

ARTICLE 8 IMPROVEMENT REQUIREMENTS

SECTION 8.100 IMPROVEMENT PROCEDURES

In addition to other requirements, public improvements and connections to public facilities installed by a developer or land divider shall conform to the requirements of this Code, [the Transportation System Plan \(TSP\)](#) and all design standards and construction specifications of the City, and shall be installed in accordance with the following procedure.

- (1) Improvement work shall not be commenced until plans and specifications have been reviewed and approved by the City. If necessary for evaluation of a Land Use Application specified in this Code, the plans and specifications may also be required before approval of the Application.
- (2) A Pre-construction Conference shall be scheduled with all affected utilities and the City before beginning work. The Developer shall be responsible for notification to all public and private utility providers.
- (3) Improvement work shall not commence until after the City is notified, and if work is discontinued for more than, 7 consecutive days for any reason, it shall not be resumed until after the City is notified.
- (4) Improvements shall be constructed under the inspection and to the satisfaction of the City. The City may require changes in the design and construction in the public interest if unusual conditions arise during construction to warrant the change. The cost of City inspections shall be paid by the developer or land divider.
- (5) All required improvements shall be provided and approved by the City prior to approval of a Final Plat. The owner may propose an Agreement and Security in conformance with **Section 8.510** and **Section 8.520** subject to acceptance by the City if improvements are delayed and the Final Plat is necessary to facilitate the completion of the work.
- (6) Underground utilities, sanitary sewers and storm drains installed in streets shall be constructed prior to the surfacing, or resurfacing, of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be located to prevent the necessity for disturbing the street improvements when service connections are made.
- (7) "As-built" drawings and specifications of the installed public improvements shall be filed with the City upon completion of the improvements.
- (8) Facilities serving a land division or development may require off-site improvements to serve the proposed land division or development. The design and cost of off-site improvements shall be the responsibility of the Applicant unless the City agrees to another arrangement.
- (9) The applicant/property owner is obligated to provide all of the required public improvements. In the event the City determines it is impractical or not currently

necessary to provide some of the required improvements, the City may defer the improvements. If deferred the developer/owner shall pay their fair share of the cost of improvements and the funds shall be placed into the City's specified Improvement Fund to pay for the improvements at a later date. Or the improvements may be installed in the area under special assessment financing or other facility extension policies of the City.

- (10) In the event required off-site improvements will serve other areas or developments, the City may authorize the formation of a Limited Improvement District or other assessment means of sharing the cost of improvements. If required off-site improvements will, without further construction, directly serve property outside the land division, the following arrangements may be made to equitably distribute the cost:
- (a) If the City plans to provide municipal improvements in an area that includes a planned land division, the City Administrator may recommend to the City Council that all of the construction occur as a single assessment project. A specific agreement shall be made with the land divider to assure payment of the land divider's share of construction costs.
 - (b) If the off-site improvements for a land division can also serve areas outside of the land division, the City may determine a proportional share reimbursement but is not obligated to do so.
- (11) The City may deny approval of land divisions or developments where facility deficiencies cannot be corrected or improved to fulfill the proposed need or the Applicant refuses to provide the needed improvements.

SECTION 8.200 SPECIFICATIONS FOR IMPROVEMENTS

Design and construction standards for Public Facilities have been adopted by the City of Adair Village in Code **Section 8.700**. The developer or land divider shall prepare and submit to the City for review and approval, plans and specifications in compliance with this Code and other applicable City ordinances. Where specific City standards are lacking, the plans and specifications shall comply with the intent of this Code based upon engineering standards appropriate for the improvements proposed. These standards shall be so noted and identified in the drawings and specifications provided. (Amended ORD 2013-03).

SECTION 8.300 REQUIRED IMPROVEMENTS

The following improvements shall be installed to serve each building site and each property in a subdivision or partition at the expense of the developer or land divider. However, if the City finds that conditions make installation of some improvements unnecessary at the time of development or land division, the City may defer the improvements. If deferred the developer/owner shall pay their fair share of the cost of improvements and the funds shall be placed into the City's specified Improvement Fund to pay for the improvements at a later date. In lieu of deferring an improvement, the City Council may determine that the improvement be installed in the area under special assessment financing or other facility extension policies of the City.

- (1) **Streets:** Public or private streets, adjacent to, or within the development or land division shall be improved [consistent with the street cross-section standards in the adopted Transportation System Plan](#). Curbs, gutters and catch basins shall be installed and connected to drainage tile leading to storm sewers or drainage ways. Upon completion of the street improvement, monuments shall be re-established and protected.
- (2) **Railroad Crossings:** Where an adjacent development results in a need to install or improve a railroad crossing, the cost for such improvements shall be born by the developer or land divider unless an equitable means of cost distribution is approved by the City.
- (3) **Street Name Signs:** Street name signs shall be installed to City standards at all street intersections.
- (4) **Street Lights:** Street lights shall be installed and shall be served from an underground utility.
- (5) **Traffic Signals:** Where a proposed intersection will result in the need for street signals to serve the increased traffic generated by the proposed development, they shall be provided by the developer or land divider and the costs shall be born by the developer or land divider unless an equitable means of cost distribution is approved by the City.
- (6) **Mail Boxes:** Joint mail boxes may be provided in residential developments. Joint mailbox structures shall be placed adjacent to roadway curbs as directed by the Post Office having jurisdiction and shall be noted on the Site Plan. The cost shall be born by the developer or land divider.
- ~~(8)~~ (7) **Surface Drainage and Storm Sewer System:** Drainage facilities shall be installed to serve the development or land division, provide for extension beyond the property, and connect to drainage ways or storm sewers outside the property. Improvements shall be based upon approved design plans to accommodate the capacity, grade and controls necessary to maintain unrestricted flow from areas draining through the property and shall provide improvements to the drainage system beyond the property where required.
 - (a) It is the obligation of the property owner to provide proper drainage and protect all runoff and drainage ways from disruption or contamination. On-site drainage is required and downstream improvements may be required to accommodate flows. The Owner shall provide proper drainage and shall not direct drainage across another property except within a continuous drainageway. Maintaining proper drainage is a continuing obligation of the property owner.
 - (b) Upstream flows shall be accommodated and downstream flows must limit impacts on downstream properties. There shall be no increased impacts from the proposed development on the Bower Slough drainage system.

engineered by the Applicant in conformance with the standards recommended by the City Engineer and approved by the City.

- (d) All drainage plans, calculations and work sheets shall be reviewed and approved by the City Engineer prior to issuance of a Building Permit.
- (e) A Wetlands & Riparian Area Delineation and Maintenance Plan or Mitigation Plan shall be required for identified wetlands and riparian areas and shall be provided by the Applicant prior to building permit approval.
 - 1. Designated wetlands and riparian areas may require a permit from DSL and any other regulatory agency having jurisdiction.
 - 2. Proposed new structures or developments that would encroach upon or adversely affect any designated wetlands or riparian areas within the City Limits or Urban Growth Boundary require City approval in addition to other agency approvals.
- (8) **Sanitary Sewers:** Sanitary sewers shall connect to existing mains and be installed to serve the development or land division and shall provide for extension beyond the property. Connection to City mains may entail installation of pump stations and larger mains to serve the proposed development at the developer's or land divider's expense. System design shall provide increased size and grades to accommodate extension of the system beyond the property or land division. Off-site improvements including over sizing and alignments may be required at the developer's expense if required to adequately serve the property and lands beyond the proposed development. If required sewer facilities will, without further sewer construction, directly serve property outside the land division the conditions of **Section 8.100 (10)** may apply.
- (9) **Water System:** A water system shall be installed to serve the development or land division, provide for extension beyond the property, and to connect the system to existing mains. All land divisions or new developments shall connect to the City water system. Fire hydrants, mains and related appurtenances shall be installed by the developer as required by the City. Off-site improvements including over sizing and alignments may be required at the developer's expense if required to adequately serve the property and lands beyond the proposed development.
- (10) **Pedestrian and Bicycle Access:** New partitions and subdivisions shall provide safe bicycle and pedestrian connections to adjacent existing and planned residential areas, transit stops, and activity centers. Non-motorized connectivity can be provided through sidewalks, shared-use paths, and striped and/or signed bicycle facilities on local roadways.
 - a) **Sidewalks:** Sidewalks are required on both sides of a public street and in any pedestrian way extending through a development or land division, except that in the case of primary or secondary arterials, or special type industrial districts, the Planning Commission may approve a development or land division without sidewalks if alternative pedestrian routes are available.

- b) ~~(41)~~ **Bicycle Routes:** If appropriate to the extension of a system of bicycle routes, existing or planned, the City may require the installation of separate bicycle lanes within streets or separate bicycle paths.

~~(11)~~~~(42)~~ **Utilities:** The developer shall make necessary arrangements with serving utility companies for the installation of underground lines and facilities.

SECTION 8.400 PUBLIC USE DEDICATIONS

- (1) Developers of residential subdivisions shall pay into the City's Park Development Fund a sum of money equal to \$1,500 per gross acre for each acre in the subdivision. The sums so contributed shall be used to maintain and improve existing Parks in the area of the subdivision or to aid in securing suitable areas for park and recreation purposes to serve the area containing the subdivision where no parks exist. This fee shall be in addition to the specified Park SDC Fees paid on a residential lot basis.
- (2) If the City or any other public agency has an interest in acquiring a portion of a proposed land division for a public purpose not already dedicated as a condition of approval, or if the City has been advised of such interest by a school district or other public agency, and there is reasonable assurance that steps will be taken to acquire the land, then the Planning Commission may require that those portions of the land division be reserved for public acquisition. The public agency will have sixty (60) days to file Notice of Condemnation.

SECTION 8.510 AGREEMENT FOR IMPROVEMENTS

Before City approval of a development, site plan or land division, the developer or land divider shall file with the City an agreement between developer or land divider and the City, specifying the period within which required improvements and repairs shall be completed and providing that, if the work is not completed within the period specified, the City may complete the work and recover the full cost and expense, together with court costs and attorney fees necessary to collect said amounts from the developer or land divider. The agreement shall also provide for reimbursement of the City's cost of inspection in accordance with **Section 8.100 (4)**.

SECTION 8.520 SECURITY

- (1) The developer or land divider shall file with the Agreement one of the following City approved Securities to assure full and faithful performance thereof, one of the following:
- (a) A surety or performance bond executed by a surety company authorized to transact business in the State of Oregon. The bond shall be in a form approved by the City.
- (b) A cash or negotiable security deposit deposited with the City Administrator in an amount fixed by the City.

- (c) An irrevocable letter of credit issued by a commercial bank as defined in **ORS 806.005**. The developer may provide certification by a bank or other reputable lending institution that money is being held to cover the cost of the improvement and that it will be released only upon authorization of the City.
 - (d) A mutual improvement agreement or other guarantee approved by the City including a personal bond co-signed by at least one additional person together with evidence of financial responsibility and resources of those signing the bond sufficient to provide reasonable assurance of ability to proceed in accordance with the agreement.
- (2) Such assurance of full and faithful performance shall be for a sum approved by the City as sufficient to cover the cost of the improvements and repairs, including related engineering and incidental expenses, and to cover the cost of City inspections and other costs.

SECTION 8.600 NONCOMPLIANCE PROVISIONS

- (1) If the developer or land divider fails to carry out provisions of the agreement, the City shall provide written notice to the developer or land divider and the surety specifying the details of noncompliance. Unless the City allows more time for compliance because of circumstances beyond the developer or land divider's control, within 30 days after receiving the notice, the developer or land divider or the surety shall commence compliance and proceed diligently to comply with the agreement.
- (2) If the land developer or the land divider's surety does not begin compliance within the 30 days or the additional time allowed by the City, or compliance is not completed within the time specified in granting the development or land division approval, the City may take the following actions:
- (a) Notify the developer or land divider and the surety of the developer or land divider's failure to perform as required by this Code and the Agreement.
 - (b) Demand payment from the developer or land divider or the developer or land divider's surety for the unfulfilled obligation.
 - (c) Enter upon the site and carry out the obligation in accordance with the provisions of the approval and agreement.
 - (d) If the security for the obligation is a performance bond, notify the surety that reimbursement for City expenses for fulfillment of the obligation is due and payable to the City. If the security is a deposit of cash or other assets, appropriate as much of the deposit as is necessary to recoup City expenses.
 - (e) Void all approvals granted in reliance on the agreement.
- (3) If the bond or other required security is not sufficient to compensate the City for expenses incurred to fulfill the obligation, the amount due to the City for the

obligation is a lien in favor of the City upon the entire contiguous real property of the owner of the land subject to the obligation.

- (4) The lien attaches upon the filing of notice of the claim for the amount due for the fulfillment of the obligation. The notice shall demand the amount due, allege the insufficiency of the bond or other security to compensate the City fully for the expense of the fulfillment of the obligation, and allege the land divider's failure to fulfill the required obligation.
- (5) The lien may be foreclosed in the manner prescribed by law for foreclosing other liens on real property.
- (6) The remedies set forth for non-compliance are cumulative. In addition to the remedies set forth above, non-compliance by the developer or his surety with any term of a performance guarantee shall entitle the City to pursue any civil remedy permitted by law.

SECTION 8.700 ADOPTED DESIGN AND CONSTRUCTION STANDARDS

The City of Adair Village has adopted design and construction standards for all public improvements within the City including, but not limited to, improvements and extension of the water system, sanitary sewer system, storm sewer system, and streets, sidewalks, and driveways. These standards are contained in the City's "Public Infrastructure Design Standards Manual" effective July 1, 2009.

The City will maintain a current copy of the "Public Infrastructure Design Standards Manual" together with all amendments and/or addendums published by the City and those permanent modifications made in accordance with **Section 8.800. (2)** below. (Amended ORD 2013-03)

SECTION 8.800 MODIFICATIONS PERMITTED

The City may review and approve modifications to the adopted "Public Infrastructure Design Standards Manual". Such modifications may be made upon written request from a developer or contractor designing and/or constructing public improvements within the City of Adair Village and such modifications may be approved on a one-time basis or be adopted permanently. Permanent modifications require the approval of the City Council.

- (1) **One-time Modifications:** The City may approve one-time modifications for a particular public improvement upon written request, if in the opinion of the City Engineer, the requested modification is necessary in order to complete the improvement and the modification would not adversely impact safety or the life span and quality of the system, or the maintenance and repair requirements.
- (2) **Permanent Modifications:** Permanent Modifications to the "Public Infrastructure Design Standards Manual" may be recommended at any time. With the concurrence of the City Administrator and City Engineer the recommended modification may be referred to the City Council for review and adoption. Recommended modifications shall be provided in a form determined by the City. Once a permanent modification has been approved it shall become part of the

Public Infrastructure Design Standards for the City of Adair Village. (Amended ORD 2013-03).

SECTION 8.900 APPLICABILITY OF BENTON COUNTY STANDARDS TO REFLECT TSP POLICY:

For public improvements that are constructed within the public rights-of-way owned and controlled by Benton County, coordination is required with Benton County Public Works Department and required permits must be obtained. In the event of a conflict between the City of Adair Village's adopted Design and Construction Standards and those of Benton County, ~~Benton County~~ city standards will take precedence unless otherwise specified through a joint agreement between ~~jointly agreed upon by~~ Benton County Public Works Department and the City of Adair Village.