proposal was consistent with Realization 2020—the City's acknowledged Comprehensive Plan—and they adopted findings of fact in support of the annexation.
5. The City Council met in a public hearing on May 17, 2021, after giving the required notice per FCC 10-1-1-6 and ORS 222.120 to consider the proposal, evidence in the record, and testimony received.
6. The City Council, on May 17, 2021, found that the request met the applicable criteria and that the property could adequately be served.
7. Per FCC 10-1-2-3, the City Council may establish zoning and land use regulations that become effective on the date of the annexation, and the City Council adopted Ordinance No. 8, Series 2021 zoning the annexed property as Service Industrial, consistent with the Florence Realization 2020 Comprehensive Plan text and map and the Florence Zoning Code.

Based on these findings,

THE CITY COUNCIL OF THE CITY OF FLORENCE ORDAINS AS FOLLOWS:

1. The City of Florence approves the annexation of 7.87 acres, Assessor's Map Reference 18-12-11-33 Tax Lots 01900 & 01800 being territory owned by the petitioners into the City of Florence as described in **Exhibit A**.

2. This annexation is based on the Findings of Fact in **Exhibit B** and evidence in the record.
3. The City Recorder is hereby directed to file certified copies of this Ordinance with the Oregon Secretary of State's Office consistent with the requirements of that office 90 days prior to the general election in order for the annexation to be effective upon filing pursuant to ORS 222.040(1) and 222.180(1).
4. The City Recorder is also hereby directed to file certified copies of this Ordinance with the Lane County Assessment and Taxation Office, Lane County Chief Deputy Clerk and Oregon Department of Revenue pursuant to state law.

**ADOPTION:**

First Reading on the 17<sup>th</sup> day of May, 2021.

Second Reading on the 17<sup>th</sup> day of May, 2021.

This Ordinance is passed and adopted on the 17<sup>th</sup> day of May, 2021.

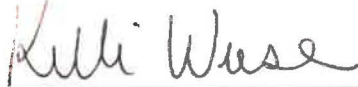
**Councilors:**

AYES	5	Councilors Wisniewski, Meyer, Wantz, Woodbury and Mayor Henry
NAYS	0	
ABSTAIN	0	
ABSENT	0	



\_\_\_\_\_  
Joe Henry, Mayor

**Attest:**



\_\_\_\_\_  
Kelli Weese, City Recorder



## LEGAL DESCRIPTION

Those portions of the Southwest quarter (SW ¼) of the Southwest quarter (SW ¼) of Section 11, Township 18 South, Range 12 West of the Willamette Meridian, in the County of Lane, State of Oregon, described in Tract One and Tract Two as follows:

### Tract One:

BEGINNING at a point on the centerline of U.S. Highway No. 101, at a point 350.0 feet Northerly of the intersection of said centerline with the South line of Section 11, Township 18 South, Range 12 West of the Willamette Meridian; and run thence East 686.0 feet, more or less, to the East line of the Southwest quarter (SW ¼) of the Southwest quarter (SW ¼) of said Section 11; thence North 0° 17' East 200.0 feet on said subdivision line; thence West to the centerline of said Highway No. 101; thence Southerly along said centerline to the place of beginning.

### Tract Two:

BEGINNING at a point on the centerline of U.S. Highway No. 101, where the section line between Sections 11 and 14, Township 18 South, Range 12 West, Willamette Meridian, intersects with said centerline of said highway; thence North along said centerline a distance of 350 feet; thence East 719 feet, more or less, to the East line of the Southwest quarter (SW ¼) of the Southwest quarter (SW ¼) of said Section 11; thence South 350 feet to the SE corner of said Southwest quarter (SW ¼) of the Southwest quarter (SW ¼); thence West along the South line of said Southwest quarter (SW ¼) of the Southwest quarter (SW ¼) 726 feet, more or less, to the point of beginning, except that portion conveyed to the State of Oregon, Department of Transportation, by deed recorded February 7, 1985, Reel 1335, Reception No. 85-04194, Official Records of Lane County, Oregon.

**FINDINGS OF FACT  
CITY OF FLORENCE  
Exhibit “B”**

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**Public Hearing Date:** May 17, 2021  
**Application:** CC 21 05 ANN 02 Annexation – Hale et al.  
CC 21 06 ZC 02 Zoning – Hale et al.

**I. PROPOSAL DESCRIPTION**

**Proposal:** Annexation  
A request for the City of Florence to annex property from Lane County into the City.

Rezoning  
Upon annexation, a request for the property to be zoned with a city zoning district. The corresponding zoning district matching the property’s comprehensive plan designation is Service Industrial

**Petitioner/Property Owner:** Claudia Hale, et al.

**Associated Properties:** Assessor’s Map 18-12-11-33 Tax lots 01900 & 01800

**Comprehensive Plan Map Designation:** Service Industrial

**Surrounding Land Use / Zoning:**

**Site:** Vacant | Suburban Residential; (Interim Urban Combining District Overlay)  
**North:** Single-family residence and concrete batch plant | Service Industrial  
**South:** Single-family residence & Cell Tower | Service Industrial  
**East:** Vacant | Medium Density Residential  
**West:** Single-family residence and solid waste trucking facility | Service Industrial

**Streets / Classification:** West – U.S. Hwy 101 / Highway/Major Arterial.; South – None; East – Spruce St, Collector undeveloped, improvement terminates near SE corner of TL 1900; North – None

**II. NARRATIVE**

The applicants petitioned for the annexation of 7.87 acres distributed over two tracts of vacant property from Lane County jurisdiction to City of Florence jurisdiction. These properties are undeveloped and abut tracts of properties that have been previously annexed into the City and zoned which include tracts to the north, south and east. The subject properties front U.S. Highway 101 right-of-way, which is also annexed into the City.

Petitions for annexation and a legal property description were received in August 2019. State law requires signatures from at least 50% of the property owners and electors of the property to petition for annexation without an election. This type of annexation is known as a “Double Majority” annexation (ORS 222.125). The City received signed petitions from four of the

seven listed property owners and will process the annexation under the “Triple Majority” methodology (ORS 222.170(1)). Florence City Code Title 10 Chapter 1 calls for processing the annexation as a Type IV application which means that the Planning Commission will make a recommendation to the City Council and the City Council will make the final decision in this legislative matter.

The zoning assignment procedure applies to the 7.87 acres of property only, as the Highway 101, although under ODOT jurisdiction, is already annexed into City limits and zoned. In accordance with 10-1-1-5 B the two actions (the annexation and zoning designation) will be processed through consolidated proceedings.

The property will be served by Heceta Water PUD and is currently served by Siuslaw Valley Fire Rescue District. The property will continue to be served by all districts by which it is currently served. After annexation, the property will be able to have access to City sewer services and begin receiving police protection.

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### **III. PUBLIC NOTICE**

Notice of the Planning Commission’s public hearing was mailed on April 6<sup>th</sup> and for City Council’s public hearing on April 27<sup>th</sup> to property owners within 300 feet of the proposed annexation area. On April 6<sup>th</sup> and 27<sup>th</sup> notices were posted at Florence City Hall, the Florence Post Office, Florence Justice Center, and the Siuslaw Public Library and signage posted on the property site. Notice was published in the Siuslaw News on April 17 and May 1<sup>st</sup> and 8<sup>th</sup>, 2021.

Notice of the proposed zone change was sent to the Department of Land, Conservation and Development (DLCD) on March 23, 2021, not less than 35 days prior to the proposed first evidentiary hearing of April 27, 2021, as required by State law and the Florence City Code.

#### **Public Comments:**

At the time of this report, the City had received no public comments on these applications.

### **IV. REFERRALS**

On April 7, 2021, referrals were sent to Florence Public Works (Utilities and Airport), Building, and Police Departments; Lane County Transportation and Land Management Divisions, Charter Communications; Century Link; Central Lincoln PUD; and Heceta Water PUD.

#### **Referral Comments:**

On April 12, 2021, the Lane County Public Works - Department of Transportation Planning submitted referral comments that were amended by them on April 21, 2021 stating that while they have no conditions of approval for this annexation request, they do have comments on the future development of Rhododendron Drive:

*“Comments from Lane County Transportation Planning*

*The subject properties (Map & Tax Lot numbers 18-12-11-33-01900 and 18-12-11-33-01800) both have frontage on Highway 101 along their westerly boundaries and Spruce Street along their easterly boundaries. Neither of these roads is a Lane County Road. The closest Lane County Road is Munsel Lake Road which is located approximately 1,300 feet south of the southerly of the subject properties. Lane County Transportation Planning has no further comment on the proposal.*

On April 20, 2021, Mike Miller, Public Works Director, provided the following:

*“Sanitary Sewer*

*Sanitary Sewer Currently, the total sanitary sewer capacity of the treatment plant is 1.3 million gallons per day (mgd) dry weather flow. Our current average dry weather flow is 0.745 (this is pre-COVID-19, the flows are currently less due to COVID-19) which equates to 0.555 mgd of excess capacity at the treatment plant.*

*The City has a new 12-inch gravity sewer line on the east side of Hwy 101 (within the ODOT right-of-way) that was installed to provide service to properties north of the City 52nd Street sewer pump station to just south of Heceta Beach Road. There is excess capacity in this system and the system was sized to accommodate this area.*

*In order to provide service to the proposed development, the developer will need to connect to the existing 8-inch gravity sewer lateral at station 143+29.1 (see image below) and extend a sewer line that can be used for the development of the property (18-12-11-3-3 TL 1900). There is also an existing 8-inch gravity sewer lateral at station 139+79.2 for 18-12-11-3-3 TL 1800.*

*It is the policy of the city of Florence to provide sanitary sewer service to any property within the City’s wastewater service area. However, the property owners are to pay for sewer main extension, manholes, pump stations, construction, connection fees, engineering fees, street opening permits and any other fees necessary for the connection to the public sewer system for the project.*

*It is the policy of the city of Florence to provide sanitary sewer service to any property within the City’s wastewater service area. However, the property owners are to pay for sewer main extension, manholes, pump stations, construction, connection fees, engineering fees, street opening permits and any other fees necessary for the connection to the public sewer system for the project.*

*Streets*

*Access to the property will need to be coordinated with ODOT. Any proposed public streets to be extended will need to comply with City standards.*

*Stormwater*

*Stormwater management will need to be considered as development occurs on the property. Additionally, since the property will become designated Service Industrial, depending on the uses of the site, there may be a need to install a truck wheel wash station prior to heavy trucks entering the state highway.*

Water

*The property is currently within Heceta Water People's Utility District (HWPUD) service territory. Please contact HWPUD for specific fire flow and domestic capacities for this area. Additionally, since the property will become designated Service Industrial, if HWPUD does not have capacity to provide water or fire protection, the property can elect to have the City provide water service. The City has an 8-inch water main on the east side of Hwy 101 at the 52nd Street sewer pump station. The City also has a 12-inch water main located on the west side of Hwy 101.*

**V. APPLICABLE REVIEW CRITERIA**

Annexation

**Oregon Revised Statutes (ORS)**

222.050, 222.111; 222.120; and 222.170

**Oregon Administrative Rules (OAR)**

OAR: 660-015-0000, 660-012-0060

**Florence Realization 2020 Comprehensive Plan, Chapters**

- 1: Citizen Involvement, Policy 4
- 2: Land Use, Policy 6
- 14: Urbanization, Policies 1 and 3 through 7

**Florence City Code (FCC), Chapters**

- 1: Zoning Regulations; Sections 10-1-1-4; 10-1-1-5; 10-1-1-6-3 & 4, 10-1-2-3 & 10-1-3
- 7: Development Hazards and Constraints, Policies 1,2,3 & 4

Zoning Assignment

**Florence Realization 2020 Comprehensive Plan, Chapters**

- 1: Citizen Involvement, Policies 1 & 4
- 2: Land Use, Policy 1; Industrial Policy 4; and Section on Industrial Plan Designations
- 12: Transportation, Policy 8

**Florence City Code (FCC), Chapters**

Title 10: Zoning Regulations

- 1: Zoning Regulations, Sections 10-1-1-4; 10-1-1-5; 10-1-1-6-3 & 4, 10-1-2-3 & 10-1-3 & 4
- 31: Service Industrial District, Section 1
- 12: Transportation: Policy 8

**Oregon Land Use Planning Goals**

- Goal 10 Housing: OAR 660-015-0000 (Goal 10)



## VI. FINDINGS OF FACT

The following Findings support the petition and application for rezone and address approval criteria within the Florence Realization 2020 Comprehensive Plan, Florence City Code, State Administrative Rules, and State Statutes.

Applicable criteria and policies are shown in **bold text**, followed by findings of consistency in plain text.

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### FLORENCE REALIZATION 2020 COMPREHENSIVE PLAN

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#### Chapter 1: Citizen Involvement

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##### Policies

**4. Official City meetings shall be well publicized and held at regular times. Agendas will provide the opportunity for citizen comment.**

This proposal is consistent with this policy because the process used by the City to review the resolutions recommending approval of this annexation and zone assignment request is consistent with the City's applicable citizen involvement program which ensures that citizens will be provided an opportunity to be involved in this land use action. Specifically, official City meetings in this action were well publicized and held at regular times and provide the opportunity for citizen comment. The public process used meets all of the requirements of Florence City Code pertaining to zone assignment and annexation with their respective land use processes.

While the public hearings will be conducted virtually with no opportunity for in-person attendance, the public could attend the meeting virtually and provide verbal testimony during the public hearings via the internet or via a landline phone. Those wishing to simply attend the hearing could do so through the Go-to-Webinar platform application, or they could watch the hearing live and playback offered by the videographer through an internet stream and Channel 191 on Charter Cable. Opportunities for written participation to be included in these Findings was available up to April 20<sup>th</sup> and again up to May 7<sup>th</sup>. All public comments received both before and after those dates were posted online and distributed to the decision bodies up to 4:00 PM on the hearing dates.

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#### Chapter 2: Land Use

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##### Policies

**1. Designation and location of land uses shall be made based on an analysis of documented need for land uses of various types, physical suitability of the lands for the uses proposed, adequacy of existing or planned public facilities and the existing or planned transportation network to serve the proposed land use, and potential impacts on environmental, economic, social and energy factors.**

The designation of this property as Service Industrial was adopted in 2002 as part of Periodic Review following a 1997 Industrial and Commercial Lands Inventory which was updated in 2018 via a Buildable Lands Inventory and Economic Opportunities Plan. Plan designating this private land for heavy industrial use near a major transportation corridor is the most physically suitable option to be placed away from dense commercial and residential centers and natural resource, education and pedestrian oriented areas.

Soils: The Natural Resources Conservation Service Soils Map, Map C, of Appendix 7 to the Florence Realization 2020 Comprehensive Plan illustrates the property includes soils Yaquina loamy fine sand. The map's legend states the soils are unsuitable or conditionally suitable for development. Much of Florence consists of soils with this designation. So, consistent with the soils map designation a Phase 1 Site Investigation Report (SIR) is required in conjunction with a development proposal and land division to identify areas of hazard. Findings of a hazard will require Phase 2 SIR performed by an engineer. Accepted engineering practices shall determine the extent of development allowed. This site is not dissimilar from other properties within the City with similar zoning and soils which require analysis prior to development and land division. The result of the analysis will determine suitability for construction and mitigating measures such as large lot sizes.

- 6. "The City shall conduct an internal review at least once every three years to assess the capacity of sewer, water and stormwater systems including three-year projections of additional consumption using a three percent growth rate."**

The annexation proposal is consistent with this policy because the provision of City utility services to the annexation area is based on the most up-to-date assessment of the projected capacity of these systems, assuming a 3 percent growth rate. This policy directs that the City conduct these internal reviews on a regular basis to ensure that the City continuously has the capacity to serve existing and new development, including annexed properties. The City has actively studied the capacity of these systems and hired consultants to supplement these studies. Most recently the City updated its Stormwater Management Plan and Public Facilities Master Plan. Public Works testimony using analysis from the documentation within these recent study results confirm that the City has the capacity (actually, with regard to the City's sewer system, in excess) to serve the annexation area without affecting service to existing City residents; consistent with the direction in this policy.

- 7. "The City shall determine estimated additional usage and the impacts of proposed development upon maximum capability for sewer, water and stormwater systems. This information is to be included in subdivision and design review staff reports."**

Public Works testimony using analysis from the documentation within recent study results confirm that the City has the capacity (actually, with regard to the City's sewer system, in excess) to serve the annexation area without affecting service to existing City residents; consistent with the direction in this policy. Public Works testimony also provides information on water service and how city service is available if Heceta Water is unable to serve them.

## **Industrial**

### **Goal**

To develop industrially planned and zoned lands within the Florence area for suitable research and development, manufacturing, processing, assembly, storage and distribution, construction and development-related uses, and airport-related uses.

**Policy 4** The City shall maintain lands planned and zoned for industrial uses within Industrial zones free from the encroachment of incompatible land uses such as residential, public or private schools and day care centers, active parks, or retail use as a principal use.

Currently, this undeveloped property is zoned Suburban Residential/Mobile Home District by Lane County. The implementing City zoning for this area is Service Industrial. As such, the proposed Service Industrial zoning is consistent with the City of Florence. Properties to the north, south and west are zoned the same and developed at least in part with industrial uses with pre-existing non-conforming residential uses. This criterion is met.

## **Service Industrial**

In the UGB, industrially planned lands are designated Service Industrial in the area located between the North Commercial Node and the Heceta Beach Neighborhood Cluster along Highway 101. The purpose of the Service Industrial designation is to provide lands for construction and development service businesses and related uses, while continuing the North Gateway theme begun in the Neighborhood Commercial Gateway designation. There are no other appropriate or available lands within the City or the UGB for these uses. Heavy vegetation and berms will be used to separate the business/office structures along Highway 101 from the processing, storage, maintenance, and other more industrial functions to be located at the rear of the berms. Access to these sites shall be by shared driveways onto Highway 101 in the short term, and via Oak and Spruce Streets in the long term after these streets are developed.

No development is proposed as it is an application for annexation and zone assignment. Title 10 Chapter 31 of the Florence City Code provides the implementing criteria for when this property is eventually developed. Future development will require additional Land Use Application reviews in concert with Florence City Codes.

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## **Chapter 12: Transportation**

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8. The City shall protect the function of existing and planned transportation systems as identified in the TSP through application of appropriate land use and access management techniques.

- Pursuant to the State Transportation Planning rule, any land use decisions which significantly affect a transportation facility shall ensure that allowed land uses are consistent with the function, capacity, level of service of the facility.

**OAR: 660-012-0060**

***Plan and Land Use Regulation Amendments***

***(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:***

***(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);***

***(b) Change standards implementing a functional classification system; or***

***(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.***

***...***

***(3) Notwithstanding sections (1) and (2) of this rule, a local government may approve an amendment that would significantly affect an existing transportation facility without assuring that the allowed land uses are consistent with the function, capacity and performance standards of the facility where:***

***(a) In the absence of the amendment, planned transportation facilities, improvements and services as set forth in section (4) of this rule would not be adequate to achieve consistency with the identified function, capacity or performance standard for that facility by the end of the planning period identified in the adopted TSP;***

The functional classification of Highway 101 and Sprue Streets will not change with the annexation of these properties and eventual development of the property.

The zoning is changing from Suburban Residential (a County designation permitting 6,000 sq. ft. lots) to Service Industrial. The new zone allows development and uses that occupy large parcels of land for warehousing, yards, storage etc. The zone change to large lot uses does not significantly affect trip counts on either Highway 101 or future Spruce St. Nevertheless, 3a of OAR 660-012-0060 offers relief of the requirement if the roadways were not adequate to achieve consistency by the end of the planning period in the adopted TSP, which is 2037. Spruce Street is undeveloped. Without a developer to upgrade it if the nexus

existed the streets would stay undeveloped through the planning period of 2037. This criterion is met.

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## **Chapter 14: Urbanization**

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### **Goal**

**To provide for an orderly and efficient transition from County/rural land uses to City/urban land uses.**

This proposal is consistent with this Urbanization goal, because the proposed annexation provides for an orderly and efficient transition from County/rural land uses to City/urban land uses, as follows:

- The annexation area is within the Florence urban growth boundary (UGB) and is contiguous to existing City as all rights-of-way and surrounding property are in the city limits. It is, therefore, an orderly transition from rural to urban land uses.
- The existing public infrastructure is an orderly and efficient mechanism for providing urban services to this geographic area.
- All connections and future connections to the sewer line have and will be funded through system development charges, connection fees, and property owner investment. This financing method allows for cost-effective service delivery to all users of the system.

### **Annexation Policies**

- 1. The procedures of ORS 222.840 et. Seq. (Health Hazard Abatement) shall be initiated if needed to remove dangers to public health. In the absence of a need for health hazard abatement annexation procedures, any annexation of county territory to the City of Florence shall utilize an annexation method allowable by state law that requires a majority of consents, and shall not utilize the “island annexation” procedures set forth by ORS 222.750.**

The proposed annexation has been initiated by the property owner. ORS 222.840 is not applicable to this specific proposal.

The City of Florence has utilized for this proposed annexation a method allowable by state law that requires a majority of consents and did not utilize an “island annexation.” The proposed annexation is not an island annexation because the territory to be annexed is contiguous with the Florence city limits. This policy criterion is met.

- 3. Conversion of lands within the UGB outside City limits shall be based on consideration of:**

**a) Orderly, economic provision for public facilities and services:**

The proposed annexation is consistent with Policy 3(a). because the annexation area will be served through an orderly, economic provision of public facilities and services, including

sewer, water, storm drainage, streets, fire and police protection, power, and communications. The utility services have the capacity to serve the property within the proposed annexation, and the services and facilities can be provided in an orderly and economic manner, as described in detail below. The annexation request is not intended to address details about placement of individual utility lines or other development level utility details.

Sewer: The Florence Public Works Department has evaluated the impact of the possible future industrial development and has concluded that there is sufficient capacity in the City's wastewater treatment facilities to serve the allowed uses without negatively affecting existing customers. Currently the Waste Water Treatment Plant has an excess capacity of .55 million gallons daily.

Water: The property will be served by Heceta Water People's Utility District services within Highway 101 unless capacity is unavailable at which the city does have service in Highway 101 and can serve the property. A hydrant is available within Highway 101.

Stormwater: There will be no change in the handling of stormwater upon annexation. Upon any development, the property will be expected to meet City Code, retaining all stormwater on-site.

Streets: The property will be accessed via Spruce St. once available. Any future usage (vehicular trips) made available by annexation and zone change can be accommodated by the surrounding street availability. Vehicular and pedestrian improvements to the adjacent streets will be accomplished in conjunction with improvements to the property.

Fire and Life Safety: Siuslaw Valley Fire and Rescue District currently provides protection services to the annexation area and will continue to do so following the annexation. Hydrant availability is discussed under the "Water" section above. Western Lane Ambulance District provides emergency medical support and transportation services to the annexation area.

Police: Once annexed, the City will provide public safety services. The Florence Police Department will expand their current emergency response service to patrol and respond to calls for the subject property.

Power: Central Lincoln People's Utility District currently provides electricity to the annexation area and will continue to do so following the annexation.

Communications: CenturyLink currently provides phone service to the area and will continue to do so following the annexation. Other utility companies such as Charter provide communications services and will continue to do so following the annexation. In addition, there are a number of cellular phone companies that provide service in the area.

**b) conformance with the acknowledged City of Florence Comprehensive Plan;**

This proposal is consistent with this policy. The Florence Realization 2020 Comprehensive Plan was acknowledged by the Department of Land Conservation and Development (DLCD) and is the acknowledged Plan for the City of Florence. As demonstrated in these findings of fact, the annexation proposal is in conformance with this acknowledged Plan.

**c) consistency with state law.**

The annexation proposal is consistent with this policy because the proposal is consistent with state law, as presented below in the review of Oregon Revised Statutes.

- 4. The City will send a referral requesting comments on annexations to Lane County. The Comments submitted will be considered in any action taken on the annexation request and will become part of the public record of the proceeding.**

Staff sent referral requests to Lane County on April 7, 2021. Comments from the County are provided in Section IV, "Referrals", above.

- 6. Annexed properties shall pay systems development charges as required by City Code.**

Water is available to the property and will be provided by Heceta Water People's Utility District, who will continue to serve the area. Any undeveloped property will be charged systems development charges commensurate with their impacts on the systems.

- 7. As a matter of public policy, Lane County and the City of Florence share a substantial interest in development within the Urban Growth Boundary. In order to receive a full range of urban services provided by the City of Florence, development within the Urban Growth Boundary shall require annexation. However, it is also recognized that until annexation Lane County will retain primary permitting responsibility for those lands.**

Lane County provides services and administers jurisdiction to all properties outside of the City of Florence and within the Urban Growth Boundary. After the completion of annexation, the City of Florence will be the responsible jurisdiction for future development of the property.

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**OREGON REVISED STATUTES**

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**ORS 222.111 Authority and procedure for annexation.**

**(1) When a proposal containing the terms of annexation is approved in the manner provided by the charter of the annexing city or by ORS 222.111 to 222.180 or 222.840 to 222.915, the boundaries of any city may be extended by the annexation of territory that is not within a city and that is contiguous to the city or separated from it only by a public right of way or a stream, bay, lake or other body of water. Such territory may lie either wholly or partially within or without the same county in which the city lies.**

The proposed annexation area is located within the Urban Growth Boundary of the City of Florence. The proposed annexation is contiguous to the City on all sides. The property and surrounding area lie wholly within Lane County.

**(2) A proposal for annexation of territory to a city may be initiated by the legislative body of the city, on its own motion, or by a petition to the legislative body of the city by owners of real property in the territory to be annexed.**

This proposal for annexation of the subject property was initiated by petition to the legislative body of the City by the owners of real property in the territory to be annexed. This criterion is met.

**(3) The proposal for annexation may provide that, during each of not more than 10 full fiscal years beginning with the first fiscal year after the annexation takes effect, the rate of taxation for city purposes on property in the annexed territory shall be at a specified ratio of the highest rate of taxation applicable that year for city purposes to other property in the city. The proposal may provide for the ratio to increase from fiscal year to fiscal year according to a schedule of increase specified in the proposal; but in no case shall the proposal provide for a rate of taxation for city purposes in the annexed territory which will exceed the highest rate of taxation applicable that year for city purposes to other property in the city. If the annexation takes place on the basis of a proposal providing for taxation at a ratio, the city may not tax property in the annexed territory at a rate other than the ratio which the proposal authorizes for that fiscal year.**

The annexed property will pay property taxes at the same rate as other properties within the City consistent with Oregon laws governing taxation. This proposal for annexation did not include a tax differential schedule as allowed in this statutory section.

**(4) When the territory to be annexed includes a part less than the entire area of a district named in ORS 222.510, the proposal for annexation may provide that if annexation of the territory occurs the part of the district annexed into the city is withdrawn from the district as of the effective date of the annexation. However, if the affected district is a district named in ORS 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.**

The annexation area is within the Heceta Water PUD and Siuslaw Valley Fire and Rescue District, which is a rural fire protection district named in ORS 222.510, but not named in ORS 222.465. The annexation area will not be withdrawn from the Fire District and thus will remain within the Siuslaw Valley Fire and Rescue District as well as Heceta Water PUD.

**(5) The legislative body of the city shall submit, except when not required under ORS 222.120, 222.170 and 222.840 to 222.915 to do so, the proposal for annexation to the electors of the territory proposed for annexation and, except when permitted under ORS 222.120 or 222.840 to 222.915 to dispense with submitting the proposal for annexation to the electors of the city, the legislative body of the city shall submit such proposal to the electors of the city. The proposal for annexation may be voted upon at a general election or at a special election to be held for that purpose.**

Resolution No. 28, Series 2010, adopted by the City Council, the legislative body of the City, on July 6, 2010, expressed the City's intent to dispense with elections in the City and annexation area as permitted by ORS Chapter 222, when sufficient written consents are received.



The City received written consent from four of the seven owners within the proposed annexation area, as allowed in ORS 222.170; therefore, an election is not required.

**ORS 222.120 Procedure without election by city electors; hearing; ordinance subject to referendum.**

**(1) Except when expressly required to do so by the city charter, the legislative body of a city is not required to submit a proposal for annexation of territory to the electors of the city for their approval or rejection.**

Chapter II Section 4 Item (2) (h) of the Charter for the City of Florence lists annexation as one of the City's powers "to annex areas to the City in accordance with State law." The Charter does not expressly require the City to submit a proposal for annexation of territory to the electors of the City for their approval or rejection. Therefore, the City will not be holding an election on this annexation request. Resolution No. 28, Series 2010 expressed the City's intent to dispense with elections in the City and annexation area as permitted by ORS Chapter 222, when sufficient written consents are received.

**(2) When the legislative body of the city elects to dispense with submitting the question of the proposed annexation to the electors of the city, the legislative body of the city shall fix a day for a public hearing before the legislative body at which time the electors of the city may appear and be heard on the question of annexation.**

Resolution No. 28, Series 2010 expressed the City Council's intent to dispense with any and all annexation elections both in the City and in the annexed territory whenever permitted by ORS Chapter 222. A public hearing on all annexations will be held allowing City electors to be heard on the annexation. Consistent with this Resolution, the City Council held a duly advertised public hearing after receiving a recommendation from the Planning Commission during their public hearing. The electors of the City could appear and be heard on the question of annexation and zone change assignment at each public hearing.

**(3) The city legislative body shall cause notice of the hearing to be published once each week for two successive weeks prior to the day of hearing, in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places in the city for a like period.**

The public hearings were noticed as required by Florence City Code. Notice of the public hearings were published in the Siuslaw News on April 17 and 24 and again May 1<sup>st</sup> and 7<sup>th</sup> 2021. Notices were posted in four public places: Florence City Hall, Justice Center, Siuslaw Public Library, and Post Office on April 6<sup>th</sup> and 27<sup>th</sup>, 2021.

**(4) After the hearing, the city legislative body may, by an ordinance containing a legal description of the territory in question:**

**(a) Declare that the territory is annexed to the city upon the condition that the majority of the votes cast in the territory is in favor of annexation;**

**(b) Declare that the territory is annexed to the city where electors or landowners in the contiguous territory consented in writing to such annexation, as provided in ORS**



**(a) The public hearing is held under ORS 222.120, if the city legislative body dispenses with submitting the question to the electors of the city; or**

**(b) The city legislative body orders the annexation election in the city under ORS 222.111, if the city legislative body submits the question to the electors of the city.”**

There are no electors within the proposed annexation area. Property owners representing over 52% of the land have petitioned for annexation. The written consent from the property owners was signed in July and August 2019, prior to the Planning Commission hearing of April 27, 2021 and City Council hearing of May 17<sup>th</sup> as required by ORS 222.120.

**(3) “Annexed properties shall pay system development charges as required by City Code.”**

The proposed annexation is consistent with Policy 3 because Florence City Code Title 9 Chapter 1 Section 4-A requires properties annexed to pay system development charges. Systems development charges will be paid upon connection to City utilities and upon development of the property.

**ORS 222.840 (Short title) to 222.915 Health Hazard Abatement Law**

**ORS 222.840 (Short title) to 222. 915 (Application of ORS 222.840 to 222.915) shall be known and may be city as the Health Hazard Abatement Law**

The proposed annexation is being voluntarily pursued by the applicant and property owner as described. The processes of this ORS do not apply.

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**FLORENCE CITY CODE**

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**TITLE 10: CHAPTER 1: ZONING ADMINISTRATION**

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**10-1-1-6: TYPES OF REVIEW PROCEDURES:**

**10-1-1-6-3: TYPE III REVIEWS – QUASI-JUDICIAL LAND USE HEARINGS:**

**B. Notification of Hearing:**

**1. At least twenty (20) days prior to a Type III (quasi-judicial) hearing, notice of hearing shall be posted on the subject property and shall be provided to the applicant and to all owners of record of property within 100 feet of the subject property, except in the case of hearings for Conditional Use Permits, Variance, Planned Unit Development and Zone Change, which notice shall be sent to all owners of record of property within 300 feet of the subject property.**

**a. Notice shall also be provided to the airport as required by ORS 227.175 and FCC 10-21-2-4 and any governmental agency that is entitled to notice under an intergovernmental agreement with the City or that is potentially affected by the proposal. For proposals located adjacent to a state roadway or where proposals are**

expected to have an impact on a state transportation facility, notice of the hearing shall be sent to the Oregon Department of Transportation.

b. For a zone change application with two or more evidentiary hearings, notice of hearing shall be mailed no less than ten (10) days prior to the date of the Planning Commission hearing and no less than ten (10) days prior to the date of the City Council hearing.

c. For an ordinance that proposes to rezone property, a notice shall be prepared in conformance with ORS 227.186 and ORS 227.175(8).

d. Notice shall be mailed to any person who submits a written request to receive notice.

e. For appeals, the appellant and all persons who provided testimony in the original decision.

2. Prior to a Type III (quasi-judicial) hearing, notice shall be published one (1) time in a newspaper of general circulation. The newspaper's affidavit of publication of the notice shall be made part of the administrative record.

This application includes a quasi-judicial zone assignment for the property. Subsections 1c and 1e are not applicable. Notice was provided as required in subsections 1a, 1b, 1d and 2. These criteria are met.

#### **10-1-1-6-4: TYPE IV PROCEDURE (LEGISLATIVE)**

##### **D. Notice of Hearing:**

- 1. Required hearings. A minimum of two hearings, one before the Planning Commission and one before the City Council, are required for all Type IV applications (e.g., re-zonings and comprehensive plan amendments).**

Petitioners have proposed annexation of their property. There will be at least two public hearings as part of this process and as required.

**10-1-2-3: ZONING OF ANNEXED AREAS: The City Council may establish zoning and land use regulations that become effective on the date of annexation. This zoning district shall be consistent with the objectives of the Florence Comprehensive Plan and Zoning Code. When zoning is not established at the time of annexation, an interim zoning classification most nearly matching the existing County zoning classification shall be automatically applied until the City Council establishes zoning and land use regulations in accordance with the conditions and procedures of Chapter 1 of this Title. (Amd. by Ord. 30, Series 1990).**

The zoning district corresponding to the subject property's Comprehensive Plan designation is Service Industrial. The Service Industrial zone will be assigned upon approval of the request from Council and finalization of the annexation process with the county and state.

#### **10-1-3: AMENDMENTS AND CHANGES**

**B. Quasi-Judicial Changes:**

- 4. Planning Commission Review: The Planning Commission shall review the application for quasi-judicial changes and shall receive pertinent evidence and testimony as to why or how the proposed change is consistent or inconsistent with and promotes the objectives of the Florence Comprehensive Plan and Zoning Ordinance and is or is not contrary to the public interest. The applicant shall demonstrate that the requested change is consistent with the Comprehensive Plan and Zoning Ordinance and is not contrary to the public interest.**

On April 27, 2021, the Planning Commission and on May 17<sup>th</sup> the City Council held public hearings on this annexation request and quasi-judicial zone assignment. The findings of fact were available in advance of the hearings and were reviewed against the applicable City and State policies. Annexation of properties within the UGB is permitted if the request meets the applicable ORS and the City's urbanization policies. These have been reviewed earlier with supporting findings.

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**TITLE 10: CHAPTER 31: SERVICE INDUSTRIAL**

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**10-31-1: Purpose: The purpose of this District is to provide an area within the City for large-lot industrial uses, particularly those associated with construction and development, while providing a visually pleasing north entrance into Florence, and maintaining through traffic flow on Highway 101.**

The subject property's defining use is undeveloped at this time. The proposed Service Industrial zoning is appropriate as it corresponds to the existing surrounding development pattern and comprehensive plan designation assigned properties in this area. No specific code criteria are applicable under this chapter for the annexation or zoning proposal.

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**Oregon Administrative Rules – 660-015-0000**

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**OAR 660-015-0000 (Goal 10):**

**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.**

**[...]**

**Needed Housing Units -- means housing types determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels. On and after the beginning of the first periodic review of a local government's acknowledged comprehensive plan, "needed housing units" also includes government-assisted housing. For cities having populations larger than 2,500 people and counties having populations larger than 15,000 people, "needed housing units" also includes (but is not limited to) attached and detached single-family housing, multiple-family housing, and manufactured homes, whether occupied by owners or renters.**

[...]

**Finding:** The population of the City of Florence exceeds 2,500 people, so the requirement for various housing types applies.

The City's Buildable Lands Inventory was updated in late 2018. In compliance with Goal 10 and applicable administrative rules implementing Goal 10, the inventory looks at acreage available for development within the City.

The zoning assignment for this annexation request will be Service Industrial. Only caretaker housing opportunities will be available upon development. Presently under County jurisdiction the property may be built with one single family residence as no land divisions are permitted with the City of Florence UGB. The addition of land to the city limits will not impact the City's residential inventory in the City's BLI in a negative or positive way as little opportunity exists presently or by annexing.

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## VII. CONCLUSION

The evidence in the record demonstrates that the proposed annexation and zone assignment is consistent with the policies set forth in state statutes, Florence City Code, and the Florence Realization 2020 Comprehensive Plan, based on the findings.

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## VIII. ATTACHMENTS

### Ordinance 7, 2021

Exhibit A	Annexation Map & Legal Description
Exhibit B	Findings of Fact
Exhibit C	Petition for Annexation

### Ordinance 8, 2021

Exhibit A	Rezoning Map
Exhibit B	Findings of Fact