

**CITY OF ADAIR VILLAGE**  
**LAND USE DEVELOPMENT CODE**

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# ARTICLE 1 ADMINISTRATIVE PROVISIONS

## Section 1.110 Title

This Ordinance shall be known as the "Adair Village Land Use Development Code."

## Section 1.120 Purpose

The purpose of this Code is to establish standards and procedures for the orderly development of land within the City of Adair Village in conformance with the Adair Village Comprehensive Plan to support protection of property rights, provide due process of law and to promote the public health, safety, and welfare of the Citizens of Adair Village.

## Section 1.130 Compliance Standards

- (1) A property may be used as a structure or part of a structure may be constructed, altered, occupied, or used only as this Code permits.
- (2) No property area, yard, off-street parking area, off-street loading area or other open space existing on or after the effective date of this Code shall be reduced below the minimum required in this Code unless authorized by the City.
- (3) No property area, yard, off-street parking area, off-street loading area, or other open space shall be used as the requirement for another property or use, except as provided for in this Code unless authorized by the City.

## Section 1.140 Regulation Compliance

In addition to the regulations contained herein, all proposed developments within the City shall comply with the following regulations:

- (1) The Adair Village Comprehensive Plan (2015).
- (2) Adopted Maps or Development Plans.
- (3) Transportation System Plan (2019).
- (4) The Adair Village Public Infrastructure Design Standards Manual (2009).
- (5) Oregon Revised Statutes, Chapter 227, City Planning and Zoning (ORS 227).
- (6) Oregon Revised Statutes, Chapter 197, Comprehensive Land Use Planning Coordination (ORS 197).
- (7) Oregon Administrative Rule, Chapter 660, Rules on Land Use Planning (OAR 660).
- (8) Oregon Revised Statutes, Chapter 92, Subdivisions and Partitions (ORS 92).
- (9) Oregon Revised Statutes, Chapter 209, County Surveyors (ORS 209).
- (10) Recording requirements of the Benton County Surveyor.
- (11) All other applicable regulations provided by law.

No person shall develop lands within the City without having complied with the applicable provisions of this Code and the applicable provisions of county, state, or federal law.

### **Section 1.150 Interpretation**

Where the conditions imposed by any provision of this Code are less restrictive than comparable conditions imposed by any other provisions of this Code or any other city ordinance, state law or federal law; the provisions that are more inclusive shall govern.

### **Section 1.160 Validity**

The provisions of this Code are severable. If any section, sentence, clause, or phrase of this Code is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this Code.

### **Section 1.170 Administration**

- (1) The City shall maintain authority over all activities within the City Limits as provided by law and the City Charter. All powers of the City shall be vested in the City Council unless otherwise provided in the City Charter. References to "City" means the decision-making authority for the requested action where more than one may apply depending upon the specifics of action requested. The City Council is the final authority for all decisions.
- (2) The City Administrator, under the direction of the City Council, shall have the authority and duty to enforce the provisions of this Code and all related City, County, State or Federal regulations. An Administrative Decision is a decision by the City Administrator with notification of actions taken provided to the Planning Commission and City Council.
  - (a) The City Administrator shall have the initial authority and responsibility to interpret all terms, provisions, and requirements of this Code, which is subject to appeal to the City Planning Commission as provided in Section 3.700, Appeal Provisions.
  - (b) All correspondence and inquiries related to this Code shall be directed to the City Administrator at the Adair Village Community Building, 6030 NE William R. Carr Avenue, Adair Village, Oregon 97330.
  - (c) The City Administrator may designate other City Officers or Staff to undertake specialized duties, including but not limited to, the City Attorney, City Engineer, City Planner, Public Works Director, and Parks & Recreation Director.
  - (d) The City Administrator shall have authority to review and approve Property Line Adjustments, Section 2.310; Duplex Division Partitions, Section 6.105; Final Plat Approval, Section 2.331 & Site Plan Reviews for structures less than 4,000 square feet, Section 2.400.
- (3) The Planning Commission shall have the authority to review and approve Site Plan Reviews for structures greater than 4000 square feet, Section 2.400; Conditional Uses, Section 2.500; Variances, Section 2.600 and Land Partitions, Section 2.320.



- (4) The City Council, with recommendation from the Planning Commission, shall have the authority to review and approve all Subdivisions, Section 2.320, Planned Developments, Section 7.200; Annexations, Section 2.800; Vacations, Section 2.900; Zone Change Map Amendments and Text Amendments to this Code and the Comprehensive Plan, Section 2.700.

## **Section 1.180 Enforcement**

- (1) **Remedy.** A structure located, constructed, maintained, repaired, altered, or used in violation of this Code, or land used in violation of this Code, shall constitute a nuisance. The City may, as an alternative to other remedies that are legally available for enforcing this Code, institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove the unlawful location, construction, maintenance, repair, alteration or use.
- (2) **Procedures.**
  - (a) After determination of a violation of this Code, the City shall notify the property owner that a violation exists. Such notice shall specify, with reasonable certainty, the following:
    - 1. The location and nature of the violation.
    - 2. The provision or provisions of this Code that have been violated.
    - 3. That immediate enforcement will be sought unless the violation is corrected, or corrective action has been initiated within ten (10) days.A defect in the notice of violation shall not prevent the enforcement of this Code.
  - (b) If necessary, and upon direction from the City Administrator, the City Attorney shall take such legal action as required to ensure compliance with this Code unless:
    - 1. It has been demonstrated to the satisfaction of the City Administrator that the violation has been corrected or removed or;
    - 2. A court of competent jurisdiction has stayed enforcement pending the outcome of a proceeding before the Court, concerning the violation.
- (3) **Penalty.** A violation of this Code may be the subject of criminal, civil, or other sanctions authorized by State Law or City Ordinances.
  - (a) In addition to, or in lieu of criminal actions, a violation of this Code or a permit issued by the City may be the subject of a civil penalty to be recovered by a civil action in the nature of a debt, or of any appropriate remedy issuing from a court of competent jurisdiction, including mandatory and prohibitory injunctions and orders of abatement.
  - (b) Upon conviction of a civil violation of this Code, a fine up to \$750 may be imposed. Each day such violation continues beyond the ten (10) days

specified in the first Notice of Violation provided by the City Administrator will be considered a separate offense.

### **Section 1.190 Fees**

Fees established by resolution of the City Council shall be paid to the City at the time of submitting an application or request and shall be in addition to other fees established by county, state or federal regulations.

### **Section 1.200 Definitions**

- (1) Rules of Construction. The following rules of construction shall apply unless inconsistent with the plain meaning of the context of this Code:
  - (a) Tense: Words used in the present tense include the future tense.
  - (b) Number: Words used in the singular include the plural, and words used in the plural include the singular.
  - (c) Shall, Should and May: The word "shall" is mandatory; the word "should" is a recommendation and the word "may" is permissive.
  - (d) Gender: The gender may include the feminine, masculine and neuter which can mean any of those forms.
  - (e) Headings: If there is any conflict or inconsistency between the heading of an article, section or paragraph of this Code and the text thereof, the said heading shall not be deemed to affect the scope, meaning or intent of the text.
- (2) Definitions: The words and phrases used in this Code shall have the following meaning:

**Abut:** Contiguous to or immediately joined. For example, two lots or parcels with a common property line are considered to be abutting.

**Access:** The way or means by which pedestrians, bicycles and vehicles enter and leave property.

**Accessory Structure or Accessory Use:** A structure or use incidental, appropriate and subordinate to the main use of property and located on the same property as the main use.

**Adverse Impact:** An impact that is detrimental to or contrary to the desired effect or so opposed as to cause harmful interference. A negative effect that is detrimental to the public welfare or injurious to people, property or the community environment.

**Alley:** A street that affords only a secondary means of access to property.

**Alteration:** Any change, addition or modification in construction or occupancy.

**Basement:** A story partly or wholly underground. A basement shall be counted as a story for purposes of height measurement where more than one-half of its height is above the average level of the adjoining ground.

**Bed & Breakfast Facility:** A dwelling where travelers are lodged for sleeping and dining purposes under the provisions of local or state law governing such facilities.

**Boarding and/or Rooming House:** A building where lodging, with or without meals, is provided for compensation, but shall not include Residential Care Homes or Child Care Homes.

**Building:** A structure used to contain any use or occupancy permitted by this Code.

**Building Height:** The vertical distance from the average adjacent building grade to the highest point of the roof.

**Building Inspector:** An employee of Benton County with duties and authority to enforce all building codes and the provisions of this Code in accordance with Section 2.200, Building Permits.

**Building Line:** A line on a plat or map indicating the limit beyond which buildings or structures may not be erected. Also referred to as the Setback line. The area between the building or setback line and the property line is referred to as the "yard."

**Cemetery:** Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes including columbaria, crematories, mausoleums, and mortuaries, when operated in conjunction with and within the boundary of such cemetery.

**Child Care Home:** Any residence, establishment, or place, including day-care, nursery schools or private kindergartens certified to care for (12) or less children under the age of thirteen (13) years for the purpose of being given care, supervision or training apart from a parent or legal guardian.

**Church:** A building, together with its accessory buildings and uses, where persons regularly assemble for worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

**City:** The City of Adair Village, Oregon. References to "City" means the decision-making authority for the requested action where more than one may apply depending upon the specifics of action requested. The City Council is the final authority for all decisions.

**City Administrator:** The primary non-elected officer of the City appointed by the City Council responsible for all day to day administrative activities and decisions subject to Council approval. The City Administrator may designate other City Officers or Staff to undertake specialized duties on behalf of the City.

**Clinic:** Single or multiple offices for physicians, surgeons, dentists, chiropractors, osteopaths, and other members of the healing arts, including a dispensary in each such building to handle only merchandise of a nature customarily prescribed by occupants in connection with their practices.

**Clinic, Small Animal:** A business establishment in which veterinary services are rendered to small domestic pets on an outpatient basis with no overnight boarding allowed.

**Club:** A facility owned or operated for a social, educational, or recreational purpose, to which membership is required for participation and which is neither operated primarily for profit nor to render a service that is customarily carried on by a business.

**Commission:** The Planning Commission of the City of Adair Village, Oregon.

**Common Wall:** Common wall construction in a building having one or more walls attached to and in common with another building.

**Community Center:** A facility owned and operated by a governmental agency or a non-profit community organization which is open to any resident of the neighborhood in which the facility is located or to any resident of the City or surrounding area, provided that the primary purpose of the facility is for assembly and provided further that no permanent commercial eating or drinking facilities shall be operated on the premises.

**Comprehensive Plan:** A City Land Use Plan for the guidance of growth and development of the City, including modifications or refinements that may be made from time to time.

**Council:** The City Council of the City of Adair Village, Oregon, which is the governing body of the City.

**Curb Elevation:** The height above mean sea level of the established curb in front of a building measured from the center of such building front. Where no curb elevation has been provided, the City shall establish the curb elevation for compliance with City standards.

**Deciding Body or Authority:** The City Administrator or designee, the City Planning Commission or City Council responsible for making a decision on an application or land use issue.

**Declarant:** The person who files a declaration under ORS 92.075.

**Declaration:** The instrument described in ORS 92.075 by which the subdivision or partition plat was created.

**DLCD:** Department of Land Conservation and Development.

**Duplex Division:** A parcel of land with an area of at least 5,500 square feet containing one dwelling unit of an existing duplex structure resulting from the division of a conforming duplex lot.

**Dwelling:** A building or portion thereof, that is occupied in whole or in part as a home, residence, or sleeping place, either permanently or temporarily by one (1) or more families.

**Dwelling, Multi-Family (Apartments):** A building or portion thereof designated for occupancy by three (3) or more families living independently of each other, with the number of families in residence not exceeding the number of dwelling units provided.

**Dwelling, Single-Family:** A detached building, other than a manufactured home, designed for and occupied by not more than one family.

**Dwelling, Two-Family (Duplex):** A building containing two dwelling units occupied by not more than two (2) families living independently of each other.

**Dwelling Unit:** A single unit providing complete independent living facilities, designed for occupancy by one (1) family, and including permanent provisions for living, sleeping, eating, cooking and sanitation.

**Easement:** A grant of the right to use a strip of land for specific purposes.

**Fact:** Something that has actual existence, an actual occurrence or a piece of information presented as having objective reality. In the Land Use Hearing Process, facts are the information submitted as evidence that is relied upon in making a decision on a land use issue. The justification for the decision shall be based on the criteria, standards and facts set forth in the hearing.

**Family:** An individual or two (2) or more persons related by blood, marriage, legal adoption or legal guardianship living together in one dwelling unit using one kitchen and providing meals or lodging to not more than two (2) additional persons, excluding servants; or a group of not more than five (5) unrelated persons living together in one dwelling unit using one kitchen.

**Fence, Sight-Obscuring:** A continuous fence, wall, evergreen planting, or combination thereof, constructed and/or planted so as to effectively screen the other side from view.

**Floor Area:** The area included within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts and courts. The floor area of a building or portion thereof, not provided with surrounding exterior walls, shall be the usable area under the vertical projection of the roof or floor above.

**Floor Elevation:** The height above mean sea level of the first floor of a building that is not a basement.

**Garage, Private:** A detached accessory building or portion of a main building for the parking of automobiles of the occupants of the premises.

**Garage, Public:** A building other than a private garage used for the care, repair, parking, or storage of automobiles.

**Grade (Ground Level):** The average elevation of the finished ground level at midpoint of all walls of a building, except that if a wall is parallel to and within five (5) feet of a sidewalk, the sidewalk elevation nearest the midpoint of the wall shall constitute the ground level.

**Half Story:** Means that part of any building wholly or partly within the roof frame and not occupying more than two-thirds (2/3) of the floor area immediately below it.

**Height of Building:** The vertical distance from the highest grade to the highest point of the roof.

**Home Occupation:** A lawful business occupation carried on by a resident of a dwelling, where the business occupation is secondary to the main use of the property as a residence provided the use does not alter the character of the dwelling, there is no exterior display of stock and no employees other than family members.

**Hotel/Motel:** A building or group of buildings used for transient lodging containing more than 5 guest rooms without guest room cooking facilities used primarily for sleeping purposes. On-site restaurant facilities may also be provided.

**LCDC:** Land Conservation and Development Commission.

**Loading Space:** An off-street space or berth on the same lot with a building for the temporary parking of a vehicle while loading or unloading, and which abuts upon a street, alley or other appropriate means of access.

**Lot:** A unit of land that is created by a subdivision of land.

**LUBA:** The State of Oregon Land Use Board of Appeals.

**Manufactured Home:** A structure transportable in one or more sections, each built on a permanent chassis, and which is designed to be used for permanent occupancy as a dwelling and is not designated as a "recreational vehicle" or prefabricated structure as defined by the State or Oregon.

**Nonconforming Structure Lot or Use:** A lawful existing structure, lot, or use, at the time this Code becomes effective which does not conform to the standards of the zone or district in which it is located. See Section 4.080.

**OAR:** The State of Oregon Administrative Rules.

**Occupancy:** The number of people occupying a room, building or structure.

**Occupancy Type:** The purpose for which a building, or part of a building, is used or intended to be used. As used in the Building Code.

**ORS:** The State of Oregon Revised Statutes.

**Owner:** An individual, association, partnership, or corporation having legal or equitable title to land or structures, other than legal title held for purpose of security only.

**Parcel:** A unit of land that is created by a partitioning of land.

**Parking Space:** An off-street enclosed or unenclosed surfaced area, exclusive of maneuvering and access area, permanently reserved for the temporary storage of one automobile in conformance with the parking diagram contained on the "Design Standards Diagram", Sheet DSD-1 of the Code. All parking shall be connected to a street by a surfaced driveway that affords ingress and egress for automobiles.

**Partition:** Either an act of partitioning land or an area or tract of land partitioned.

**Partition Land:** To divide land into two or three parcels of land within a calendar year, but does not include:

- (a) A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots.
- (b) An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning Code.
- (c) A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right-of-way purposes provided that such road or right-of-way complies with the applicable comprehensive plan.

**Pedestrian Way:** A right-of-way for pedestrian traffic.

**Person:** Every natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government or any group of combination acting as a unit.

**Planning Commission:** The Planning Commission of the City of Adair Village.

**Plat:** A final subdivision plat, replat or partition plat.

- (a) **Partition Plat:** A final map and other writing containing all the descriptions, locations, specifications, provisions, and information concerning a partition.
- (b) **Subdivision Plat:** A final map and other writing containing all the descriptions, locations, specifications, dedications, provisions, and information concerning a subdivision.
- (c) **Replat:** The act of platting the lots, parcels and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots in the subdivision.

**Professional Office:** An office occupied by doctors, dentists, accountants, attorneys, optometrists, architects, professional engineers or surveyors or persons engaged in similar occupations.

**Property:** A lot or parcel. A single unit or tract of land that, at the time of application for a building permit, is designated by its owner or developer as a site to be used, developed, or built upon as a unit, under single ownership or control.

- (a) **Corner Property:** A lot or parcel at least two adjacent sides of which abut streets other than alleys, provided the angle of intersection of the adjacent streets does not exceed 135°.
- (b) **Through Property:** A lot or parcel having frontage on two parallel or approximately parallel streets other than alleys.
- (c) **Flag Property:** A lot or parcel that has access to a right-of-way by means of a narrow strip of land.

**Property Line:** The legal boundary of a lot or parcel.

- (a) **Front Property Line:** The lot or parcel line separating the property from a street other than an alley, and in the case of a corner property, the property line along a street other than an alley over which primary vehicular access is gained.
- (b) **Rear Property Line:** The lot or parcel line which is opposite and most distant from the front property line that abuts another property.
- (c) **Side Property Line:** Any lot or parcel line not a front or rear property line that abuts another property.

(d) **Street Side Property Line:** Any line adjacent to a street that is not a front property line.

**Property Line Adjustment:** The legal relocation of a common property line between two abutting properties.

**Property Width:** The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.

**Public And Semi-Public Building or Use:** A building or use owned or operated by a religious, charitable, or other nonprofit organization; a public utility; or any social agency such as a church, school, auditorium, meeting hall, library, art gallery, museum, fire station, utility substation, cemetery, park, playground, community center or similar use.

**Residential Density:** The number of dwelling units per acre of net land area excluding street rights-of-way.

**Right-Of-Way:** A continuous strip of land between property lines allowing a right-of-passage usually containing a street, railroad, or other passageway.

**Roadway:** The portion of a street right-of-way developed for vehicular traffic.

**Sale or Sell:** Every disposition or transfer of land and improvements in a subdivision or partition or an interest or estate therein.

**Service Station, Automobile:** A place or station designed and used primarily for the supplying of motor fuel, oil, lubrication, and accessories to motor vehicles, but excluding major repair and overhauling.

**Sign:** Any writing (including letters, words, or numerals); pictorial representation (including murals, illustrations or decorations); emblem (including devices, symbols or trademarks); flag (including banners or pennants); identification displays (including objects, inflatables or balloons); or any other device used to inform, attract attention or advertise that is visible from a public right-of-way.

**Story:** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling above. (See basement).

**Story, Half:** Shall mean any basement or cellar, except as provided in this Code, which has less than six (6) feet of its height above grade.

**Street or Road:** A public or private way that is created to provide vehicular ingress or egress for persons to one or more lots, parcels, areas, or tracts of land and including the term "road," "highway," "lane," "drive" "avenue," "alley" or similar designations.

(a) **Arterial:** A street of considerable continuity that is primarily a traffic artery for interconnection between large areas.

(b) **Collector:** A street supplementary to the arterial street system and a means of interconnection between arterials; used for through traffic and access to small areas.



- (c) **Cul-de-sac:** A short dead-end street terminated by a vehicular turnaround.
- (d) **Half Street:** A portion of the width of a street, usually along the edge of a land division, where the remaining portion of the street could be provided in another tract.
- (e) **Frontage Access Street:** A minor street, protected from through traffic, providing access to abutting properties that is parallel and adjacent to a major arterial street.
- (f) **Local Street:** A street intended primarily for access to abutting properties.

**Structural Alteration:** Any change to the supporting members of a structure including foundations, bearing walls or partitions, columns, beams, girders or structural change in the roof or in the exterior walls.

**Structure:** That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

**Subdivide Land:** To divide an area or tract of land into four or more lots within a calendar year.

**Subdivision:** Either an act of subdividing land or an area or tract of land subdivided.

**Tentative Plan:** A tentative plan is the application, supplemental data and map showing the general design of the proposed subdivision or partition, submitted to the City for approval under the provisions of ORS 92 and Section 2.320 of this Code.

**Use:** The purpose for which land or a structure is put into service, employed, occupied or maintained.

**Vacation:** The sale or granting of sole ownership of public property to a property owner or abutting property owners where the property is no longer needed for public purposes; including easements, rights-of-ways and other public lands. See Section 2.900.

**Yard:** A required open space area measured from the property line where no buildings or structures are permitted unless otherwise exempted.

**Zero Property Line:** A lot or parcel line having no setback therefrom that may equally divide a common wall in a building.

## **ARTICLE 2 APPLICATION PROCEDURES**

### **Section 2.110 Pre-Application Staff Consultation**

An Applicant may request an informal review of a proposal prior to application to determine the general feasibility of the proposal. There are no fees for an informal review. The Applicant should submit a brief description and a sketch drawing of the proposed development to the City for preliminary consultation. The City will inform the Applicant of the procedural requirements and any conditions and policies of public agencies that may be pertinent to the proposal. The Applicant may proceed with an application or the City may suggest a pre-application conference with City Staff and affected agencies to assist the Applicant in preparing the application.

## **Section 2.120 Pre-Application Agencies Conference**

Within 30 days after the pre-application consultation, the City Administrator may schedule a pre-application conference with the Applicant and representatives of the City and other affected public and private agencies to further clarify the conditions and requirements necessary in the preparation of the application.

## **Section 2.130 Application Procedure**

Following preliminary consultation and the pre-application conference, when applicable, the Applicant shall prepare an application together with other supplementary data required to clearly describe the proposed development and the decision requested of the City. Applications shall be submitted to the City 30 days prior to the review or hearing meeting.

- (1) Applications, Petitions and Appeals provided for in this Code shall be made on forms prescribed by the City. Forms are available at the Adair Village City Hall/Community Building, 6030 NE Wm. R. Carr Avenue, Adair Village, Oregon 97330, Telephone - (541) 745-5507, Fax - (541) 230-5219.
- (2) Applications shall include the application form, narrative descriptions, plans and drawings, together with all documents, evidence and supporting information relied upon by the Applicant including the applicable City Code sections that may apply to the request.  
  
Ten copies of the application materials shall be provided by the Applicant for Planning Commission or City Council decisions and twenty copies shall be provided by the Applicant for decisions requiring both a Planning Commission and City Council decision. A Review or Hearing will be scheduled to comply with the applicable legal time frame from the date the Application is deemed complete.
- (3) A consolidated procedure shall be utilized by the City for applications that require more than one approval procedure for a development project. The City will identify and address all of the procedures concurrently and will utilize the most comprehensive procedure and decision process of those required in the application.
- (4) The Applicant may be requested to provide the City with a list of property owners of record within 100 feet of the property that is the subject of the review or hearing.
- (5) All Applications shall be submitted to the City 30 days prior to the decision meeting that usually occurs on the meeting dates of the Planning Commission or City Council. Applications will be available to the public at that time. Notifications will be mailed by the City twenty (20) days prior to the review or hearing meeting.
- (6) An application and review fee shall accompany the application request in accordance with the provisions of Section 1.190 and the City's Fee Resolution.
- (7) Staff reports used at the review or hearing shall be available at least seven (7) days prior to the review or hearing.

- (8) The City shall comply with ORS 227.178 and take final action on an application, including resolution of all local appeals, within 120 days after the application is deemed complete. If an application is incomplete, the City shall notify the Applicant within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete if the Applicant supplies the missing information, or if the Applicant fails to submit the missing information, it shall be deemed complete on the 31st day after the application is received by the City.
- (9) If an application is complete when first submitted or if the Applicant submits the requested missing information within the 30 days, following notification from the City approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.
- (10) The 120-day period specified in subsection (8) may be extended for a reasonable time at the request of the Applicant.
- (11) The 120-day period specified in subsection (8) does not apply to an amendment to this Code or to other legislative actions.
- (12) The Applicant bears the responsibility and burden of proof for the requested action. The greater the potential impact, the more justification must be shown.
- (13) The Application and the decision of the City shall be maintained by the City in a Record File of the Application. Notice of Decision shall be given the Applicant and other participants in the proceedings as specified in Section 3.300.
- (14) Expiration. Approved applications shall be void 2 years after the date of approval unless a building permit has been issued and substantial construction pursuant thereto has taken place, unless a specific time period was specified as a condition of approval. However, upon written request prior to the expiration date, the City may extend the time period. Such extensions shall occur only upon findings that the request does not violate any current code and upon acceptance of reasons for the delay. After the expiration of the time period the application may be denied.
- (15) Limitation. No request for a land use application shall be considered by the City within one-year following denial of a request, except the City may consent to a new hearing; if in the opinion of the Deciding Body, new evidence or a change of circumstance warrant reconsideration.
- (16) The specific requirements and decision process for each application procedure are contained in the following Sections of this Article.

## **Section 2.140 Application Site Plan**

Applications requiring a site plan shall include a Site Plan Drawing on an 11 by 17 inch or 8 1/2 by 11-inch sheet size for copying and distribution. Larger drawings may be submitted for presentation and City review. The Plan shall be drawn to scale. The scale shall be selected to fit the sheet size, but in all cases the scale selected shall be in even multiples of one (1) inch equals ten (10) feet (For example - 1" = 20', 1" = 30', 1" = 100', etc.). The Application and Site Plan shall indicate clearly and with full dimensioning the following applicable information for all

existing and proposed development. It is understood that some of the following requested information may not apply to every application. (X) out the number of non-applicable information.

- (1) The names of the Owner(s) and Applicant if different.
- (2) The property address or geographic location and the Assessor Map number and Tax Lot number.
- (3) The date, scale and Northpoint.
- (4) A vicinity map showing properties within the notification area and roads. An Assessor Map, with all adjacent properties, is adequate.
- (5) A Site Plan with property dimensions.
- (6) The location, size, height and uses for all existing and proposed buildings.
- (7) Walkways, surfaced areas, yards, open space, and areas to be landscaped.
- (8) Walls and fences: location, height, and proposed materials.
- (9) Off-street parking: location, number of spaces, dimensions of parking area and internal circulation patterns.
- (10) Access: pedestrian, bicycle, vehicular and service locations and ingress and egress locations.
- (11) Signs: location, size, height and means of illumination.
- (12) Loading: location, dimension, number of spaces and internal circulation.
- (13) Lighting: location, type (pole, building, ground, etc.) and shielding devices.
- (14) Existing and proposed streets including surface materials dedications and improvements.
- (15) Topographic features including existing and proposed grades, significant trees over 6 inches in diameter, and other significant vegetation.
- (16) Water systems, drainage systems, sewage disposal systems and utilities.
- (17) Drainage ways, water courses, flood plains, wetlands, and riparian areas.
- (18) The estimated number of people that will occupy the site including family members, employees, and customers.
- (19) The estimated number of generated trips per day from each mode of travel by type: employees, customers, shipping, receiving, etc. A Traffic Assessment and possibly a Traffic Impact Study may be required if warranted by the traffic impact.
- (20) The proposed time of operation, where appropriate. Including hours of operation, days of the week and number of work shifts.

- (21) Identification of the type and extent of anticipated emissions, potential hazards or nuisance characteristics generated by the proposed use. Misrepresentation or omission of required data may be grounds for denial or termination of an Approval or Certificate of Occupancy.

Uses which possess nuisance characteristics or those potentially detrimental to the public health, safety and general welfare of the community including, but not limited to; noise, water quality, vibration, smoke, odor, fumes, dust, heat, glare or electromagnetic interference, may require additional safeguards or conditions of use applied by the City.

All uses shall meet all applicable standards and regulations of the Oregon State Board of Health, the Oregon Department of Environmental Quality, and any other public agency having appropriate regulatory jurisdiction. Prior to approval of a land use decision, evidence shall be submitted to the City indicating that the proposed activity has been approved by all applicable regulatory agencies.

- (22) A construction schedule and development phasing schedule.
- (23) Such other data as may be necessary to permit the Deciding Authority to make the required findings.

## **Section 2.150 Record File**

The City shall maintain an official Record File of each application containing all relevant data, drawings, dates, notices, hearings, postponements, continuances, decisions, appeals and minutes of all meetings pertaining to the application.

- (1) Minutes of all meetings, reviews and hearings shall record the substance of all issues before the review or hearing body including the criteria, factual evidence and the justification for the decision as specified in Article 3. Summary written minutes shall be maintained in the Record File. The minutes and records need not be a verbatim transcript of the meeting.
- (2) Proceedings may be recorded either by stenograph or electronically, although a verbatim record is not required. Minutes may be summarized from the transcript or tape.
- (3) Testimony may be transcribed at the expense of the requesting party, if required for judicial review or local appeal proceedings. The transcribing fee may include all actual costs as authorized by state law.
- (4) The Staff Report and recommendation shall be included in the Record File.
- (5) The review or hearing body shall, where practical, retain each item of physical or documentary evidence presented as part of the Record and shall have the items marked to show the identity of the person offering the same and whether presented on behalf of a proponent or opponent. Exhibits received into evidence shall be retained in the Record File until after all appeal periods have expired, at which time the exhibits may be released.

- (6) The public shall have access to the Record File of the proceedings at reasonable times, places, and circumstances. A person shall be entitled to make copies of the Record at a cost determined by the City.

## **Section 2.200 Building Permits**

- (1) Building Permits are issued by the City and administered by the Benton County Building Department. The Benton County Building Department also provides all construction administration and inspection services.
- (2) Building Permits may be issued by the City for Permitted Uses not requiring a Review or Public Hearing by the City Administrator, City Planning Commission or City Council.
- (3) Application for Building Permits requiring a land use decision including: Site Plan Reviews, Conditional Uses, Variances, Nonconforming Uses, or Zone Change Amendments shall be approved by the City prior to submittal to Benton County. Any proposed change in the approved plan or use shall be resubmitted to the City as a new application. Building Permits for an approved land use decision shall not be issued until the appeal period, as specified under Section 3.700, has expired.
- (4) Each application for a building permit shall comply with the latest adopted edition of the International Building Code as amended by the State of Oregon or the Oregon Residential Specialty Code. Applications shall describe the work and proposed use and occupancy and include site and building plans, drawn to scale, construction details, specifications, computations, and such other information as may be required by the Benton County Building Official.

## **Section 2.300 Land Divisions**

### **Section 2.310 Property Line Adjustments**

- (1) Purpose. A property line adjustment is a relocation of a common property line between abutting properties when both parties agree. A property line adjustment shall not create an additional lot or parcel, reduce a lot or parcel in size below the minimum size specified for the zone, or create a violation of development standards on either lot or parcel.
- (2) Application. A property line adjustment may be submitted for review by the City Administrator without preliminary consultation, a land division conference, or a hearing where the adjustment complies with Sections 2.311 and 2.312.
- (3) Information. The Applicant shall submit to the City the proposed map of the property line adjustment together with other supplementary data required for recording or specified herein for review and action by the City Administrator.

### **Section 2.311 Property Line Adjustment Requirements**

All property line adjustment maps shall contain the following information:

- (1) A map clearly and legibly drawn on a sheet size that is acceptable for recording by the County Surveyor, Clerk or Recorder. The scale shall be selected to fit the sheet size, but in all cases the scale selected shall be one-inch equals ten (10) feet or a smaller scale that is even multiples of one (1) inch equals ten (10) feet (1"=20', 1"=30', etc.).
- (2) The title "Property Line Adjustment for \_\_\_\_\_," the date and Northpoint.
- (3) Name and address of the record owner(s) of the property to be adjusted.
- (4) Assessor Map and Tax Lot numbers and approximate acreage or square feet of each property prior to and after adjustment.
- (5) The location and boundary dimensions and other information to accurately locate the adjusted property line.
- (6) Existing conditions for land within the properties to be adjusted:
  - (a) The locations, names, and widths of existing streets.
  - (b) The location, width, and purpose of existing easements.
  - (c) The approximate location of buildings, public and private utilities, drainage ways and other significant features that would affect development of the adjusted properties.

### **Section 2.312 Decision Criteria**

A Property Line Adjustment may be approved based upon compliance with the submittal requirements specified above and the following findings:

- (1) The adjustment will not create an additional unit of land.
- (2) The adjustment will not create a land-locked parcel.
- (3) The existing unit of land reduced in size by the adjustment complies with applicable City Ordinances and this Code and will not create a non-conforming lot or non-conforming development.
- (4) The adjustment shall comply with any previous Conditions of Approval attached to the properties to be adjusted.
- (5) The adjustment shall comply with all state and county recording requirements.

### **Section 2.313 Decision Process**

- (1) A Property Line Adjustment does not require a Limited Land Use Decision or Notification. The City Administrator may consider a Property Line Adjustment map at any time following submittal of the application.
- (2) If the proposed Property Line Adjustment is consistent with City land use standards, the City Administrator may approve the map as submitted, approve with conditions, or deny the request for noncompliance.

- (3) If the application requires a Variance or requires interpretation or the exercise of policy or legal judgment, the Planning Commission shall hold a public hearing in conformance with the Quasi-judicial Public Hearings requirements of Section 3.510.
- (4) Upon approval or denial, a Notice of Decision shall be given the Applicant together with any conditions of approval for the proposed Property Line Adjustment as specified in Section 3.600. If the Application is denied or the required conditions of approval are not agreed to by the Applicant, the Applicant may request an Appeal to the Planning Commission within 15 days of the decision in conformance with Section 3.700.

### **Section 2.314 Property Line Adjustment Filing**

- (1) The property to be adjusted shall be surveyed in accordance with ORS 92.06 subsection (7) and ORS 209.250 and monumented in accordance with ORS 92.060, subsection (3) unless the adjusted property line is a distance of even width along the common boundary as described in ORS 92.060, subsection (9).
- (2) Deeds or conveyances for all lots or parcels conforming to the approved property line adjustment shall be filed with the County Clerk in accordance with ORS 92.190, subsections (3) and (4).
- (3) Upon approval, the original survey map and two copies shall be signed by the City Administrator. A signed copy shall be returned to the Applicant and a signed copy maintained on file with the City. The original survey shall be forwarded to the County Surveyor for recording by the Applicant. If required conditions of approval are not met, the survey map shall not be signed, and it shall be returned to the Applicant with a letter stating the reasons for denial. The Applicant may modify the map for compliance with the required conditions or may request an Appeal to the Planning Commission within 15 days of the City Administrator's decision in conformance with Section 3.700.
- (4) Copies of all recorded conveyances and filed surveys shall be provided to the City for inclusion in the Record File of the Application, in accordance with Section 2.150.

### **Section 2.320 Subdivision or Partition Tentative Plan**

- (1) The City Administrator shall be decision authority for all Duplex Division Partitions, the Planning Commission shall be the decision authority for all other Land Partitions and the City Council shall be the final decision authority for all Subdivisions with recommendation by the Planning Commission under the provisions of this Code unless combined with another request or if appealed to a higher authority. In the event that a consolidated application requires more than one decision, the highest decision authority will make all decisions requested in the application.
- (2) The Planning Commission shall hold a Limited Land Use Review for Partition Tentative Plan requests and the City Council shall hold a Limited Land Use



Review for Subdivision Tentative Plan requests in conformance with Section 3.400 or the decision authority may choose to hold a Quasi-judicial Public Hearing in conformance with Section 3.510 to receive additional public comment on significant proposals. A consolidated request including a Variance shall also require a Quasi-judicial Public Hearing in conformance with Section 2.600.

### **Section 2.321 Submission Requirements**

A land divider shall prepare a Tentative Plan together with improvement plans and other supplementary material as may be required to indicate the general idea and objectives of the project. The Applicant shall submit 10 copies of the Tentative Plan and supplementary data to the City Administrator 30 days prior to the decision authority meeting at which consideration of the Tentative Plan is desired or following preliminary consultation if requested as specified in Sections 2.110 and 2.120.

### **Section 2.322 Form and Scale**

The Tentative Plan shall be clearly and legibly presented on an 11 by 17 inch or 8 1/2 by 11-inch sheet size for review by the City unless a larger size is needed to present the required information. The final Plat size shall be as required by the County Surveyor, usually 18 by 24 inches in size. The Plan shall be drawn to a scale of 1 inch equals some multiple of 10 feet. (10 feet, 20 feet, 30 feet, 100 feet, 200 feet, etc.) The scale may be increased or decreased as necessary to fit the sheet size, but in all cases the scale to be used shall be in multiples of 1-inch equals 10 feet.

### **Section 2.323 General Information**

The following information shall be provided on all Tentative Plans:

- (1) All information required by ORS 92 for a Tentative Plan including, but not limited to, the following.
- (2) No Tentative Plan shall be approved which bears a name using a word which is the same as, similar to or pronounced the same as a word in the name of any other land division in the same county, except for the words "town," "city," "place," "court," "addition," or similar words, unless the land Platted is contiguous to and Platted by the same party that Platted the land division bearing that name or unless the party files and records the consent of the party that Platted the land division bearing that name. All Plats must continue the lot and block numbers of the Plat of the same name last filed.

Land divisions submitted for final approval shall not use block numbers or letters unless such land division is a continued phase of a previously recorded land division, bearing the same name, that has previously used block numbers or letters.

- (3) Date, Northpoint, scale of drawing.
- (4) Appropriate identification clearly stating the map is a subdivision or partition Tentative Plan.
- (5) Location of the land division by section, township and range sufficient to define the location and boundaries of the proposed land division.

- (6) Names and addresses of the owner, applicant and surveyor.
- (7) The approximate acreage of the tract being subdivided or partitioned, and the size of proposed lots or parcels.

**Section 2.324 Existing Conditions Information**

- (1) A vicinity map with the names and addresses of all owners of property within 100 feet of the proposed land division.
- (2) The location, widths and names of both opened and unopened streets within or adjacent to the land division, together with easements, other rights-of-ways and other important locational information such as section lines, corners, city boundary lines and monuments.
- (3) The location of all existing sewers, septic tanks and drain fields, water lines, storm drains, culverts, ditches and utilities, together with elevational data, on the site and on adjoining property or streets.
- (4) The elevations of all points used to determine contours; said points given to true elevation above mean sea level as determined by the City. The base data used shall be clearly indicated and shall be compatible to City datum if benchmarks are not adjacent. The following intervals are required:

Contour Intervals	Ground Slope
One Foot	Up to 5%
Two Feet	Over 5% through 10%
Five Feet	Over 10%

Exception: The Planning Commission may approve slope indications for partitions by means of arrows or other suitable symbols together with not less than four spot elevations per acre evenly distributed for slopes of less than five percent (5%).

- (5) The location of at least one benchmark control point within the tract boundaries.
- (6) The location and direction of all on-site and off-site drainage, drainage channels, water courses and the location of all areas subject to flooding.
- (7) Natural features such as rock outcroppings, wetlands, wooded areas, and isolated preservable trees. Lands that are wholly or partially within areas identified as wetlands on the State-wide Wetlands Inventory shall be clearly delineated for review and permit by the Division of State Lands.
- (8) Existing uses on and adjacent to the property, including the location of all existing structures to remain on the property after the land division.
- (9) Zoning on and adjacent to the property to be divided.

## **Section 2.325 Proposed Plan Information**

- (1) A vicinity map clearly showing the relationship and connections of the proposed land division to surrounding developments, streets, storm drainage, sewer, septic tank and drain field, water, and utility services.
- (2) The location, width, name and approximate grade and curve radii of proposed streets. The relationship of proposed streets to existing streets and any projected future streets shown on the City's Comprehensive Plan or Official Street Map.  
  
Streets proposed for public dedication and streets held for private use shall be clearly indicated and all reservations or restrictions relating to such private streets shall be included in the statements specified in Section 2.326.
- (3) The location, width, and purpose of existing and proposed easements.
- (4) The total acreage and the proposed land use for the land division including sites for special purposes or those allocated for public use.
- (5) The location and approximate dimensions of lots or parcels and the proposed lot or parcel numbers. Where large property divisions are proposed that may be re-divided in the future to smaller residential lots or parcels, the Applicant shall provide a sketch plan showing the redivision configuration.
- (6) An outline of the areas proposed for partial recording of a final Plat and a time schedule for additional Platting if staged recording is proposed.
- (7) A general layout of all public utilities and facilities to be installed including provisions for connections and extensions beyond the proposed land division.
- (8) The proposed method of connection to all drainage channels located outside of the proposed land division and the proposed method of flood control (detention ponds, swales, etc.) and contamination protection (settling basins, separators, etc.).
- (9) Identification of all proposed public dedications including streets, pedestrian or bike ways, parks, or open space areas.
- (10) Identification and layout of all special improvements. Special improvements may include, but are not limited to, signs, lighting, benches, mailboxes, bus stops, greenways, bike, or pedestrian paths.

## **Section 2.326 Accompanying Statements**

The Tentative Plan shall be accompanied by written statements from the Applicant giving essential information regarding the following matters:

- (1) Identify the adequacy and source of water supply including:
  - (a) Certification that water will be available to the lot line of each and every lot depicted on the Tentative Plan for a land division, or

- (b) A bond, contract, or other assurance by the Applicant that a public water supply system will be installed by or on behalf of the Applicant to each and every lot or parcel depicted on the Tentative Plan. The amount of such bond, contract or other assurance shall be determined by the City Administrator with the concurrence of the City Council.
- (2) Identify the proposed method of sewage disposal including:
  - (a) Certification that a sewage disposal system will be available to the lot line of each and every lot or parcel depicted on the Tentative Plan for a land division, or
  - (b) A bond, contract, or other assurance by the Applicant that a sewage disposal system will be installed by or on behalf of the Applicant to each and every lot depicted on the Tentative Plan. The amount of such bond, contract or other assurance shall be determined by the City Administrator with the concurrence of the City Council.
- (3) Protective covenants, conditions, and deed restrictions (CC&R'S) to be recorded, if any.
- (4) Identify all proposed public dedications including streets, pedestrian or bike ways, parks or open space areas.
- (5) Identify all public improvements proposed to be installed, the approximate time installation is anticipated and the proposed method of financing. Identify required improvements that are proposed to not be provided and the reason why they are not considered necessary for the proposed land division.
- (6) A statement that the declarations required by ORS 92.075 on the final Plat can be achieved by the fee owner, vendor and/or the mortgage or trust deed holder of the property.
- (7) Proposed staged subdivisions or serial partitions shall be clearly identified on the application. A time schedule for future Platting shall also be submitted. The decision authority may require a specific time schedule for approval. All future Plats shall conform to the adopted ordinance requirements applicable at the time of Platting.

### **Section 2.327 Supplemental Information**

Any of the following may be required by the City to supplement the Tentative Plan.

- (1) Approximate center line profiles with extensions for a reasonable distance beyond the limits of the proposed land division showing the finished grade of streets and the nature and extent of street construction.
- (2) A detailed plan of the domestic water supply lines and related water service facilities.
- (3) A detailed plan of the sewage disposal, storm water drainage and flood control, including profiles of proposed drainage ways.

- (4) If lot areas are to be graded, a plan showing the nature of cuts and fill and information on the character of the soil.
- (5) Specifications and details of all proposed improvements.
- (6) Wetland delineation if identified as an existing condition in Section 2.324, Subsection (7).

### **Section 2.328 Decision Criteria**

A Tentative Plan may be approved by the decision authority. Approval shall be based upon compliance with the submittal requirements specified above and the following findings:

- (1) Any undeveloped portion of the proposed land division can be developed in accordance with City ordinances.
- (2) The proposed development and all adjoining land can be developed in accordance with this Code and City Ordinances.
- (3) The proposed street plan is in conformance with City standards and provides the most economic, safe and efficient circulation of traffic in relation to the existing City street system.
- (4) The proposed utility connections are available, adequate and provide the most efficient and convenient connections to the existing utility systems and the proposed utilities can be extended in the future to accommodate future growth beyond the proposed land division.
- (5) Special site features have been considered and utilized.
- (6) Drainageways are protected and required drainage facilities are provided in conformance with State erosion control regulations.
- (7) The extent of possible emission or nuisance characteristics are compatible with the land use zoning district, adjacent properties and the applicable standards of all regulatory agencies having jurisdiction.
- (8) Potential adverse impacts have been mitigated to the maximum extent possible.

### **Section 2.329 Decision Process**

- (1) Upon receipt of an Application and Tentative Plan, the City shall furnish one copy of the Tentative Plan and supplementary material to the Fire District, County Road Department, the County Health Department and the County Surveyor and other agencies known to be affected. Agencies notified shall be given 14 days to review the plan and submit written comments. Notification to the Division of State Lands for identified wetlands shall require 30 days for review in accordance with ORS 227.350, Subsection (4).
- (2) A Land Division requires a "Limited Land Use Review" in conformance with Section 3.400. The "Limited Land Use Review" shall be conducted by the decision authority. A Limited Land Use Decision requires notification to owners

of property within 100 Feet of the subject property with an opportunity to submit written comments at any time prior to the "Limited Land Use Review" decision.

- (3) The decision authority shall consider the Tentative Plan proposal and any written comments at the first regular meeting following the 14-day review period.
- (4) If the Application includes a Variance request, the Tentative Plan and Variance will be considered together as provided in Section 2.130 (3) and the Decision Criteria for the Variance shall apply as specified in Section 2.600 (2).
- (5) The decision authority shall hold a public hearing on a Tentative Plan and Variance request in conformance with the Quasi-judicial Public Hearing requirements of Section 3.510. A public hearing may also be held on a Tentative Plan if requested or if the decision authority determines that conditions may present possible adverse impacts on adjacent properties or within the land use-zoning district.
- (6) The decision authority may continue the review or hearing for good cause.
- (7) If the proposed Land Division is consistent with the Comprehensive Plan and City land use standards, the decision authority may approve the Tentative Plan as submitted or as modified to achieve compliance.
- (8) If the proposed land division is consistent with the Comprehensive Plan but requires modification to certain features in order to comply with City land use standards, the decision authority may approve the Tentative Plan with specified conditions of approval to achieve compliance with the intent of City land use standards.
- (9) If the proposed land division does not comply with the Comprehensive Plan or cannot comply with City land use standards even with conditions of approval, the decision authority shall deny the request.
- (10) Approval of the Tentative Plan shall indicate approval of the final Plat if there is no change in the plan of the land division and if the Applicant complies with the requirements of this Code and any conditions of approval specified by the decision authority.
- (11) The action of the decision authority shall be noted on two copies of the Tentative Plan and any attached documents describing conditions. One copy shall be returned to the Applicant and the other shall be retained by the City.
- (12) A written record of the findings and action of the City shall be maintained by the City in a Record File of the Application as specified in Section 2.150. Notice of Decision shall be given the Applicant and other parties to the proceedings together with any conditions of approval for the proposed land division as specified in Section 3.600, Decision.

## **Section 2.330 Subdivision or Partition Plat**

### **Section 2.331 Submission Requirements**

The land divider shall cause the land division or any part thereof to be surveyed, monumented and a Plat prepared in conformance with the approved Tentative Plan. Any changes in the Tentative Plan shall be approved prior to preparation of the Plat. The land divider shall submit the exact duplicate transparency and five prints of the completed Plat to the City for review and approval by the City Administrator. The City may withhold approval of the final Plat until the Conditions of Approval have been complied with and construction requirements have been approved by the City.

### **Section 2.332 Form and Scale**

The final Plat shall be submitted in the form prescribed by ORS 92 and the county recording standards. The scale of the final Plat shall be specified by the County Surveyor. The scale used shall be in multiples of one (1) inch equals ten (10) feet and may be increased or decreased as needed to fit the required sheet size of 18 by 24 inches.

### **Section 2.333 Information Required**

In addition to that otherwise specified by law, the following information shall be shown on the final Plat.

- (1) The name of the owner(s), land divider, surveyor, and land division. The date, scale, Northpoint, legend, and existing features such as creeks, drainage courses, highways and railroads.
- (2) Reference to Federal Geodetic Control Committee guidelines for third order class II, points of existing surveys identified, related to the Plat by distances and bearings, and referenced to a field book or map as follows:
  - (a) Stakes, monuments, or other evidence found on the ground and used to determine the boundaries of the land division.
  - (b) Adjoining corners of adjoining land divisions.
  - (c) Other monuments found or established in making the survey or required to be installed by provisions of this Code.
- (3) The exact location and width of streets, rights-of-ways and easements intercepting the boundary of the tract.
- (4) Tract and lot or parcel boundary lines and street rights-of-ways and center lines, with dimensions, bearings or deflection angles, radii, arcs, points of curvature and tangent bearings. Tract boundaries and street bearings shall be shown to the nearest 30 seconds with basis of bearings. Distances shall be shown to the nearest 0.01 feet. No ditto marks shall be used.
- (5) The name and width of the portion of streets being dedicated, the width of any existing right-of-way and the width on each side of the center line. For streets on curvature, curve data shall be based on the street center line. In addition to the center-line dimensions, the radius and center angle shall be indicated.
- (6) Easements denoted by fine dashed lines clearly identified and, if already of record, their recorded reference. The width of the easement, its length and

bearing, and sufficient ties to locate the easement with respect to the land division, must be shown. If the easement is being dedicated by the Plat or map, it shall be properly referenced in the owner's certificates of dedication.

- (7) Locations and widths of drainage channels including one-hundred-year flood plain or normal high-water lines for any creek or other body of water, railroad rights-of-way, reserve strips at the end of stub streets or along the edge of partial width streets on the boundary of the land division.
- (8) Numbering of residential lots or parcels shall begin with the number "1" and be numbered consecutively. Number sequence to generally follow the same system as sections are numbered in a township.
- (9) Lots or parcels in residential land divisions that are intended for a purpose other than residential shall be identified with acreage and alphabetic symbols.
- (10) Notations indicating any limitations on rights of access to or from streets and lots or other parcels of land as established by the City.
- (11) Special building setback lines and solar easements, if any, that are to be made part of the Deed Covenants Conditions and Restrictions (CC&R's) of the land division.

### **Section 2.334 Supplemental Information with Plat**

Filing of separate legal documents to achieve any of the requirements of the final Plat may be permitted by the City when it can be shown that placing such information on the final Plat is not required to achieve the purposes of this Code. The following data shall accompany the Plat.

- (1) A preliminary title report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the land to be divided.
- (2) Legal descriptions of the land division boundaries if available at the time of Plat approval.
- (3) Data sheets and drawings showing the following:
  - (a) Traverse data including the coordinates of the boundary of the land division and ties to section corners and donation land claim corners, and showing the error of closure, if any.
  - (b) The computation of distances, angles and courses shown on the Plat.
  - (c) Ties to existing monuments, proposed monuments, adjacent subdivision, street corners and state highway stationing.
- (4) A copy of any proposed deed CC&R's (Covenants, Conditions and Restrictions) applicable to the land division or a statement in writing signed by the land divider that no such restrictions will be established.
- (5) A copy of any dedication requiring separate documents.



- (6) Proof that all taxes and assessments on the tract have been paid.
- (7) A certificate by the City that the land divider has complied with one of the following alternatives:
  - (a) All improvements have been installed in accordance with the requirements of these regulations and with the action of the decision authority granting conditional approval of the Tentative Plan.
  - (b) An agreement and security have been executed as provided in Sections 8.510 and 8.520 to assure completion of required improvements.

## **Section 2.335 Survey Requirements**

- (1) A complete and accurate survey of the land to be divided shall be made by a registered surveyor licensed to practice in the State of Oregon in accordance with standard practices and principles of land surveying and as provided in this Code and State law including Oregon Revised Statutes, Chapter 92 and Chapter 209.
- (2) Monuments
  - (a) All monuments shall be set according to the provisions of State law.
  - (b) In making the survey for the land division, the survey shall set sufficient permanent monuments prior to the recording of the final Plat so that the survey or any part thereof may be retraced according to standards required by the County Surveyor.
  - (c) Interior "post monumentation" may be permitted by approval of the decision authority at the time of approval of the Tentative Plan or upon special request prior to filing the final Plat subject to the following:
    - 1. The Subdivider has shown that it is necessary and practical to delay the interior monumentation.
    - 2. The Subdivider of the Plat agrees to furnish a bond, cash deposit, irrevocable letter of credit issued by a commercial bank as defined in ORS 706.005, or other security approved by the City in an amount equal to not more than 120 per cent of the estimated cost of performing the work for the interior monuments.
    - 3. The Subdivider shall sign an agreement with his surveyor and the City as to the amount of the security to be furnished at the time of submitting the final Plat and include a statement how the surveyor is to be paid for the work of establishing the interior monuments. The rules for post monumentation shall be followed. Provide the City with an estimated date when monumentation will be completed and set out other particulars that may be necessary to insure the completion of the monumentation at a later date.

- (3) Utility markers shall be provided for all underground water, sewer, septic tanks and drain fields and utility stubs within the prepared land division as approved by the City.

### **Section 2.336 Dedication Requirements**

- (1) All lots or parcels of land shown on the final Plat intended for public use shall be offered for dedication to the City at the time the Plat is filed. Exception: Those lots or parcels, or common linear open spaces which are intended for the exclusive use of the owners, their licensees, visitors, tenants or employees; and also excepted are those parcels of land reserved for public acquisition under the provisions of Section 6.400 of this Code.
- (2) All streets, pedestrian ways, drainage channels, open spaces, easements and other rights-of-way shown on the final Plat intended for public use shall be offered for dedication for public use at the time the final Plat is filed.
- (3) All rights of access to and from streets, lots and parcels of land shown on the final Plat intended to be surrendered shall be offered for dedication at the time the final Plat is filed.
- (4) The land divider shall provide and designate one-foot reserve strips across the ends of stubbed streets adjoining undivided land or along half streets adjoining undivided land. The reserve strip shall be included in the dedication granting to the City the right to control access over the reserve strip to assure the continuation or completion of the street. This reserve strip shall overlay the dedicated street right-of-way.

### **Section 2.337 Certificates on Final Plat**

- (1) Certificates on the Final Subdivision or Partition Plat: The following certificates, declarations, acknowledgments, and other requirements established by State law shall appear on the final Plat of a land division.
  - (a) A declaration in conformance with ORS 92.075 on the final Plat by the declarant - the fee owner, vendor and/or the mortgage or trust deed holder of the property who has caused or consented to the following:
    1. Preparation and recording of the final Plat.
    2. Offering for dedication all parcels of land, streets, alleys, pedestrian ways, drainage channels, easements and other rights-of-way intended for public use.
    3. Protective covenants, conditions or restrictions on the use of lots or parcels, rights-of-way and easements.
  - (b) A certificate of the registered licensed surveyor who prepared the survey and the final Plat.
  - (c) A certificate for execution by the City Administrator.

- (d) A certificate for execution by the County Surveyor.
  - (e) A certificate for execution by the County Assessor.
  - (f) A certificate for execution by the County Clerk.
  - (g) Other certifications now or hereafter required by law.
  - (h) A statement of water rights together with the water rights certificate number if applicable.
- (2) All signatures on the Plat shall be in permanent black India type ink in conformance with ORS 92.080.
  - (3) All copies required for filing purposes shall be certified as an exact copy by the surveyor who prepared the Plat in accordance with ORS 92.120, Subsection (3).

### **Section 2.338 Decision Criteria**

A final Plat of a subdivision or partition may be approved based upon compliance with the submittal requirements specified above and the following findings:

- (1) The final Plat is in substantial conformance with the Tentative Plan.
- (2) The Conditions of Approval attached to the Tentative Plan have been satisfied.

### **Section 2.339 Decision Process**

- (1) Upon receipt by the City, the Plat and other data shall be reviewed by the City Administrator or designee to determine that the land division as shown is substantially the same as it appeared on the approved Tentative Plan and that there has been compliance with provisions of law and of this Code.
- (2) The City may make such checks in the field as are desirable to verify that the Plat is sufficiently correct on the ground and City representatives may enter the property for this purpose. Certifications of the County Surveyor shall be used to determine that the Plat survey is technically correct.
- (3) If the City Administrator determines that the Plat conforms to the approved Tentative Plan, including all supplemental documents, provisions for required improvements and all conditions specified by the decision authority; approval shall be indicated by the signature of the City Administrator. The approval of the Plat does not constitute or effect an acceptance by the City of the dedication of any street or other easements offered on the Plat until officially accepted by the City.
- (4) If the City Administrator finds errors or finds that the Plat does not substantially conform to the approved Tentative Plan, the City shall notify the decision authority and shall advise the land divider of the changes or additions that must be made and shall afford the land divider an opportunity to make corrections. The corrected Plat shall be resubmitted to the decision authority for verification of compliance with the approved Tentative Plan.

## **Section 2.340 Filing of Plat**

- (1) The land divider shall, without delay, submit the Plat for signatures of public officials required by this Code or State law. Approval of the Plat shall be null and void if it is not recorded within 120 days after approval by the City Administrator.
- (2) The land divider shall deliver to the City a signed and certified copy of the Plat and all recorded documents required and approved by the City. The City shall maintain the documents in the Record File of the Application in accordance with Section 2.150.
- (3) The land divider offering a Plat for filing to which a water right is apparent shall also submit a copy of the Plat to the State Water Resources Department as required by ORS 92.120.

## **Section 2.350 Replatting**

- (1) Replatting shall allow the reconfiguration of lots or parcels and public easements within a recorded Plat in accordance with ORS 92.180 to 92.190. A replat shall conform to all of the requirements of the City for a subdivision or partition of land including approval of a Tentative Plan unless approved as a Property Line Adjustment as described in Section 2.310 of this Code. Upon approval by the City, the Replat will act to vacate the Platted lots or parcels and easements within the Replat area.
- (2) Notice consistent with that required for approval of a Tentative Plan shall be provided by the City. All affected utility companies or public agencies shall also be notified. Utility companies desiring to maintain easements proposed for vacation shall notify the City within 14 days of the mailing of the notice.

## **Section 2.360 Expedited Land Divisions**

When an expedited land division for residential use only is requested by an Applicant the City shall use the procedures for expedited land divisions specified under ORS 197.365 in lieu of the procedures described in Sections 2.320 through 2.329 if the application complies with the conditions and standards of ORS 197.360 through 197.380.

## **Section 2.400 Site Plan Review**

The purpose of the Site Plan Review procedures is to correlate the general code requirements with the specific site conditions and proposed uses through a comprehensive review process to assure that developments are in conformance with the City's applicable land use regulations.

The City Administrator shall be the Site Plan Review decision authority for structures less than 4,000 square feet and the Planning Commission shall be the Site Plan Review decision authority for structures greater than 4,000 square feet.

- (1) **Site Plan Review Application.** An application for a use requiring a Site Plan Review shall be filed with the City together with a site plan and other supplementary data described in the Application, Section 2.130 and Section 2.140. The City Administrator may also request a Site Plan Review for any

development proposal, in addition to those specifically required by this Code, if the site or proposed use possess any one of the following characteristics:

- (a) Site is traversed by a natural drainage-way or has demonstrated drainage limitations.
  - (b) Site includes, or is adjacent to, Open Space and/or Greenway Areas designated in the Comprehensive Plan.
  - (c) Site is located in a hazard area.
  - (d) Site contains unusual topographic features including hillside slopes exceeding 15% slopes.
  - (e) Site or proposed buildings have unusual or special features requiring a decision by the City.
- (2) Decision Criteria. After an examination of the Site and prior to approval, the decision authority must make the following findings:
- (a) That the proposed development complies with the intent of City's Comprehensive Plan.
  - (b) That there is compliance with City codes and ordinances.
  - (c) That traffic congestion is avoided, pedestrian and vehicular safety are protected, and future street rights-of-way are protected.
  - (d) That proposed signs or lighting will not, by size, location or color, interfere with traffic, limit visibility or impact on adjacent properties.
  - (e) That adequate water, sewage disposal system and utilities for the proposed use are available.
  - (f) That drainage-ways are protected and drainage facilities provided.
  - (g) That the extent of emissions and potential nuisance characteristics are compatible with the land use zone, adjacent land uses, and the standards of all applicable regulatory agencies having jurisdiction.
  - (h) That the characteristics of the proposed development are compatible with the land use zone, the surrounding area and potential impacts have been mitigated to the maximum extent possible.
- (3) Decision Process. The procedure for taking action on an application for a Site Plan Review shall be as follows:
- (a) A Site Plan Review requires a "Limited Land Use Review" by the City Administrator or Planning Commission in conformance with Section 3.400. A Limited Land Use Decision requires notification to owners of property within 100 Feet of the subject property with an opportunity to submit written comments prior to the review and decision by the decision authority.

- (b) The decision authority may approve, disapprove, or modify and approve the Site Plan and attach any reasonable conditions to approval of a site development plan.
- (c) The decision authority may also call for a public hearing to receive testimony if it determines that the proposed development may present possible adverse impacts on surrounding properties, the neighborhood, or the City.
- (d) Once approved, the site plan submitted shall become the Official Plan. Building permits shall be issued only for plans that conform to the Official Plan and all construction shall conform to the Official Plan or a Certificate of Occupancy may be withheld until compliance.
- (e) All required elements of the approved site plan shall be installed and maintained indefinitely by the owner unless approval has been received for a revision or amendment.
- (f) Revisions or amendments to an approved site plan shall follow the same procedure as for adoption of a site development plan.
- (g) A written record of the findings and action of the decision authority shall be maintained by the City in a Record File of the Application as specified in Section 2.150. Notice of Decision shall be given the Applicant together with any conditions of approval for the proposed Site Plan as specified in Section 3.600.

## **Section 2.500 Conditional Uses**

A conditional use is a use of land or a structure that is normally appropriate in the district where it is permitted, but due to the specifics of that use could cause a potential nuisance, health or safety problem. It is the intent of this section to provide standards and procedures so that uses which are classified as conditional can fit into a particular zone in a manner that safeguards surrounding property, the neighborhood, and the City.

The City Administrator or the Planning Commission may also request a Conditional Use for any development proposal, in addition to those specifically required by this Code if the property, proposed development or use has unusual or special features that will not permit the development to fully comply with the standards of this Code or where the proposed development or use pose potential adverse impacts that may require mitigation or require a decision by the City.

- (1) **Conditional Use Application.** An application for a use requiring a Conditional Use must be filed with the City together with a site plan and other supplementary data using forms prescribed in Section 2.130 and Section 2.140.

Uses existing prior to the effective date of this Code that are classified as a Conditional Use in this Code shall conform with the requirements for a conditional use if a change in use, lot area or an alteration is proposed.

- (2) **Decision Criteria.** Conditional uses listed in this Code may be permitted, altered, or enlarged upon authorization of the Planning Commission in accordance with the following findings:

- (a) That the applicable provisions of city codes and ordinances are complied with.
  - (b) That traffic congestion is avoided, pedestrian and vehicular safety are protected, and future street rights-of-way are protected.
  - (c) That proposed signs or lighting will not, by size, location, or color, interfere with traffic, limit visibility or impact on adjacent properties.
  - (d) That adequate water, sewage disposal system and utilities for the proposed use are available.
  - (e) That drainage-ways are protected, and drainage facilities provided.
  - (g) That the extent of emissions and potential nuisance characteristics are compatible with the land use zone, adjacent land uses, and the standards of all applicable regulatory agencies having jurisdiction.
  - (h) That the characteristics of the proposed development is compatible with the land use zone, the surrounding area and potential impacts have been mitigated to the maximum extent possible.
- (3) Decision Conditions. In approving a Conditional Use application, the Planning Commission may require additional standards and conditions that the Planning Commission considers necessary to comply with the intent and purpose of the Comprehensive Plan and implementing codes or ordinances. These conditions may include, but are not limited to, the following:
- (a) Regulating the required lot size, lot width, or yard dimensions.
  - (b) Regulating the height of buildings.
  - (c) Controlling the location and number of vehicle access points.
  - (d) Requiring dedication of additional street right-of-way or increasing the street width.
  - (e) Increasing the number of required off-street parking or off-street loading spaces.
  - (f) Requiring fencing, screening, landscaping, or other facilities to protect adjacent or nearby property.
  - (g) Limiting the number, size, location, and lighting of signs.
  - (h) Requiring ongoing maintenance of buildings and grounds.
  - (i) Regulating emissions, potential hazards or nuisance characteristics caused by the proposed use which could have a negative impact on the surrounding area or the City as a whole.
  - (j) Providing internal property improvements such as utilities, drainage facilities, streets, curbs, gutters, walkways, parking areas, landscaping, fencing,

screening, or recreation areas in order to enhance the area and to protect adjacent or nearby property.

- (k) Regulating time periods for the conduct of certain activities.
  - (l) Setting a time limit for Conditional Use standards or conditions.
  - (m) Providing a performance bond or other security for the cost of improvements to guarantee compliance with the standards and conditions of approval.
  - (n) Providing a contractual agreement with the City to assure that the Applicant will pay a fair share of the development costs for future public improvements.
- (4) Decision Process. The procedure for acting on an application for a Conditional Use shall be as follows:
- (a) A Conditional Use requires a "Quasi-judicial Public Hearing" by the Planning Commission in conformance with Section 3.510. A Quasi-judicial Decision requires notification to property owners within 100 Feet of the subject property with an opportunity to submit written or oral comments at a public hearing prior to the close of the record and decision by the Planning Commission.
  - (b) The Planning Commission may approve, deny, or approve conditionally the Conditional Use and attach any reasonable standards of development to attain compliance with the zone and city codes and ordinances.
  - (c) If an application is denied, the action must be based on reasons related to non-compliance with the City Comprehensive Plan, Development Code or Ordinance requirements.
  - (d) Once approved, the Conditional Use shall become the Official Plan. Building permits shall be issued only for plans which conform to the Official Plan and all construction shall conform to the official plan or a Certificate of Occupancy may be withheld until compliance.
  - (e) All required elements of the approved Conditional Use shall be installed and maintained indefinitely by the owner unless approval has been received for a revision or amendment.
  - (f) Revisions or amendments to an approved Conditional Use shall follow the same procedure as that utilized for approval.
  - (g) A written record of the findings and action of the Planning Commission shall be maintained by the City in a Record File of the Application as specified in Section 2.150. Notice of Decision shall be given the Applicant together with any conditions of approval for the proposed Conditional Use as specified in Section 3.600.

## **Section 2.600 Variances**

Because of the impossibility of foreseeing and providing for all circumstances and conditions which may affect individual properties or uses, the variance provision is created to allow



modification of the provisions of this Code for special and unusual circumstances without defeating the purpose and intent of the Code.

- (1) Variance Application. An application for a Variance shall be filed with the City together with a site plan and other supplementary data using forms prescribed in Section 2.130 and Section 2.140. The Applicant shall submit evidence that the circumstance for granting a Variance as outlined in Item (2) herein apply to the Variance request. The Planning Commission may authorize variances from the requirements of this Code where it can be shown that, owing to special and unusual circumstances related to a specific property or use, strict application of the Code would cause an undue or unnecessary hardship. A Variance shall not be granted to allow a use permitted in another district or zone or to allow a use not authorized within the intended district or zone. In granting a Variance, the Planning Commission may attach conditions that it finds necessary to protect the best interests of the surrounding property or vicinity and otherwise achieve the purposes of this Code.
- (2) Decision Criteria. A Variance may be granted if the Planning Commission can make the following findings:
  - (a) That there are special circumstances or conditions affecting the property or use.
  - (b) That the Variance is necessary for the proper design and/or function of the proposed development or land division.The Variance must comply with the following conditions:
  - (c) That the granting of the Variance will not be detrimental to the public welfare or injurious to other property in the area in which the property is situated.
  - (d) That the granting of the Variance will not conflict with the purpose and intent of the district or zone, the Comprehensive Plan, or other related ordinances of the City.
- (3) Decision Process. The procedure for acting on an application for a Variance shall be as follows:
  - (a) A Variance requires a "Quasi-judicial Public Hearing" by the Planning Commission in conformance with Section 3.510. A Quasi-judicial Decision requires notification to property owners within 100 Feet of the subject property with an opportunity to submit written or oral comments at a public hearing prior to the close of the record and a decision by the Planning Commission.
  - (b) The Planning Commission may approve, deny, or approve conditionally the Variance request and attach any reasonable standards of development to attain compliance with the zoning district and this Code as provided in Section 3.600.
  - (c) If an application is denied, the action must be based on reasons related to non-compliance with the Comprehensive Plan and Code requirements.

- (d) If the application is approved, the Planning Commission may prescribe the terms and conditions upon which a Variance may be granted and may set a time limit for the duration of such Variance and may require guarantees in an approved form to ensure that the conditions and standards for the approved Variance will be fulfilled.
- (e) Once approved, the Variance shall become official standard. Building permits or land divisions shall only be approved for plans that conform to the conditions and standards of the approved Variance and all construction shall conform to the approved Variance or a Certificate of Occupancy may be withheld until compliance.
- (f) All required elements of the approved Variance shall be installed and maintained indefinitely by the owner unless approval has been received for a revision or amendment.
- (g) Revisions or amendments to an approved Variance shall follow the same procedure as that utilized for approval.
- (h) A written record of the findings and action of the Planning Commission shall be maintained by the City in a Record File of the Application as specified in Section 2.150. Notice of Decision shall be given the Applicant together with any conditions of approval for the proposed Variance as specified in Section 3.600.

## **Section 2.700 Amendments**

It is recognized that this Code or the Comprehensive Plan, may require amendments to adjust to changing circumstances. Amendments may be a Text change or addition or a Map change or addition. A Zone Change is an example of a Map Amendment. An amendment shall require a Legislative Decision as defined in Section 3.200 (2) if it applies to the Code or Plan in general, or a Quasi-judicial Decision as defined in Section 3.200 (3) if it applies to a specific property or use. (Amended ORD 2013-03)

- (1) Amendment Application. An Amendment may be initiated by the City Administrator, the City Council, the City Planning Commission or by an Applicant. A request by an Applicant for an amendment shall be accomplished by filing an application with the City using forms prescribed in Section 2.130.
- (2) Decision Criteria. All requests for an amendment to the text or to the Zoning/ Comprehensive Plan Map of this Code may be permitted upon authorization by the City Council in accordance with the following findings:
  - (a) The proposed amendment is consistent with the intent of the Comprehensive Plan.
  - (b) There is a need for the proposed amendment to comply with changing conditions or new laws.
  - (c) The amendment will not have an undue adverse impact on adjacent areas or the land use plan of the City.

- (d) The amendment will not have an undue adverse environmental impact.
  - (e) The amendment will not have an undue adverse impact on public facilities.
  - (f) The amendment will not have an undue adverse impact on transportation.
  - (g) The amendment will not have an undue adverse impact on the economy of the area.
  - (h) The amendment is consistent with the intent of the applicable Statewide Planning Goals.
- (3) Decision Process.
- (a) Text amendments or map amendments that affect a group or class of properties within the City requires a "Legislative Decision" by the City Council with recommendation by the Planning Commission in conformance with the Legislative Public Hearing procedures of Section 3.520.
  - (b) Map amendments initiated by an Applicant for a specific property within the City requires a "Quasi-judicial Decision" by the City Council with recommendation by the Planning Commission in conformance with the Quasi-judicial Public Hearing procedures of Section 3.510.
  - (c) The City Council upon recommendation of the Planning Commission may approve, deny or approve with conditions to attain compliance with the intent of this Code or with the applicable standards of the zoning district.
  - (d) The City is not required to justify denial of a proposed legislative change.
  - (e) A written record of the findings and action of the Planning Commission and City Council shall be maintained by the City in a Record File of the Application as specified in Section 2.150. Notice of Decision shall be given the Applicant together with any conditions of approval for the proposed Amendment as specified in Section 3.600.
- (4) No application of a property owner for an amendment to the text of this Code shall be considered by the City within a one-year period following previous denial of a similar request, except the City Council may permit a new application, if in the opinion of the Council, new evidence or a change of circumstance warrant it.

## **Section 2.800 Annexations**

The annexation of land to the City of Adair Village shall promote orderly growth of the City and the efficient provision of public facilities and services. The Adair Village Urban Growth Boundary Agreement with Benton County specifies that annexations and urban services shall only occur within the Adair Village Urban Growth Boundary (UGB). The procedures and standards for annexations are specified in ORS 222.111 to 222.180. A change in the UGB requires an Amendment to the Adair Village Comprehensive Plan in conformance with Statewide Planning Goal 14 and an Amendment to the Urban Growth Boundary and Policy Agreement between the City of Adair Village and Benton County.

- (1) Annexation Application

A proposal for annexation may be initiated by the City Council or by a petition to the City Council by owners of real property located in the territory to be annexed. A request by a property owner for an annexation shall be accomplished by filing an application with the City using forms prescribed in Section 2.130. Each application for annexation shall include the following material:

- (a) Written consent to the annexation signed by the requisite number of affected property owners, electors, or both as provided by state law.
  - (b) A legal description of the property to be annexed and a boundary survey certified by a registered engineer or surveyor.
  - (c) A map of the area to be annexed including adjacent City territory.
  - (d) A statement of the expected demand on public facilities and the availability of public facilities and services to serve the proposed annexation.
  - (e) A statement of the overall development intent and a conceptual land use plan indicating the types and intensities of proposed development, transportation corridors, watercourses, significant natural features, and adjoining development.
  - (f) Upon acceptance of a complete application, the City shall request a Staff Review together with other public or private agencies which may be affected by the proposed annexation. Upon receipt of the application, plans and accompanying narrative, Staff shall make an evaluation and recommendation. Comments and recommendations shall be available to the public and the Applicant. The Applicant shall be advised of any recommended changes or conditions for approval. The City shall incorporate all Staff comments into a report to the Planning Commission and City Council. The report shall include an analysis of the impacts of the proposed annexation, a review of applicable City and State policies and standards, and a recommendation as to the appropriateness of the proposed development and the annexation itself.
- (2) Decision Criteria. All requests for annexation to the City may be permitted upon authorization by the City Council in accordance with following findings:
- (a) The annexation will not have an undue adverse environmental impact.
  - (b) The annexation will not have an undue adverse impact on public facilities.
  - (c) The annexation will not have an undue adverse impact on transportation.
- (3) Decision Process. The procedure for taking action on an annexation request may be one of the following:
- (a) Upon the filing of a complete application for annexation, the City Council shall review the application and refer the request to the Planning Commission to evaluate the proposed annexation and may determine the appropriate zoning district to be applied upon annexation and make a recommendation to the City Council.

1. The Planning Commission may hold a public hearing in accordance with the provisions of Section 3.510 for the purposes of reviewing the proposed annexation and development district(s). Following the close of the public hearing the Commission may recommend the appropriate zoning district to be applied and forward its recommendation to the City Council or,
  2. The Planning Commission and City Council may choose to combine their hearings into a single joint public hearing in conformance with Section 3.510 (3).
- (b) The City Council may submit the proposal for annexation to the electors of the territory to be annexed except as provided in ORS 222.120.
  - (c) The City Council may submit the proposal for annexation to the electors of the City except as provided in ORS 222.120.
  - (d) The proposal for annexation may be voted upon by the electors of the territory and the City simultaneously or at different times not more than 12 months apart.
  - (e) As provided in ORS 222.120, the City Council is not required to submit a proposal for annexation to the electors of the City if the City Council holds a public hearing on the proposed annexation.
    1. Notice of the public hearing shall be published in a newspaper of general circulation and posted in four public places once a week for two successive weeks prior to the hearing.
    2. Following the hearing the City Council may, by ordinance containing a legal description of the territory to be annexed, declare the territory annexed upon the condition that the majority votes cast in the territory is in favor of the annexation or where the electors or landowners in the territory to be annexed consent in writing to the annexation prior to the public hearing.
  - (f) The City Council need not hold an election in the city or the contiguous territory to be annexed, but shall hold a public hearing, when all the owners of land and not less than 50% of the electors, if any, residing in the territory consent in writing to the annexation and file the statement with the City Council.
    1. Upon receiving the consent to annexation and following a public hearing, the City Council may, by ordinance, set the boundaries of the area to be annexed by a legal description and proclaim the annexation.
- (4) A written record of the findings and action of the City shall be maintained in a Record File of the Application as specified in Section 2.150. Notice of Decision shall be given the Applicant and all parties to the proceedings as specified in Section 3.600, Decision.

- (5) Approval of the annexation shall require a Notice of Decision be given the proper state and county authorities including the Oregon Secretary of State, the Oregon Department of Revenue, the Oregon Inventory and Mapping Unit, and the County Clerk and Assessor of Benton County. Notice shall include a legal description of the annexed property, a map of the proposed property showing the location of the annexed property relative to the Adair Village City Limits.

## **Section 2.900 Vacations**

This section states the procedures and criteria to permit the vacation of public lands not needed for the specified municipal purpose, where it is consistent with the community Public Facilities and Services policies and goals. Ownership of vacated territory may revert to the original property or proportionally to the adjoining properties and become a part thereof, unless specified otherwise by the City Council. The City may also acquire and utilize the vacated public lands for other public purposes or sell the vacated property with preference given to adjoining property owners.

- (1) Vacation Initiation. A Vacation may be initiated by the City Council or by Application of adjoining or area landowners in accordance with ORS 271.
- (2) Vacation by the City Council. A Vacation initiated by the City Council shall comply with the Criteria specified in Item (6) herein.
- (3) Application by a Property Owner. An Application by a property owner for a Vacation shall be accomplished by filing an application with the City using forms prescribed in Section 2.130. Applicants shall set forth a description of the area proposed to be vacated and shall submit a map showing the same area and shall state the purpose and justification for the proposed vacation. The Applicant shall comply with the Criteria specified in Item (6) herein.
- (4) Consent of Affected Property Owners. At the time the Application is submitted, the Applicant shall submit a letter or letters of consent from affected property owners. For purposes of this Code and in compliance with ORS 271.080, affected property owners shall be defined as:
  - (a) All abutting property owners, and
  - (b) Owners of not less than two-thirds in area of the real property affected thereby.

Consent of the owners of the required amount of property shall be submitted in writing and duly acknowledged by the City prior to the scheduling of a public hearing for the requested Vacation.

- (5) Application Decision Process. The procedure for taking action on a Vacation Application shall comply with the following:
  - (a) Upon the filing of a complete Application for a Vacation, the City Council shall review the application and refer the request to the Planning Commission to evaluate the proposed Vacation and to determine the appropriate zoning district to be applied upon the vacation and make a recommendation to the City Council.

- (b) Zoning of Vacated Right-of-Way. Except as otherwise provided within the vacation ordinance or where the official City zoning map is not clear as to the zoning of the vacated right-of-way, the zoning of each parcel of vacated territory shall be the same as the adjoining property to which the ownership of the vacated unit of land reverts.
- (c) Vacations initiated by an Applicant for a specific property within the City requires a "Quasi-judicial Decision" by the City Council with a recommendation by the Planning Commission, in conformance with the Quasi-judicial Public Hearing procedures of Section 3.510 as supplemented by the provisions of ORS Chapter 271. State law defines the affected area and mandates notice requirements that may be more stringent than the City's requirements.
- (d) The City Council, upon recommendation of the Planning Commission, may approve, deny, or approve with standards or conditions to attain compliance with this Code and State Statutes.
- (e) Conditions of Approval. The City may attach conditions to the approval of a Vacation request to ensure that the proposal will conform to the decision criteria and may require purchase of the vacated property by the acquiring party.
- (6) Decision Criteria. A Vacation of public land may be approved if the reviewing body finds that all the following review criteria are met:
  - (a) The proposed Vacation is consistent with the relevant Comprehensive Plan policies and with any official street plan, transportation plan or public facility plan.
  - (b) The proposed Vacation will not adversely impact adjacent areas or the land use plan of the City.
  - (c) The proposed Vacation will not have a negative effect on access between public rights-of-way, existing or future properties, public facilities, or utilities.
  - (d) The proposed Vacation will not have a negative effect on traffic circulation or emergency service protection.
  - (e) The portion of the right-of-way that is to be vacated will be brought into compliance with Code requirements, such as landscaping, driveway access, and reconstruction of access for fire safety.
  - (f) The proposed Vacation will not have an adverse impact on the economy of the area.
  - (g) The public interest, present and future, will be best served by approval of the proposed Vacation.
- (7) A written record of the findings and action of the City shall be maintained by the City in a Record File as specified in Section 2.150. Notice of Decision shall be given the Applicant together with any conditions of approval for the proposed Variance as specified in Section 3.600, Decision.

# ARTICLE 3 DECISION PROCESSES

## Section 3.110 Basis for Decision

The basis for a decision on a land use application and the reasons for approval or denial are contained in ORS 227.173.

- (1) Approval or denial of a discretionary permit application shall be based on standards and criteria contained in the City's Comprehensive Plan and implementing ordinances.
- (2) Approval or denial of a land use application shall be based upon and accompanied by:
  - (a) A brief statement that explains the criteria and standards considered relevant to the decision.
  - (b) A statement of the facts relied upon in rendering the decision.
  - (c) An explanation of the justification for the decision based on the criteria, standards and facts set forth.
- (3) An application shall not be approved unless the proposed development of land is in compliance with the City Comprehensive Plan, this Code and other applicable land use regulations or ordinance provisions. The approval may include such conditions as are authorized by ORS 227.215 and this Code.

## Section 3.120 Form of Decision

A land use decision will take one of three forms:

- (1) Approval. Approval means the review or hearing body found the approval criteria was satisfied by the presented facts.
- (2) Approval with Conditions. Approval with conditions means the review or hearing body found the approval criteria could be satisfied with the application of specified conditions of approval as authorized in this Code.
- (3) Denial. Denial means the review or hearing body found the approval criteria was not satisfied by the presented facts and could not be made to comply with attached conditions of approval.

## Section 3.200 Type of Decisions

ORS 197 and ORS 227 define four types of decisions utilized by cities to address land use applications. Each type of decision has its own procedural requirements. The four types of decisions are:

- (1) Administrative Decisions

An administrative decision is a decision that correlates the adopted code or ordinance requirements and standards with an individual issue. These interpretations are provided by the City Administrator or designee.



Examples of Administrative Decisions provided for in this Code include, but are not limited to, Property Line Adjustments provided for in Section 2.310, Duplex Division Partitions provided for in Section 6.105, Final Plat Approval provided for in Section 2.331 & Site Plan Reviews for structures less than 4,000 square feet provided for in Section 2.400.

(2) Legislative Decisions

A legislative decision produces a general rule, law, or policy applicable to everyone under similar circumstances. Legislative decisions have a "presumption of validity." They are the laws that apply to everyone in similar situations.

Examples of a Legislative Decision was the adoption of the City's Comprehensive Plan, Land Use Development Code and other Ordinances. Other legislative decisions provided for in this Code include text amendments and Zone and Comprehensive Plan Map amendments that affect a group or class of properties within the City. Legislative Amendments to this Code are provided for in Section 2.700.

(3) Quasi-judicial Decisions

A Quasi-judicial Decision involves a discretionary judgment applying the adopted rules, laws or policies to a specific individual land use situation like determining the permissible use of a specific piece of property. The action is judicial in nature and the hearing body must conduct a fair and impartial hearing. The decision must be based upon demonstrated compliance with the applicable criteria or standards contained in the City Comprehensive Plan, this Code, ordinances, or policies, as determined by the factual evidence presented in the public hearing. The applicant for a change in the use of land specified in the Comprehensive Plan and implementing ordinances bears the burden of proof for the requested change.

Examples of Quasi-judicial Decisions provided for in this Code include, but are not limited to, Conditional Uses as provided in Section 2.500, Variances as provided in Section 2.600 or a zone change map amendment for a specific property as provided in Section 2.700, Annexations as provided in Section 2.800, Vacations as provided in Section 2.900 and Planned Developments as provided in Section 7.200.

(4) Limited Land Use Decision

The 1991 Oregon Legislature added ORS 197.195 to Chapter 197 to provide provisions for a final decision or determination made by a city pertaining to a site within its urban growth boundary that concerns:

(a) Approval or denial of a subdivision or partition, as described in ORS 92.

(b) Approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to, site reviews and design reviews.

A Limited Land Use Decision is a form of discretionary decision that does not require a public hearing and is not subject to the requirements of ORS 197.763 for quasi-judicial public hearings but is subject to the requirements of ORS 227.173 for a review of the application.

Examples of limited land use decisions in this Code include Property Line Adjustments as provided in Section 2.310, Partitions and Subdivisions as provided in Section 2.320 and Site Plan Reviews as provided in Section 2.400.

### **Section 3.300 Notification**

- (1) Administrative decisions do not require notifications. Limited Land Use Decisions by the City Administrator do require notifications as provided by State Law and specified herein.
- (2) Legislative actions authorized by this Code require one or more public hearings and notification to property owners if the land use or zoning classification of the property is changed or the proposed change limits or prohibits uses previously allowed in the affected zone. Other means of notification that provides the public and organizations believed to have an interest in a legislative issue with reasonable opportunity to be aware of the hearing on the issue is permitted and encouraged.
- (3) Limited Land Use reviews or Quasi-judicial public hearings authorized by this Code require notification to the applicant and to owners of property within 100 Feet of the property which is the subject of the notice as identified on the most recent property tax assessment roll where such property is located. Notice shall also be provided to public agencies known to be affected and to any neighborhood or community organization recognized by the City whose boundaries include the site.

The applicant shall provide the City with a list of property owners of record within 100 Feet of the property subject to the review or hearing.

- (4) A notice of review or hearing shall be mailed at least 20 days prior to the date of the review or hearing; or if two or more reviews or hearings are allowed, 10 days before the first review or hearing. A Legislative ordinance change that rezones property or limits or prohibits uses previously allowed in the affected zone requires notification to be mailed to the affected property owners at least 20 days but not more than 40 days prior to the date of the first hearing on the ordinance amendment.
- (5) The required notice provisions of this section may be expanded to include properties beyond 100 Feet and may include giving notice by other means, including newsletters, mail, postings, radio or newspaper. If newspaper notification is utilized notification shall be published in a newspaper of general circulation not less than 10 days nor more than 20 days prior to the date of the hearing.

- (6) The failure of a person to receive the notice as provided in this section shall not invalidate such proceedings if the City can validate by affidavit that such notice was given.
- (7) The notice provided by the City shall:
  - (a) Explain the nature of the application or the proposed change and how the proposal would affect the proposed use of the property.
  - (b) List the applicable criteria from the Code and the Plan that apply to the application at issue or indicate where to find criteria.
  - (c) Set forth the street address or other easily understood geographical reference to the subject property.
  - (d) State the ordinance number or file number and the date, time and location of the review or public hearing.
  - (e) State that failure of an issue to be raised in a review or hearing, in person or by letter, or failure to provide sufficient detail to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals (LUBA) based on that issue.
  - (f) Include the name and address of the City Administrator and the telephone number where additional information may be obtained.
  - (g) State that a copy of the application, all documents and evidence relied upon by the applicant and the applicable criteria are available for inspection at the Adair Village City Hall at no cost and copies will be provided at reasonable cost.
  - (h) State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the review or hearing and copies will be provided at reasonable cost.
  - (i) Include a general explanation of the requirements for submission of testimony and the procedures for the conduct of reviews or public hearings by the City.
  - (j) The City shall provide written notice of the decision to the Applicant and all parties to the proceeding. The notice shall briefly summarize the decision-making process and contain an explanation of appeal rights.
- (8) Wetland Notice. The City shall provide the Oregon Division of State Lands, the Applicant and Owner with notice of applications for developments located within areas identified as "Wetlands" on the State-wide Wetlands Inventory. No physical alteration shall occur within defined wetland areas until a notice or permit is received from the Division. If the Division fails to respond within 30 days of notice, City approval may be granted with written notice to the applicant and owner that their proposal may require state or federal permits.
- (9) DLCDC Notice. The City shall notify the Department of Land Conservation and Development of a pending adoption or amendment to the City Comprehensive

Plan, Implementing Ordinances, or any other land use ordinance or regulation. The notice shall be provided at least 45 days before the first evidentiary hearing on adoption and the notice shall contain information sufficient to inform the Department as to the effect of the proposal. If the City determines that the statewide goals do not apply to a proposed amendment or new regulation, notice is not required. In addition, the City may consider an amendment or new regulation with less than 45 days' notice if the City Council determines that there are emergency circumstances requiring expedited review.

- (10) **Manufactured Home Park Notice.** If an application would change the zone of property, including all or part of a Manufactured Home Park, the City shall provide written notice by first class mail to each existing mailing address for tenants of the Manufactured Home Park at least 20 days prior to the date of the first hearing on the application.

### Section 3.400 Limited Land Use Review Procedures

The following procedures govern the conduct of Limited Land Use Reviews by the City Administrator or Planning Commission for all Site Plan Reviews, Nonconforming Use Reviews, Subdivision or Partition Tentative Plans. Written comments may be submitted prior to the review decision. No public comment or testimony is permitted at the review unless the Planning Commission finds that clarification from the Applicant is needed.

- (1) At the commencement of a review the Chairperson shall request a summary of the Staff Report that:
  - (a) States the address or geographic location of the subject property.
  - (b) Explains the nature of the application and the proposed use or uses which could be affected or could be authorized.
  - (c) Lists the applicable criteria from the Code and the plan that apply to the application at issue.
  - (d) States that written testimony and evidence must be directed toward the criteria or other criteria in the plan or ordinances that the person believes to apply to the decision.
  - (e) States that a failure to raise an issue with sufficient detail to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the City Council or LUBA based on that issue.
  - (f) States that the City shall provide written notice of the decision to the Applicant and all parties to the proceeding. The notice shall briefly summarize the decision-making process and contain an explanation of appeal rights.
- (2) The Planning Commission may choose to schedule a public hearing to receive testimony if it determines that the proposed development may present possible adverse impacts on surrounding properties, the neighborhood, or the City.

## **Section 3.510 Quasi-Judicial Public Hearing Procedures**

The following procedures govern the conduct of Quasi-judicial Public Hearings by the Adair Village Planning Commission or the Adair Village City Council on an application for a land use decision:

- (1) A Quasi-judicial Public Hearing is required by the Planning Commission for discretionary land use decisions including, but not limited to: Conditional Uses and Variances. Written testimony may be provided at the hearing or prior to the hearing. Oral testimony may be provided at the hearing.
- (2) Quasi-judicial Public Hearings are required by both the Planning Commission and City Council for discretionary land use decisions for a Zone Change Map Amendment initiated by an applicant for a specific property. Written testimony may be provided at the hearing or prior to the hearing. Oral testimony may be provided at the hearing. An Amendment to this Code is provided for in Section 2.700.
- (3) The Planning Commission and City Council may choose to combine their hearings into a single joint public hearing. The Mayor or President of the City Council shall preside at joint hearings. Following the joint public hearing, the Planning Commission will deliberate at a separately scheduled meeting and make a recommendation to the City Council. The City Council will consider the recommendation of the Planning Commission and following deliberation, make a final decision on the amendment considering the public testimony, factual evidence presented and compatibility and compliance with the City Comprehensive Plan and the Statewide Land Use Goals and Guidelines.
- (4) An issue which may be the basis for an appeal to the Land Use Board of Appeals (LUBA) shall be raised not later than the close of the record following the final evidentiary hearing on the proposal before the City. Such issues shall be raised with sufficient detail so as to afford the City Council or Planning Commission, and the parties, an adequate opportunity to respond to each issue.
- (5) At the commencement of a hearing the Chairperson of the Hearing Body shall:
  - (a) Announce the purpose of the hearing.
  - (b) State that the applicable substantive criteria will be presented in the Staff Report.
  - (c) State that testimony and evidence must be directed toward the criteria or other criteria in the plan or ordinances that the person believes to apply to the decision.
  - (d) State that a failure to raise an issue with sufficient detail to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to LUBA based on that issue.
- (6) The Chair shall request members of the hearing body to declare and identify any potential conflict of interest or any ex parte contacts on the issue:

- (a) Members shall place on the record the substance of any written or oral ex parte communications concerning the decision or action.
  - (b) Members shall make a public announcement of the content of the communication.
  - (c) Opposition parties' have a right to rebut the substance of any ex parte communication at the first hearing following said communication.
  - (d) In accordance with ORS 227.180, no decision or action by the Planning Commission or City Council shall be invalid due to ex parte contact or bias resulting from ex parte contact with a member of the decision-making body if the member makes the declarations cited above and states that they can make an objective decision on the issue.
- (7) The Chair shall request presentation of the Staff Report.
  - (8) The Chair shall request reports or testimony from any Governmental Agencies.
  - (9) The Chair shall make the following statements before presentation of testimony:
    - (a) A person shall first stand and state his full name and address.
    - (b) The Chair, members of the Hearing Body, or others, with the recognition of the Chair may question a witness.
  - (10) The Chair shall call for the Applicant's Presentation.
  - (11) The Chair shall call for other Proponent testimony in favor of the Request.
  - (12) The Chair shall call for Opponent's testimony in opposition to the Request.
  - (13) The Chair shall call for general comments.
  - (14) The Chair shall call for the Applicant's rebuttal to opponent's testimony. The Applicant has the right of rebuttal - Opponents do not.
  - (15) The Chair shall close the hearing or continue it to an announced time and place.
  - (16) Unless there is a continuance, if a participant so requests, before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing. When a record is reopened to admit new evidence or testimony, any person may raise new issues that relate to the new evidence, testimony or criteria for decision-making that apply to the matter at issue.
  - (17) Call for deliberation by Hearing Body following the close of the Hearing or Record. The Hearing Body may make its decision following the hearing or may continue its deliberation to a subsequent meeting. The time and place of the subsequent meeting shall be announced.

## **Section 3.520 Legislative Public Hearing Procedures**

The following procedures govern the conduct of Legislative land use public hearings conducted before the Adair Village Planning Commission or the Adair Village City Council on an Amendment to this Code:

- (1) Legislative public hearings are required by both the Planning Commission and City Council for text amendments or zone change map amendments that affect a group or class of properties. Written testimony may be provided at the hearing or prior to the hearing. Oral testimony may be provided at the hearing. Amendments to this Code are provided for in Section 2.700.
- (2) The Planning Commission and City Council may choose to combine their hearings into a single joint public hearing. The Mayor or President of the City Council shall preside at joint hearings. Following the joint public hearing, the Planning Commission will deliberate at a separately scheduled meeting and make a recommendation to the City Council. The City Council will consider the recommendation of the Planning Commission and following deliberation, make a final decision on the amendment considering the public testimony, factual evidence presented and compatibility and compliance with the City Comprehensive Plan and the Statewide Land Use Goals and Guidelines.
- (3) An issue which may be the basis for an appeal to the Land Use Board of Appeals (LUBA) shall be raised not later than the close of the record following the final evidentiary hearing on the proposal before the City. Such issues shall be raised with sufficient detail so as to afford the City Council or Planning Commission, and the parties, an adequate opportunity to respond to each issue.
- (4) At the commencement of a hearing a statement by the Chairperson shall be made to those in attendance that:
  - (a) Announces the purpose of the hearing.
  - (b) States that the applicable substantive criteria will be presented in the Staff Report.
  - (c) States that testimony and evidence must be directed toward the criteria or other criteria in the City Comprehensive Plan, this Code, or other ordinances that the person believes to apply to the decision.
  - (d) States that a failure to raise an issue with sufficient detail to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to LUBA based on that issue.
- (5) The Chair shall request presentation of the Staff Report.
- (6) The Chair shall request reports or testimony from any Governmental Agencies.
- (7) The Chair shall make the following statements before presentation of testimony:
  - (a) A person shall first stand and state his full name and address.

- (b) The Presiding Officer, members of the Hearing Body, or others, with the recognition of the chair may question a witness.
- (8) Call for testimony in favor of the change.
- (9) Call for testimony in opposition to the change.
- (10) Call for general comments.
- (11) Close the hearing or continue it to another announced time and place.
- (12) Call for deliberation by Hearing Body following close of the Hearing. The Hearing Body may make its decision following the hearing or may continue its deliberation to a subsequent meeting. The time and place of the subsequent meeting shall be announced.

### Section 3.600 Decision

Applicants and participants in a land use proceeding are entitled to a decision based upon a fair and impartial review or hearing of the factual evidence presented in conformance with the relevant standards and criteria contained in the City's Comprehensive Plan, Codes or Ordinances.

- (1) Decision Justification. The review or hearing body shall decide on a land use application and provide a brief statement that explains the standards and criteria considered relevant to decision, states the facts relied upon and explains the justification for the decision, with findings that summarize the facts believed by the review or hearing body and how the standards and criteria are satisfied by the accepted facts.
- (2) Findings. Findings are based on the information presented in the application, the staff report and evidence presented in the proceedings. ORS 227.173 requires:
  - (a) An explanation of the relevant criteria applicable to the decision.
  - (b) A statement of the facts supporting the decision.
  - (c) An explanation of how the standards and criteria are satisfied by the accepted facts and justify the decision.
- (3) Findings for Approval. The findings must contain a statement that the applicable policy or criteria is satisfied by the accepted facts presented.
- (4) Findings for Approval with Conditions. The findings must contain a statement that the applicable policy or criteria can be satisfied by the facts presented with the application of conditions of approval as authorized in this Code.
- (5) Findings for Denial. The findings must contain a statement that the applicable policy or criteria are not satisfied by the facts presented.
- (6) Notice of Decision. Written notice shall be given to the Applicant and all parties to the proceedings. The notice shall contain the following information:



- (a) The name of the Applicant and/or Owner of the subject property.
- (b) The address or geographic description of the subject property.
- (c) A description of the requested action.
- (d) The date of decision.
- (e) A summary of the decision made.
- (f) An explanation of appeal rights.
- (g) The location where the record may be reviewed.

### **Section 3.700 Appeal Provisions**

An appeal issue shall be raised at the time of the review or hearing, either in person or by letter. The appeal issue raised must be specific and shall be presented with enough clarity to afford the decision body an opportunity to adequately respond to the issue. Failure to raise the issue at the review or hearing or failure to clearly define the issue shall preclude appeal to the City Council or to the Land Use Board of Appeals (LUBA) on that issue.

- (1) Written notice of the appeal shall be filed with the City on forms provided by the City along with the applicable fee. An Appeal request shall contain:
  - (a) The name of the appellant(s) and a statement by the appellant that they were a party to the initial proceedings.
  - (b) Identification of the decision being appealed.
  - (c) The date of the decision being appealed.
  - (d) The form and basis of the appeal and the criteria relied upon for the appeal request.
- (2) An action or ruling of the City Administrator or designee pursuant to this Code may be appealed to the Planning Commission within 15 days after the decision is made. If an appeal is not filed within the above-specified period, the decision of the City Administrator or designee shall be final. If the appeal is filed, the Planning Commission shall receive a report and recommendation thereon from the City Administrator or designee and shall hold public hearing on the appeal.
- (3) An action or ruling of the Planning Commission pursuant to this Code may be appealed to the City Council within 15 days after the Planning Commission decision is mailed.

Written notice of the appeal shall be filed with the City. If the appeal is not filed within the above-specified period, the decision of the Planning Commission shall be final. If the appeal is filed, the City Council shall request a report and recommendation thereon from the Planning Commission and shall hold a public hearing on the appeal. The City Council may continue the hearing for good cause. Following the hearing, the City Council may sustain any

recommendations or ruling of the Planning Commission, provided such action complies with the provisions of this Code, or the City Council may decide the issue.

- (4) Notice. A "Notice of Appeal" shall be provided in the same manner as provided for in the original Application and Notice of Decision including all parties to the previous proceedings. A "Notice of Appeal" shall contain:
  - (a) The name of the appellant and a statement that they were a party to the initial proceedings.
  - (b) Identification of the decision being appealed.
  - (c) The date of the decision being appealed.
  - (d) The form and basis of the appeal and the criteria relied upon for the appeal.
- (5) Scope of Review. The hearing body shall determine the scope of review on the appeal to be one of the following:
  - (a) Review on specific issues relative to the decision being appealed.
  - (b) Review only on the official record of the decision being appealed.
  - (c) A "de novo" hearing as if the request had not been previously heard, except that all testimony, evidence, and other materials in the record of the previous review or hearing may be included in the new record of review.
- (6) A party aggrieved by the City's final determination in a proceeding for a land use decision, limited land use decision or discretionary permit may have the determination reviewed by the Land Use Board of Appeals (LUBA) under ORS 197.828 to 197.845 by filing a notice of intent to appeal with LUBA not later than 21 days after the decisions becomes final.

### **Section 3.800 Revocation**

A decision on a land use application may be overturned, revoked or modified by the City on any one or more of the following grounds after a public hearing on the issue:

- (1) A material misrepresentation or mistake of fact was made in the application or evidence submitted, either intentionally or unintentionally.
- (2) The use for which approval was granted has ceased to exist.
- (3) Failure to comply with the terms and conditions of approval.
- (4) The use is in violation of a provision of this Code or other applicable statutes, ordinances, or regulations.
- (5) The approval decision was overturned on appeal.

# ARTICLE 4 ZONING DISTRICTS

## Section 4.010 Classification of Zones

For the purpose of this Code, the following primary land use zoning districts are hereby established:

Abbreviated

Primary Zones                      Designation

- Residential—Low Density      R-1
- Residential—Medium Density      R-2
- Residential—High Density      R-3
- Commercial—Village Center      C-1
- Commercial— Neighborhood      C-2
- Limited Industrial                      M-1
- Educational Facilities                E-1
- Public Use                                P-1

## Section 4.030 Location of Zones

The boundaries for the zones listed in this Code are indicated on the Adair Village Zoning Map which is also the Comprehensive Plan Map for the City and is hereby adopted by reference and made a part of this Code.

## Section 4.040 Zoning Maps

A zoning map adopted by Section 4.030 of this Code or an amendment thereto shall be dated with the effective date of the ordinance that adopts the map or map amendment. A certified print of the adopted map or map amendment shall be maintained in the office of the City Recorder as long as this Code remains in effect.

## Section 4.050 Zone Boundaries

Unless otherwise specified, zone boundaries are section lines, sub-division lines, lot lines, center lines of street or railroad right-of-way or such lines extended except where a boundary line clearly divides a lot, then the boundary line shall be determined by use of the scale designated on the Zoning Map. Where a boundary line divides a lot, the boundary line shall be utilized as a lot line for purposes of determining area and setback requirements for each zone.

## Section 4.060 Zoning of Annexed Areas

All areas annexed to the City shall be rezoned in conformance with the Comprehensive Plan and the Adair Village Urban Growth Boundary.

## Section 4.070 Similar Use Authorization

The City Administrator may permit a use not listed in this Code provided the use is of the same general type as the uses permitted in a particular zoning district. However, this section does not authorize the inclusion of a use in a zone where it is not listed, or a use specifically listed in another zone. The decision of the City Administrator may be appealed to the Planning Commission using procedures specified in Section 3.700 of this Code.

## Section 4.080 Nonconforming Uses

It is the intent of the nonconforming use section of this Code to permit pre-existing uses and structures that do not conform to the use or dimensional standards of this Code to continue under conditions specified herein. However, alteration or expansion of nonconforming uses and structures that may have adverse impacts in the immediate neighborhood or in the City as a whole are not permitted.

- (1) Continuation of a Nonconforming Use.
  - (a) Subject to the provisions contained herein, a nonconforming use of a structure or a nonconforming use, may be continued and maintained, but shall not be altered or expanded except as provided herein.
  - (b) The expansion of a nonconforming use to a portion of a structure that was arranged or designed for such use at the time of passage of this Code is permitted.
  - (c) In any industrial or commercial zone, a pre-existing dwelling may be altered or expanded, provided that such alteration or expansion shall not exceed the yard, lot coverage and building height requirements of the zone.
- (2) Nonconforming Structure. A structure conforming as to use but nonconforming as to height, setback, lot coverage or similar dimensional standards, may be altered or extended if the alteration or extension does not cause the structure to deviate from the standards of this Code.
- (3) Discontinuance of a Nonconforming Use.
  - (a) If a nonconforming use of a structure is discontinued from active use for a period of one year, further use of the property shall be for a conforming use unless approved by the Planning Commission as a Conditional Use.
  - (b) If a nonconforming use of a structure is discontinued from active use for a period of 6 months, further use of the property shall be for a conforming use.
- (4) Change of a Nonconforming Use. If a nonconforming use is changed, it shall be changed to a use conforming to the regulations of the zone in which it is located.
- (5) Destruction of a Nonconforming Use or Structure. If a nonconforming structure or a structure containing a nonconforming use is totally or destroyed to an extent exceeding fifty-one percent (51%) of the assessed valuation of the structure by any cause, a future structure or use on the site shall be either in accordance with the provisions of the zone in which the property is located or the property owner may apply for a Conditional Use permit to continue with the existing use or to replace the structure in its present location.
- (6) Repairs and Maintenance. Any building housing a nonconforming use may be maintained or restored to conform with the standards of the building code, including repair or replacement of fixtures, wiring, or plumbing, provided the building is not increased in cubic content or floor area.

- (7) Completion of Structure. Nothing contained in this Code shall require any change in the plans, construction, alteration, or designated use of a structure for which a building permit has been lawfully issued prior to adoption of this Code, provided the structure, if nonconforming or intended for a nonconforming use, is completed and in use within one (1) year from the time the building permit is issued.

## **Section 4.100 Primary Zones**

### **Section 4.111 Residential Zone - R-1**

(Amended ORD 2013-03)

- (1) Purpose. To provide areas suitable and desirable for low density single-family residential use with provisions for associated residential or public service uses.
- (2) Permitted Uses. In an R-1 Zone, the following uses and their accessory uses are permitted subject to the standards, provisions and exceptions set forth in this Code:
  - (a) One single-family dwelling or manufactured dwelling per legal lot.
  - (b) Residential Care Homes for 5 or less people as provided in ORS 197.660 - 670 and Section 6.102.
  - (c) Group Child Care Home for 12 or fewer children as provided in the applicable provisions of ORS 657 A and Section 6.102.
  - (d) Accessory buildings subject to the following standards:
    1. Accessory buildings shall not be used for dwelling purposes.
    2. Accessory buildings shall not be placed in a front or street side yard and shall be setback at least 5 feet from an adjacent side or rear property line.
    3. Accessory buildings are limited to one story and 800 square feet unless submitted for approval under the Site Plan Review provisions of Code Section 2.400.
    4. No sales shall be made from an accessory structure unless it has been approved as a Home Occupation under the Conditional Use provisions of Code Section 2.500 and the home occupation standards of Code Section 6.101.
    5. Boats, trailers, detached campers, recreation vehicles and similar recreational equipment may be stored on-site on a driveway or an improved surface, except in a front or side yard setback. Such vehicles shall not be used for animal or human habitation. Temporary use of a Recreation Vehicle for guests is allowed for no more than four (4) consecutive days (as per 43.230 of the City's "Parking and Standing Vehicles" Code), Without a City Permit.

- 6. Oversized vehicles including trucks, bus, motor home, campers or trailers utilized for personal use shall not be parked on a city street or right-of-way for more than 4 consecutive days without a city permit and commercial or vending vehicle street parking is not permitted, all in conformance with City Ordinance 2013-01.
  - (e) Duplex divisions in conformance with the standards of Section 6.105.
- (3) Conditional Uses. In an R-1 Zone, the following uses and their accessory uses may be permitted in conformance with the conditional use provisions of Section 2.500 and the applicable Use Standards of Article 6.
  - a) Replacement of any existing duplex dwelling unit.
  - (b) Home occupation in conformance with Section 6.101.
  - (c) Residential Care Facility for 15 or less people as provided in ORS 197.660 - 670 and Section 6.103.
  - (d) Group Child Care Center for 13 or more children as provided in the applicable provisions of ORS 657 A and Section 6.103.
  - (e) Public or semi-public uses.
- (4) Development Standards.
  - (a) Lots shall have a minimum lot size of 10,000 square feet.
  - (b) No structure or use shall be established in a manner likely to disrupt or cause contamination of a stream, lake, or other body of water.
  - (c) Exterior street front yards shall have a minimum depth of 20 feet.
  - (d) Exterior street side yards shall have a minimum depth of 10 feet.
  - (e) Interior side yards shall have a minimum width of 5 feet.
  - (f) Rear yards shall have a minimum depth of 15 feet.
  - (g) Maximum building height shall be 30 feet.
  - (h) Manufactured Dwellings placed on individual lots outside of a Manufactured Dwelling Park shall comply with the standards of Section 6.113.
  - (i) Division of duplex lots constructed may be partitioned into two-single family lots according to the standards contained in Section 6.105 and the land partition requirements of Section 2.300.
  - (j) See Article 5 for additional General Development Standards and Article 6 for Use Standards that may apply in the R-1 Zone.

## Section 4.112 Residential Zone - R-2

(Amended ORD 2013-03)

- (1) Purpose. To provide areas suitable and desirable for medium density single-family residential use with provisions for associated residential or public service uses.
- (2) Permitted Uses. In an R-2 Zone, the following uses and their accessory uses are permitted subject to the standards, provisions and exceptions set forth in this Code:
  - (a) One single-family dwelling or manufactured dwelling per legal lot.
  - (b) Residential Care Homes for 5 or less people. As provided in ORS 197.660 - 670 and Section 6.102.
  - (c) Group Child Care Home for 12 or fewer children as provided in the applicable provisions of ORS 657 A and Section 6.102.
  - (d) Accessory buildings subject to the following standards:
    1. Accessory buildings shall not be used for dwelling purposes.
    2. Accessory buildings shall not be placed in a front or street side yard and shall be setback at least 5 feet from an adjacent side or rear property line.
    3. Accessory buildings are limited to one story and 800 square feet unless submitted for approval under the Site Plan Review provisions of Code Section 2.400.
    4. No sales shall be made from an accessory structure unless it has been approved as a Home Occupation under the Conditional Use provisions of Code Section 2.500 and the home occupation standards of Code Section 6.101.
    5. Boats, trailers, detached campers, recreation vehicles and similar recreational equipment may be stored on-site on a driveway or an improved surface, except in a front or side yard setback. Such vehicles shall not be used for animal or human habitation. Temporary use of a Recreation Vehicle for guests is allowed for no more than four (4) consecutive days (as per 43.230 of the City's "Parking and Standing Vehicles" Code), Without a City Permit.
    6. Oversized vehicles including trucks, bus, motor home, campers or trailers utilized for personal use shall not be parked on a city street or right-of-way for more than 4 consecutive days without a city permit and commercial or vending vehicle street parking is not permitted, all in conformance with City Ordinance 2013-01.
  - (e) Multiple-family dwelling units in conformance with the Planned Development procedures of Sections 7.200.
- (3) Conditional Uses. In an R-2 Zone, the following uses and their accessory uses may be permitted in conformance with the conditional use provisions of Section 2.500 and the applicable Use Standards of Article 6.

- (a) Replacement of any existing duplex dwelling unit.
  - (b) Home occupation in conformance with Section 6.101.
  - (c) Residential Care Facility for 15 or less people as provided in ORS 197.660 - 670 and Section 6.103.
  - (d) Group Child Care Center for 13 or more children as provided in the applicable provisions of ORS 657 A670 and Section 6.103.
  - (e) Public or semi-public uses.
  - (f) Agricultural Use in conformance with Section 6.401.
- (4) Development Standards.
- (a) Lots shall have a minimum lot size of 8,000 square feet.
  - (b) No structure or use shall be established in a manner likely to disrupt or cause contamination of a stream, lake, or other body of water.
  - (c) Exterior street front yards shall have a minimum depth of 20 feet.
  - (d) Exterior street side yards shall have a minimum depth of 10 feet.
  - (e) Interior side yards shall have a minimum width of 5 feet.
  - (f) Rear yards shall have a minimum depth of 15 feet.
  - (g) Maximum building height shall be 35 feet.
  - (h) Manufactured Dwellings placed on individual lots outside of a Manufactured Dwelling Park shall comply with the standards of Section 6.113.
  - (i) Manufactured Dwelling Parks shall comply with the Planned Development Standards of Section 6.115.
  - (j) See Article 5 for additional General Development Standards and Article 6 for Use Standards that may apply in the R-2 Zone.

### Section 4.113 Residential Zone - R-3

(Amended ORD 2013-03)

- (1) Purpose. To provide areas suitable and desirable for higher density single-family residential use at a density of six-point five (6.5) dwelling units per net residential acre. A net residential acre is 43,560 square feet of residentially designated buildable land excluding areas used, or intended for use, of public street rights-of-way, restricted hazard area, public open spaces, and resource protected areas. Higher densities may be provided under the provisions of Code Section 7.200, Planned Development that can include a mixture of housing types and densities.



- (2) Permitted Uses. In an R-3 Zone, the following uses and their accessory uses are permitted subject to the standards, provisions and exceptions set forth in this Code:

One single-family dwelling or manufactured dwelling per legal lot.

- (b) Residential Care Homes for 5 or less people. As provided in ORS 197.660 - 670 and Code Section 6.102.
- (c) Group Child Care Home for 12 or less children as provided in the applicable provisions of ORS 657 A and Code Section 6.102.
- (d) Accessory buildings subject to the following standards:
  - 1. Accessory buildings shall not be used for dwelling purposes.
  - 2. Accessory buildings shall not be placed in a front or street side yard and shall be setback at least 5 feet from an adjacent side or rear property line.
  - 3. Accessory buildings are limited to one story and 800 square feet unless submitted for approval under the Site Plan Review provisions of Code Section 2.400.
  - 4. No sales shall be made from an accessory structure unless it has been approved as a Home Occupation under the Conditional Use provisions of Code Section 2.500 and the home occupation standards of Code Section 6.101.
  - 5. Boats, trailers, detached campers, recreation vehicles and similar recreational equipment may be stored on-site on a driveway or an improved surface, except in a front or side yard setback. Such vehicles shall not be used for animal or human habitation. Temporary use of a Recreation Vehicle for guests is allowed for no more than ~~30~~four (4) consecutive days (as per 43.230 of the City's "Parking and Standing Vehicles" Code), Without a City Permit.
  - 6. Oversized vehicles including trucks, bus, motor home, campers or trailers utilized for personal use shall not be parked on a city street or right-of-way for more than 4 consecutive days without a city permit and commercial or vending vehicle street parking is not permitted, all in conformance with City Ordinance 2013-01.

- (3) Conditional Uses. In an R-3 Zone, the following uses and their accessory uses may be permitted in conformance with the conditional use provisions of Code Section 2.500 and the applicable Use Standards of Code Article 6 or Code Section 7.200.

- (a) Multiple-family mixed housing types and higher density housing may be approved as a Conditional Use under Code Section 7.200, Planned Development.
- (b) Home occupation in conformance with Code Section 6.101.

- (c) Residential Care Facility for 15 or less people as provided in ORS 197.660 - 670 and Code Section 6.103.
  - (d) Group Child Care Center for 13 or more children as provided in the applicable provisions of ORS 657 A670 and Code Section 6.103.
  - (e) Public or semi-public uses.
  - (f) Agricultural Use in conformance with Code Section 6.401.
- (4) Development Standards.
- (a) Lots shall have a minimum lot size of 6,500 square feet unless approved under the Planned Development provisions of Code Section 7.200 as a Conditional Use.
  - (b) No structure or use shall be established in a manner likely to disrupt or cause contamination of a stream, lake, or other body of water.
  - (c) Exterior street front yards shall have a minimum depth of 20 feet.
  - (d) Exterior street side yards shall have a minimum depth of 10 feet.
  - (e) Interior side yards shall have a minimum width of 5 feet.  
  
For multiple family or row housing the Planning Commission may approve zero side yard setbacks under (3) (a) above.
  - (f) Rear yards shall have a minimum depth of 15 feet.
  - (g) Maximum building height shall be 35 feet.
  - (h) Manufactured Dwellings placed on individual lots outside of a Manufactured Dwelling Park shall comply with the standards of Code Section 6.113.

## Section 4 114 Residential Zone – R-4

- (1) Purpose. Cottage Cluster housing is allowed in the R-4 residential zone in accordance with the Planned Development Provisions of Section 7.200 provided municipal water and sewer service is available.
- (2) Development Standards. Applicability. Cottage clusters shall meet the standards in subsections (1) through (9) of this section (A).
  - (a) Minimum Lot Area – One Acre
  - (b) Maximum Density - 16 Units per Acre unless approved by the Planning Commission.
  - (c) Access shall be from a designated arterial or collector street.

(d) Setbacks and Building Separation.

1. Setbacks. Cottage clusters shall meet the minimum setback standards that apply to detached single family dwellings if individual parking is proposed or a minimum setbacks for dwellings that utilize shared parking:

- Front setbacks: 10 feet
- Side setbacks: 5 feet
- Rear setbacks: 10 feet

2. Building Separation. Cottages shall be separated by a minimum distance of six (6) feet. The minimum distance between all other structures, including accessory structures, shall be in accordance with building code requirements.

- (e) Average Unit Size. The maximum average floor area for a cottage cluster is 1,000 square feet per dwelling unit. Community buildings shall be included in the average floor area calculation for a cottage cluster.

- (f) Building Height. The maximum building height for all structures is 25 feet or two (2) stories, whichever is greater.

- (g) Off-Street Parking. Required Off-Street Parking. The minimum number of required off-street parking spaces for a cottage cluster project is one (1) space per unit. Spaces may be provided for individual cottages or in shared parking clusters.

- (h) On-site bicycle storage facilities, bicycle paths and pedestrian ways shall be provided for developments exceeding six dwelling units.

(2) Design Standards - Cottage clusters shall meet the design standards in subsections (a) through (h) of this section (2). No other design standards shall apply to cottage clusters unless noted in this section. Mandates for construction of a garage or carport and any other design standards are invalid, except as specified in this Section (2).

- (a) Cottage Orientation. Cottages must be clustered around a common courtyard, meaning they abut the associated common courtyard or are directly connected to it by a pedestrian path, and must meet the following standards (see Figure 1):

1. Each cottage within a cluster must either abut the common courtyard or must be directly connected to it by a pedestrian path.
2. A minimum of 50 percent of cottages within a cluster must be oriented to the common courtyard and must:
  - i. Have a main entrance facing the common courtyard;
  - ii. Be within 10 feet from the common courtyard, measured from the façade of the cottage to the nearest edge of the common courtyard;
  - iii. Be connected to the common courtyard by a pedestrian path.

3. Cottages within 20 feet of a street property line may have their entrances facing the street.

4. Cottages not facing the common courtyard or the street must have their main entrances facing a pedestrian path that is directly connected to the common courtyard.

(b) Common Courtyard Design Standards. Each cottage cluster must share a common courtyard in order to provide a sense of openness and community of residents. Common courtyards must meet the following standards (see Figure 1):

1. The common courtyard must be a single, contiguous piece.

2. Cottages must abut the common courtyard on at least two sides of the courtyard.

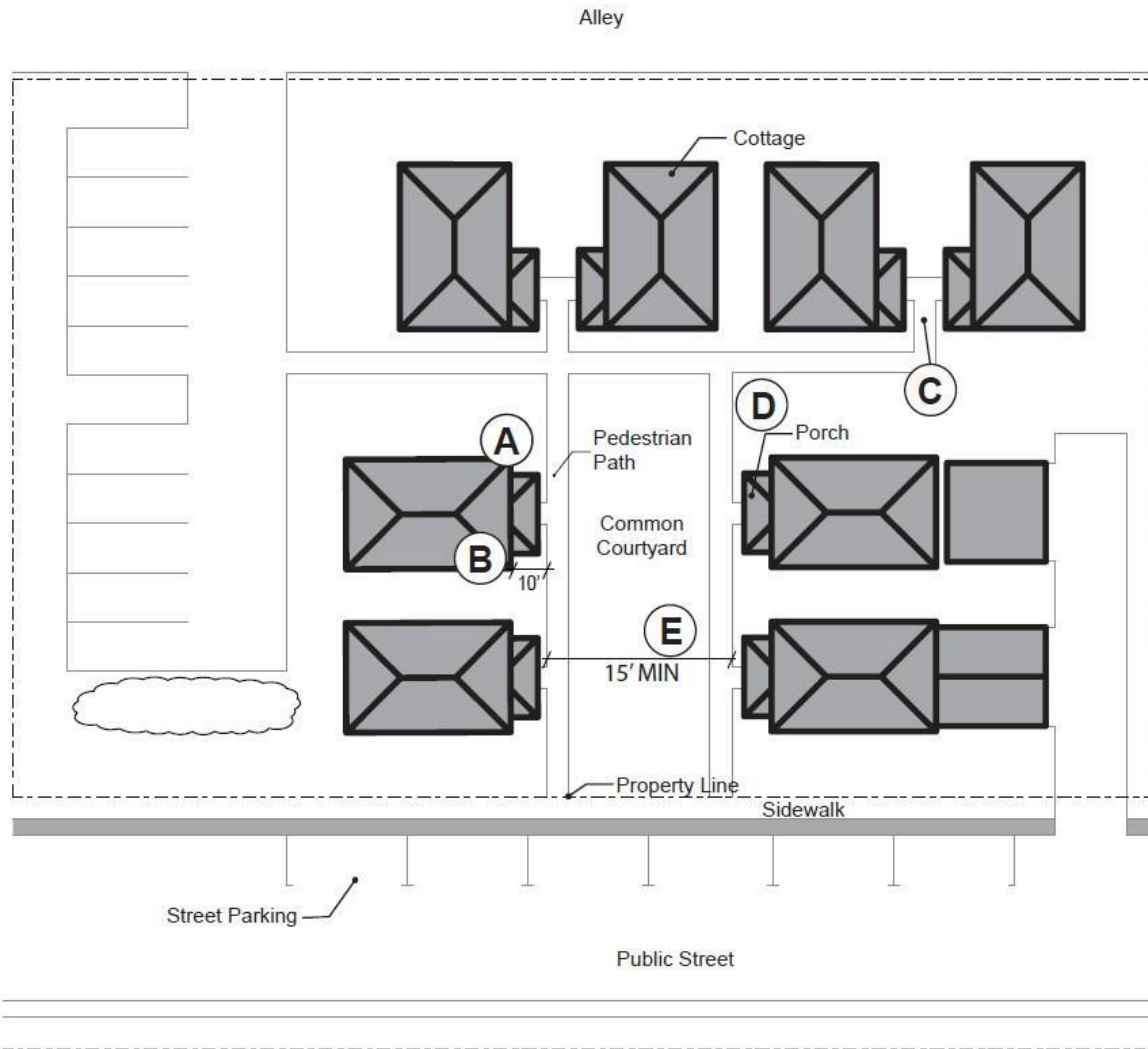
3. The common courtyard must contain a minimum of 150 square feet per cottage within the associated cluster (as defined in subsection (1) of this section (B)).

4. The common courtyard must be a minimum of 15 feet wide at its narrowest dimension.

5. The common courtyard shall be developed with a mix of landscaping, lawn area, pedestrian paths, and/or paved courtyard area, and may also include recreational amenities. Impervious elements of the common courtyard shall not exceed 75 percent of the total common courtyard area. OAR 660-046 Exhibit B – Large Cities Middle Housing Model Code 30 of 33.

6. Pedestrian paths must be included in a common courtyard. Paths that are contiguous to a courtyard shall count toward the courtyard's minimum dimension and area. Parking areas, required setbacks, and driveways do not qualify as part of a common courtyard. *Cottage Cluster Orientation and Common Courtyard Standards* OAR 660-046 – Large Cities Middle Housing Model Code 31 of 33.

**Figure 1. Cottage Cluster Orientation and Common Courtyard Standards**



- (A)** A minimum of 50% of cottages must be oriented to the common courtyard.
- (B)** Cottages oriented to the common courtyard must be within 10 feet of the courtyard.
- (C)** Cottages must be connected to the common courtyard by a pedestrian path.
- (D)** Cottages must abut the courtyard on at least two sides of the courtyard.
- (E)** The common courtyard must be at least 15 feet wide at its narrowest width.

(c.) Community Buildings. Cottage cluster projects may include community buildings for the shared use of residents that provide space for accessory uses such as community meeting rooms, guest housing, exercise rooms, day care, or community eating areas. Community buildings must meet the following standards:

1. Each cottage cluster is permitted one community building, which shall count towards the maximum average floor area, pursuant to subsection (A)(5).
2. A community building that meets the development code's definition of a dwelling unit must meet the maximum 1,000 square foot footprint limitation that applies to cottages, unless a covenant is recorded against the property stating that the structure is not a legal dwelling unit and will not be used as a primary dwelling.

(d) Pedestrian Access.

1. An accessible pedestrian path must be provided that connects the main entrance of each cottage to the following:
  - i. The common courtyard;
  - ii. Shared parking areas;
  - iii. Community buildings; and
  - iv. Sidewalks in public rights-of-way abutting the site or rights-of-way if there are no sidewalks.
2. The pedestrian path must be hard-surfaced and a minimum of four (4) feet wide.

(e) Windows. Cottages within 20 feet of a street property line must meet any window coverage requirement that applies to detached single family dwellings in the same zone.

**(f) Parking Design (see Figure 2).**

1. Clustered parking. Off-street parking may be arranged in clusters, subject to the following standards:
  - i. Cottage cluster projects with fewer than 16 cottages are permitted parking clusters of not more than five (5) contiguous spaces.
  - ii. Cottage cluster projects with 16 cottages or more are permitted parking clusters of not more than eight (8) contiguous spaces.
  - iii. Parking clusters must be separated from other spaces by

at least four (4) feet of landscaping.

iv. Clustered parking areas may be covered.

2. Parking location and access.

i. Off-street parking spaces and vehicle maneuvering areas shall not be located: OAR 660-046 Exhibit B – Large Cities Middle Housing Model Code 32 of 33

- Within 20 feet from any street property line, except alley property lines;
- Between a street property line and the front façade of cottages located closest to the street property line. This standard does not apply to alleys.

ii. Off-street parking spaces shall not be located within 10 feet of any other property line, except alley property lines. Driveways and drive aisles are permitted within 10 feet of other property lines.

3. Screening. Landscaping, fencing, or walls at least three feet tall shall separate clustered parking areas and parking structures from common courtyards and public streets.

4. Garages and carports.

i. Garages and carports (whether shared or individual) must not abut common courtyards.

ii. Individual attached garages up to 200 square feet shall be exempted from the calculation of maximum building footprint for cottages.

iii. Individual detached garages must not exceed 400 square feet in floor area.

iii. Garage doors for attached and detached individual garages must not exceed 20 feet in width.

(g) Accessory Structures. Accessory structures must not exceed 400 square feet in floor area.

(h) Existing Structures. On a lot or parcel to be used for a cottage cluster project, an existing detached single family dwelling on the same lot at the time of proposed development of the cottage cluster may remain within the cottage cluster project area under the following conditions:

1. The existing dwelling may be nonconforming with respect to the

requirements of this code.

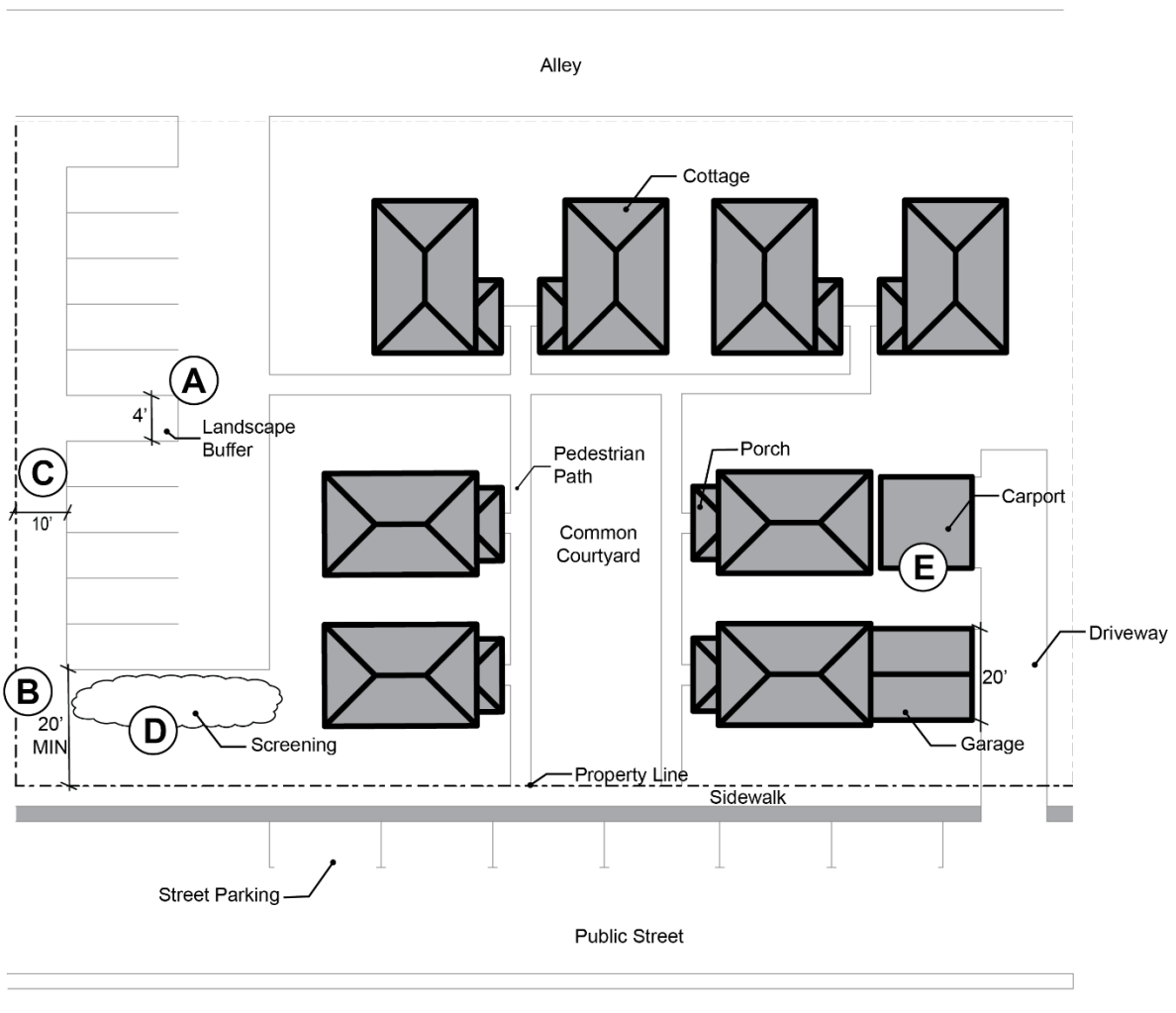
2. The existing dwelling may be expanded up to the maximum height in subsection (A)(6) or the maximum building footprint in Chapter 1, subsection (A)(5); however, existing dwellings that exceed the maximum height and/or footprint of this code may not be expanded.

3. The floor area of the existing dwelling shall not count towards the maximum average floor area of a cottage cluster.

4. The existing dwelling shall be excluded from the calculation of orientation toward the common courtyard, per subsection (1)(a) of this section (C). OAR 660-046 Exhibit B – Large Cities Middle Housing Model Code 33 of 33.

***Figure 2. Cottage Cluster Parking Design Standards***





- (A) Parking allowed in clusters of up to 5 spaces. Clusters separated by minimum 4 feet of landscaping.
- (B) No parking or vehicle area within 20 feet from street property line (except alley).
- (C) No parking within 10 feet from other property lines (except alley). Driveways and drive aisles permitted within 10 feet.
- (D) Screening required between clustered parking areas or parking structures and public streets or common courtyards.
- (E) Garages and carports must not abut common courtyards. Garage doors for individual garages must not exceed 20 feet in width.

**Section 4.121 Commercial Zone—Village Center - C-1**  
 (Amended ORD 2013-03)

- (1) Purpose. The C-1 zone is applied to the area of Adair Village that is intended to become the pedestrian-oriented, mixed-use heart of the village. Appropriate building types include commercial, mixed-use, and live/work buildings, with ground floor space reserved for retail and services, with residential, and/or offices above. Buildings are placed primarily at the back of sidewalks, to reinforce the pedestrian orientation of the streets.

The City of Adair Village is endeavoring to promote a design and development concept or theme. All structures building permits for development within this zone shall be accompanied with written, pictorial, or other documentation demonstrating compliance with this overall building theme. Approval of all designs shall be at the discretion of the City.

- (2) Permitted Uses. In a C-1 Zone, the following uses and their accessory uses are permitted subject to the Site Plan Review provisions of Section 2.400 and the standards, provisions and exceptions set forth in this Code, provided all commercial activities except off-street parking, open plaza and sidewalk use, and temporary activities shall be conducted entirely within an enclosed building:

- (a) Retail Stores or Shops.
- (b) Personal or Business Service & Financial.
- (c) Small Repair Shops (See 3 (b) below).
- (d) Restaurants or Cafes.
- (e) Offices, Business or Professional.
- (f) Financial Institutions.
- (g) Indoor Commercial Amusement, Studios or Galleries.
- (h) Public or Semi-public buildings and uses.
- (i) Second story residences above commercial uses.
- (j) Hotels or Bed & Breakfast establishments.
- (k) Specialized Schools or Studios.

- (3) Conditional Uses. In a C-1 Zone, the following uses and their accessory uses may be permitted, subject to the provisions of Section 2.500:

- (a) Uses requiring an Emission Discharge Permit from the Oregon Department of Environmental Quality.
- (b) Limited fabrication or assembly operations including plumbing, sheet metal and cabinet shops.
- (c) Bar, Tavern or Nightclub.
- (d) Permitted uses listed in (2) above, requiring open display or storage.

- (4) Development Standards.
- (a) Each site shall be adequately served by public utilities including municipal water and sewer service and shall provide sidewalks and improved streets.
  - (b) There is no minimum lot area other than that required to comply with the applicable development standards.
  - (c) Front and side street yards may have a minimum building depth of 0-feet.
  - (d) Interior and rear yards abutting other commercial sites may be 0-feet and shall be at least 10 feet when abutting a residential use or zone.
  - (e) Maximum building height shall be 35 feet in height.
  - (f) Access shall be designed to cause minimum interference with traffic movement on abutting streets. Where necessary, additional right-of-way shall be dedicated to maintaining adequate traffic circulation.
  - (g) The site shall be landscaped and effectively screened from adjacent residential areas, as provided in Section 5.134.
  - (h) The arrangement of buildings, parking areas, signs and other facilities shall be designed and oriented to minimize noise and glare relative to adjacent property.
  - (i) Artificial lighting, including illuminated signs and lights for parking areas, shall be so arranged and constructed as not to produce direct glare on adjacent property or otherwise interfere with the use and enjoyment of adjacent property.
  - (j) No building permit shall be issued within the C-1 Zone without approval of a Site Plan Review.
  - (k) See Article 5 for additional General Development Standards and Article 6 for Use Standards that may apply in the C-1 Zone.

## Section 4.122 Commercial Zone—Neighborhood Center - C-2

(Amended ORD 2013-03)

- (1) Purpose. To provide small-scale, neighborhood-serving commercial uses within convenient walking distance of homes. Appropriate building types include mixed-use and live/work buildings, with ground floor space reserved for retail and services, with residential and/or offices above, and row-houses.
- (2) Permitted Uses. In a C-2 Zone, the following uses and their accessory uses are permitted subject to the Site Plan Review provisions of Section 2.400 and the standards, provisions and exceptions set forth in this Code, provided all operations except off-street parking and temporary activities shall be conducted entirely within an enclosed building:
  - (a) Small Retail Stores or Shops.

- (b) Personal or Business Service.
  - (c) Small Cafes.
  - (d) Second story residences above commercial uses.
- (3) Conditional Uses. In a C-2 Zone, the following uses and their accessory uses may be permitted, subject to the provisions of Section 2.500:
- (a) Indoor Commercial Amusement or Galleries.
  - (b) Public or Semi-public uses.
  - (c) Bed & Breakfast establishments.
  - (d) Studios – Art, Dance or Reading Rooms.
- (4) Development Standards.
- (a) Each site shall be adequately served by public utilities including municipal water and sewer service and shall provide sidewalks and improved streets.
  - (b) There is no minimum lot area other than required to comply with the applicable development standards.
  - (c) Front and side street yards shall have a minimum depth of 5-feet utilized exclusively for sidewalks, landscaping, and access drives.
  - (d) Interior and rear yards abutting other commercial sites may be 0-feet and shall be at least 10 feet when abutting a residential use or zone.
  - (e) Maximum building height shall be 35 feet.
  - (f) Access shall be designed to cause minimum interference with traffic movement on abutting streets. Where necessary, additional right-of-way shall be dedicated to maintaining adequate traffic circulation.
  - (g) The site shall be landscaped and effectively screened from adjacent residential areas, as provided in Section 5.134.
  - (h) The arrangement of buildings, parking areas, signs and other facilities shall be designed and oriented to minimize noise and glare on adjacent property.
  - (i) Artificial lighting, including illuminated signs and lights for parking areas, shall be so arranged, and constructed as not to produce direct glare on adjacent property or otherwise interfere with the use and enjoyment of adjacent property.
  - (j) No building permit shall be issued within the C-2 Zone without approval of a Site Plan Review.

(k) See Article 5 for additional General Development Standards and Article 6 for Use Standards that may apply in the C-2.

## Section 4.124 Building Type Standards

Each proposed building shall comply with the requirements of this Section.

- (1) Building Frontage: Attached single-family structures shall not exceed 4 units or 84 lineal feet of frontage along any street. Multiple family units shall not exceed 8 contiguous units or 100 lineal feet.

Table 4.1-1--Building Type Standards

TABLE 4.1-1  BUILDING TYPE	ZONES WHERE ALLOWED			MINIMUM LOT AREA	MAXIMUM LOT AREA	MAXIMUM DENSITY IN DWELLING UNITS PER LOT
	R-3	C-2	C-1			
Single dwelling	c			3,800 sq.ft.	Max lot area shall not exceed 200% of zone minimum lot area	1 unit per lot
Single dwelling plus accessory dwelling unit (ADU)	c			6,000 sq.ft.		2 units per lot
Courtyard cluster	c			Varies as approved by the City		6 units per cluster, as approved by the City
Duplex	c			7,600 sq.ft.		2 units per lot
Rowhouse	c	c	c	1,200 sq.ft.		1 unit per lot
Live/work		c	c	1,200 sq.ft.		1 unit per lot
Mixed-use building		c	c	2,500 sq.ft.		1 or more units per lot, as approved by the City
Commercial building		c	c	N.A		N.A.
Notes:						
Key: c = Building type allowed						
(1) Allowed with conditional use permit.						

## Section 4.131 Limited Industrial Zone - M-1

- (1) **Purpose.** To provide areas suitable for limited manufacturing, warehousing and commercial activities which have minimal emissions or nuisance characteristics.
- (2) **Permitted Uses.** In an M-1 Zone, the following uses and their accessory uses are permitted subject to the Site Plan Review provisions of **Section 2.400**:
  - (a) Light manufacturing, warehousing, wholesaling, storing, compounding, assembling, processing, researching, treating, or testing uses, provided all operations except off-street parking and temporary activities shall be conducted entirely within an enclosed building, and provided there are no emissions potentially detrimental to the public health or nuisance characteristics discernible without instruments at the property line.
  - (b) The following commercial uses: equipment sales and service, maintenance and repair services with incidental retail sales, commercial storage, vocational and recreational training, professional and business offices, and commercial recreation
- (3) **Conditional Uses.** In the M-1 Zone, the following uses may be permitted when authorized in accordance with **Sections 2.500**:
  - (a) Public or semi-public buildings or uses.
  - (b) Industrial use requiring outdoor display or storage. Outdoor storage of materials or products may be allowed where natural or artificial screening can be provided to obscure from view at eye-level from the property line. Such storage shall not be permitted in required yards.
  - (c) Uses which possess nuisance characteristics or emissions potentially detrimental to the public health, safety, and general welfare of the community such as noise, vibration, smoke, odor, fumes, dust, heat, glare or electromagnetic interference shall not be permitted unless additional safeguards are specified by the Planning Commission. The applicant shall accurately specify the extent of emissions and nuisance characteristics relate to the proposed use. Misrepresentation or omission of required data shall be grounds for termination of a Certificate of Occupancy.
  - (d) Manufacturing, processing, or aboveground storage of hazardous materials. All uses shall meet all applicable standards and regulations of the Oregon State Board of Health, the Oregon Department of Environmental Quality, and any other public agency having appropriate regulatory jurisdiction. Prior to approval of conditional use applications or building permits, evidence shall be submitted to the City indicating that the proposed activity has been approved by all appropriate regulatory agencies.
- (4) **Development Standards.**
  - (a) Each site shall be adequately served by public utilities including municipal water and sewer service and shall provide sidewalks and improved streets.

- (b) The minimum site area shall be 15,000 square feet unless approved as a condition of the Site Plan Review procedure specified in **Section 2.400**.
- (c) Exterior yards shall have a minimum depth of 20 feet utilized exclusively for sidewalks, landscaping, and access drives. A 5-foot landscape buffer shall be maintained at the street when the exterior yard is utilized for parking as specified in **Section 5.134**.
- (d) Interior yards adjacent to other Industrial properties shall be 10 feet and interior yards adjacent to residential or commercial properties shall be 25 feet with a landscaped yard buffer.
- (e) No structure shall be constructed within 60 feet of the centerline of a street.
- (f) Maximum building height shall be 35 feet unless approved as part of the Site Plan Review provisions of **Section 2.400**
- (g) Access shall be designed to cause minimum interference with traffic movement on abutting streets. Where necessary, additional right-of-way shall be dedicated to maintaining adequate traffic circulation.
- (h) The site shall be landscaped and effectively screened from adjacent residential areas as specified in **Section 5.134**.
- (i) The arrangement of buildings, parking areas, signs and other facilities shall be designed and oriented to minimize noise and glare on adjacent property or otherwise interfere with the use and enjoyment of adjacent property.
- (j) Artificial lighting, including illuminated signs and lights for parking areas, shall be so arranged, and constructed so as not to produce direct glare on adjacent property or otherwise interfere with the use and enjoyment of adjacent property.
- (k) No building permit shall be issued within the M-1 Zone without approval of a Site Plan Review as specified in **Section 2.400**.

## **Section 4.141 Educational Facilities Zone - E-1**

- (1) Purpose. The purpose of the Educational Facilities Zone (E-1) is to provide for the orderly development and use of land and buildings owned and operated by private or public educational entities for education and training purposes or support.
- (2) Permitted Uses. In the E-1 Zone, the following uses and their accessory uses are permitted subject to the Site Plan Review provisions of Section 2.400:
  - (a) Educational, Religious, Public Uses and support activities.
  - (b) Faculty, employee, and student housing.

- (3) Limitations of Use.
- (a) Proposed new buildings and exterior additions to existing buildings or uses proposed on the site shall be submitted to the City for review and approval under the Site Plan Review provisions of Section 2.400.
  - (b) Proposed alterations to existing site features shall be submitted to the City for review and approval under the Site Plan Review provisions of Section 2.400. This shall not apply to shifts in locale of outdoor training or classroom sites within the required setback of any property within the zone.
  - (c) Exceptions: Maintenance, repairs and remodeling of existing buildings and site features may be undertaken with a Building Permit issued by the City.
- (4) Development Standards.
- (a) Each site shall be adequately served by public utilities including municipal water and sewer service and shall provide sidewalks and improved streets.
  - (b) Yard fronting on an external boundary or street for any new structure or exterior addition to an existing building shall have a minimum depth of 25 feet.
  - (c) No new, freestanding structure or additions to existing structures shall exceed 50 feet in height.
- (5) Change or Abandonment of Use. Whenever the use of any E-1 Zone, or a part of any such zone, is abandoned or the ownership is either transferred for different use or reverts to Federal Government Control, such abandoned or transferred area shall be designated a Planned Development Area – PD until a revised zoning plan for the area has been adopted by the City. SECTION 4.151  
PUBLIC USE ZONE - P-1
- 1. Purpose. To provide areas suitable and desirable for public use provided that the property is governmentally owned (federal, state, county or municipal) and to provide for the orderly development and use of publicly owned property.
  - 2. Permitted Uses. In a P-1 Zone, any use or structure is permitted subject to the Site Plan Review procedures of Section 2.400 if it is governmentally owned and complies with all applicable provisions of City Codes governing the type of use or structure proposed.
  - 3. Transfer of Ownership.
- (a) Whenever a P-1 Zone, or any part of a P-1 Zone, is transferred to private ownership, the P-1 Zone shall cease to apply, and the property shall be designated a Planned Development Area – PD unless the property owner initiates a Zone Change Amendment in accordance with the procedures of Section 2.700.



- (b) Whenever any privately-owned land is considered for acquisition by a governmental agency for public use, the agency shall initiate a Zone Change Amendment in accordance with the procedures of Section 2.700.
- (4) Development Standards.
  - (a) Each site shall be adequately served by public utilities including municipal water and sewer service and shall provide sidewalks and improved streets.
  - (b) Exterior yards shall have a minimum depth of 20 feet utilized exclusively for sidewalks, landscaping and access drives unless otherwise approved as part of the Site Plan Review procedures of Section 2.400. A 10-foot landscape buffer shall be maintained at the street when the exterior yard is utilized for parking as specified in Section 5.134.
  - (c) Interior yards shall be 25 feet with a landscaped yard buffer.
  - (d) No structure shall be constructed within 60 feet of the centerline of a street right-of-way.
  - (e) Access shall be designed to cause minimum interference with traffic movement on abutting streets. Where necessary, additional right-of-way shall be dedicated to maintaining adequate traffic circulation.
  - (f) The site shall be landscaped and effectively screened from adjacent areas, as provided in Section 5.134.
  - (g) The arrangement of building, parking areas, signs and other facilities shall be designed and oriented to minimize noise and glare impacts on adjacent property.
  - (h) Artificial lighting, including illuminated signs and lights for parking areas, shall be so arranged, and constructed as not to produce direct glare on adjacent property or otherwise interfere with the use and enjoyment of adjacent property.

## **ARTICLE 5 GENERAL DEVELOPMENT STANDARDS**

### **Section 5.010 Development Standards**

In addition to the development standards specified for each zoning district, there are many standards that apply in more than one zone. The following Sections specify development standards applicable within any zoning district in the City of Adair Village.

The City may adjust the development standards contained in Article 5 to provide an efficient land division or a more efficient utilization of a property when submitted for approval under the City's review and approval procedures.

### **Section 5.020 Plan Conformance**

All developments within the City shall conform to any approved development plan adopted by the City such as a Planned Development, PD. Developments located within an area that has an approved plan shall comply with the design and construction standards of that approved plan in addition to those contained in this Code. In cases of conflict, the approved plan shall control.

## **Section 5.110 Height Standards**

Building height standards are specified in Item (4) of each Zoning District.

## **Section 5.111 Building Height Exceptions**

Vertical projections such as chimneys, spires, domes, elevator shaft housings, decorative towers antenna, flagpoles, and similar objects not used for human occupancy shall not exceed the building height limitations of this Code by more than ten (10) feet unless approved by the City.

## **Section 5.112 Building Projection Exceptions**

Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys, and flues shall not project more than 30 inches into a required yard unless approved by the City.

## **Section 5.113 Lot Size**

Lot size standards are specified in Item (4) of each Zoning District.

## **Section 5.114 Lot Size Exceptions**

If a lot as recorded in the office of the County Assessor at the time of passage of this Code, has an area or dimension which does not meet the lot size requirements of the zone in which the property is located, the holdings may be occupied by a use permitted in the zone subject to the other requirements of the zone. If there is an area deficiency, residential use shall be limited to a single-family dwelling or to the number of dwelling units consistent with the lot-area-per-dwelling-unit requirement of the zone.

## **Section 5.115 Yard Setbacks**

Yard setback standards are specified in Item (4) of each Zoning District.

## **Section 5.116 Yard Setback Exceptions**

The following exceptions to the yard requirements are authorized for a lot in any zone:

- (1) In a residential zone, the minimum front yard setback for a part of the building may be reduced by not more than 5 feet provided the average front yard depth shall not be less than 15 feet. Garage and carport setbacks shall not be reduced below 20 feet.
- (2) No building shall be erected on a lot that abuts a street having only a portion of its required right-of-way (ROW) dedicated, unless the yard setbacks are increased to accommodate the required ROW plus the required yard setback.
- (3) The Planning Commission may require additional setbacks, street right-of-way dedications, utility easements and street improvements for development projects that are required to be submitted for review and approval.
- (4) The Planning Commission may reduce the required yard setbacks for special and unusual site conditions in conformance with Section 2.600, Variances where compliance with the setback provisions of this Code would create an undue or unnecessary hardship.

### **Section 5.117 Drainageway Setbacks**

All drainageways and watercourses shall have a minimum building setback of 20 feet from the top of bank of the drainageway. Floodplain or wetland areas extending beyond the 20 feet shall increase the setback to the limits of the floodplain or wetland.

### **Section 5.118 Minimum Setback**

In commercial or industrial zones where an interior yard is not required and a structure is not to be erected at the property line, it shall be set back at least 5 feet from the property line to permit access to the building.

### **Section 5.119 Service Stations Setback Exceptions**

In zones where automobile service stations are permitted, freestanding gasoline pumps and pump stands may occupy a required exterior yard, provided they are a minimum of 15 feet from the property line.

### **Section 5.120 Parking**

For each new structure or use, and for each structure increased in area, and for each change or increase in the use of an existing structure there shall be provided and maintained off-street parking areas in conformance with the provisions of this section.

- (1) Design and Improvement Requirements for Parking Lots:
  - (a) All parking areas and driveway approaches shall be surfaced with a minimum of two inches asphaltic concrete, or four inches Portland Cement Concrete, over an approved base unless approved by the City Administrator. All parking areas, except those in conjunction with a single family or two-family dwelling, shall be graded so as not to drain storm water over the sidewalk or onto any abutting property. Under approved conditions the City may defer paving and permit gravel as a temporary use.
  - (b) Service drives and parking spaces on surfaced parking lots shall be clearly and permanently marked. Handicapped Parking must comply with the Oregon International Building Code Standards.
  - (c) Parking areas for other than single-family and two-family dwellings shall be served by a service driveway so that no backing movements or other maneuvering within a street other than an alley shall be required. Design for parking lots shall conform to the Parking Diagram contained in Section 10.300, Diagram DSD-1. Two-way driveways shall have a minimum width of 20 feet and a maximum width of 30 feet. One-way driveways shall have a minimum width of 12 feet and a maximum width of 16 feet.
  - (d) A Parking space shall conform to the Parking Diagram contained in Section 10.300, Diagram DSD-1.
  - (e) The outer boundary and all landscaped islands of a parking area shall be contained by a 6" high curb for protection of landscaping, pedestrian walkways and to contain rainwater runoff. No motor vehicle shall project over a property line.

- (f) All parking areas, except those in conjunction with a single family or two-family dwelling, shall have adequate drainage to dispose of the run-off generated by the impervious surface area of the parking area. On-site collection of drainage water shall not allow sheet flow of water onto sidewalks, public rights-of-way or abutting property and shall detain out-flow velocities to that of undeveloped land. All drainage systems must be approved by the City Administrator.
  - (g) Service driveways to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress, and maximum safety of pedestrian and vehicular traffic on the site. The number and location of service driveways shall be approved by the City and limited to the minimum that will allow the property to accommodate and service the traffic anticipated.
  - (h) All off-street parking areas within or abutting residential districts or uses shall be provided with a sight-obscuring fence, wall or hedge as approved by the City to minimize disturbances to adjacent residents.
- (2) Location Standards for Parking Lots:
- (a) Required off-street parking shall be provided on the development site unless a Variance is approved by the City.
  - (b) Off-street parking areas may be in a required yard setback provided a 5-foot-wide landscaped buffer and screening, as required in Section 5.134, is maintained at the property line.
- (3) Required parking spaces shall be available for the parking of operable motor vehicles for residents, customers, patrons, and employees only and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or for repair or servicing.
- (4) Provisions for and maintenance of off-street parking spaces are continuing obligations of the property owner. No building permit or other approvals shall be issued until plans are presented that show the complete parking layout. The subsequent use of property for which approval is granted shall be conditional upon the unqualified continuance and availability of the amount of parking space required by this Code.
- (5) Should the owner or occupant of a lot or building change the use of the property to a use which increases the off-street parking requirements, it shall be unlawful and a violation of this Code to begin to maintain such altered use until the required increase in off-street parking is provided.
- (6) In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.
- (7) Owners of two or more uses, structures or properties may agree to use the same parking spaces jointly provided the off-street parking is the sum of the requirements of the several uses. If the hours of operation do not overlap, the

parking requirement shall be for the highest use. An agreement shall be submitted and approved by the City for the cooperative use of the parking facilities.

- (8) A plan, drawn to scale, indicating how the off-street parking requirements are to be fulfilled, shall accompany all requests for City approval or a Building Permit.
- (9) Parking lots shall be provided with landscaping as provided in Section 5.134 (4) and other suitable devices to divide the parking lot into sub-units to provide for pedestrian safety, traffic control, and to improve the appearance of the parking lot.
- (10) Off-street parking spaces shall be required as defined in Section 5.121. Fractional space requirements shall be counted as a whole space. When square feet are utilized to determine the required parking spaces, the area measured shall be the gross floor area of the building primary to the use but may exclude any area within a building used for off-street parking, loading, or service functions not primary to the use. When the requirements are based on the number of employees, the number counted shall be those working on the premises during the largest shift at peak season.

## Section 5.121 Off-Street Parking Requirements

USE	SPACE REQUIREMENT
(1) Residential (a) One- and two-family dwelling  (b) Multiple family dwelling  (c) Rooming or boarding house	Two spaces per dwelling unit  Studio .75 space/unit 1 Bedroom 1.00 space/unit 2 Bedroom 1.50 space/unit 3 Bedroom 2.00 space/unit or more  Spaces equal to 80% of the number of guest accommodations plus one additional space for the manager or owner
(2) Commercial Residential (a) Hotel  (b) Motel	One space per two guest rooms plus one space per two employees One space per guest room or suite plus one additional space for the owner or manager
(3) Institutional (a) Convalescent hospital, nursing home, sanitarium rest home, home for the aged	One space per four beds for patients or residents
(4) Place of Public Assembly (a) Church  (b) Library, reading room  (c) Pre-school nursery, kindergarten  (d) Elementary, junior high  (e) Other public assembly or meeting rooms	One space per four seats or eight feet of bench length in the main auditorium, or one space for each 35 sq. ft. of floor area of main auditorium not containing fixed seats  One space per 400 sq. ft. of floor area plus one space per two employees  Two spaces per teacher  One space per classroom plus one or high school space per administrative employee  One space per four seats in the auditorium or assembly room, whichever is greater One space per six seats or eight feet of bench length, or one space for each 35 s/f of floor area for assembly room not containing fixed seats

USE	SPACE REQUIREMENT
(5) Commercial Amusement (a) Stadium, arena, theater  (b) Bowling alley  (c) Dance hall, skating	One space per four seats or eight ft of bench length  Five spaces per alley plus one space per two employees  One space per 100 s/ft. of floor area, plus one space per two employees
(6) Commercial (a) Retail store except as provided in subsection b of this subsection  (b) Service or repair shop, retail store exclusively handling bulky merchandise such as automobiles and furniture.  (c) Bank, office (except medical and dental)  (d) Medical and dental clinic  (e) Eating or drinking establishment  (f) Mortuary	One space per 300 s/ft. of floor area designated for retail sales  One space per 400 s/ft. of floor area  One space per 400 s/ft. of floor area  One space per 300 s/ft. of floor area plus one space per two employees  One space per 100 s/ft. of patron serving area  One space per six seats or eight ft. of bench length
(7) Industrial (a) Storage warehouse, manufacturing establishment, rail or trucking freight terminal  (b) Wholesale establishment	One space per employee  One space per employee plus one space per 700 square feet of patron serving area
(8) Unspecified Uses	Any use not specifically listed in this section shall have the parking requirement determined by the Planning Commission, based on the parking space requirements for comparable uses listed in this section.

## Section 5.122 Access and Clear Vision Areas

- (1) Access: Every property shall abut a street other than an alley, for a minimum width of 25 feet, except where the City has approved an easement for access or where the easement existed prior to the adoption of this Code.
- (2) The following access alternatives to Flag Properties may be approved by the City for partitions or, in some circumstances, small subdivisions:
  - (a) Approval of a single access road easement to serve all the proposed parcels with a provision for conversion to a dedicated public road right-of-way when requested by the City. The easement shall have the same width as a required right-of-way.
  - (b) Approval of a road right-of-way without providing the road improvements until the lots or parcels are developed. The land developer shall pay into the City's Street Fund an amount equal to the cost of providing the street improvements. The land developer may recover the cost as part of the lot sales and the City will provide the street improvements.
  - (c) Approval of a private road that does not have to meet all the standards for public streets. This approach should only be used for isolated short streets serving a limited number of sites and where future City street alignments will not be needed.
  - (d) All access drive's locations shall be approved by the City with County or State approval where their jurisdiction applies.
  - (e) Access drives for corner or through properties shall take their access from the lowest traffic classification of street.
  - (f) Common access drives located at the property line is encouraged and may be required in some locations to limit the number access locations.
- (3) Clear Vision Areas: In all districts a clear vision area shall be maintained at the corners of all property located at the intersection of two streets, a street-alley or a street-railroad. A clear vision area shall also be maintained at all driveways intersecting a street. See Section 10.300, Diagram DSD-2.
  - (a) All properties shall maintain a clear triangular area at street intersections, railroad-street intersections, alley-street intersections and driveway-street intersections for safety vision purposes.

The two sides of the triangular area shall be 15 feet in length along the edge of roadway at all street intersections and 10 feet in length at all alley-street intersections and driveway-street intersections. Where streets intersect at less than 30 degrees, the triangular sides shall be increased to 25 feet in length. The third side of the triangle shall be a line connecting the two exterior sides.



- (b) A clear vision area shall contain no plantings, fences, walls, structures, or temporary or permanent obstruction exceeding 2-1/2 feet in height, measured from the top of the curb, or, where no curb exists, from the established street centerline grade. Trees exceeding this height may be in this area, provided all branches or foliage are removed to a height of 8 feet above grade.

## Section 5.123 Streets

- (1) The location, width and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of land to be served by the streets. The street system shall assure an adequate traffic circulation system with intersection angles, grades, tangents, and curves appropriate for the traffic to be carried considering the terrain. The arrangement of streets shall provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
- (2) Street design shall conform to the design standards of the City of Adair Village. Street design shall include curb, gutters, sidewalks and utility easements unless specifically exempted by the City.
- (3) Right-of-way and roadway widths. The width of streets and roadways shall be adequate to fulfill city specifications as provided for in Article 8 of this Code.

Where conditions, particularly topography or the size and shape of the tract, make it impractical to otherwise provide buildable sites, narrower rights-of-way may be accepted, if necessary, and replaced with slope, sidewalk or utility easements dedicated on both sides of the right-of-way.

Where topographical conditions necessitate cuts or fills for proper grading of streets, additional rights-of-way may be required.

- (4) Reserve Strips: A reserve strip is a 1-foot strip of land at the end of a right-of-way extending the full width of the right-of-way used to control access to the street. Reserve strips will not be approved unless necessary for the protection of the public welfare or of substantial property rights. The control of the land comprising such strips shall be placed with the jurisdiction of the City by deed under conditions approved by the City. In addition, a barricade shall be constructed at the end of the street by the land divider which shall not be removed until authorized by the City. The cost shall be included in the street construction costs by the land divider.
- (5) Alignment: As far as is practicable, streets other than minor streets shall be in alignment with existing streets by continuations of the center lines thereof. Staggered street alignment resulting in "T" intersections are discouraged. If necessary, "T" intersections shall have a minimum distance of 260 feet between the centerlines of streets having approximately the same direction.
- (6) Future Extensions of Streets: Where necessary to give access to or permit a satisfactory future division of adjoining land, streets shall be extended to the boundary of the subdivisions or partition and the resulting dead-end streets may

be approved without a turn-around. Reserve strips may be required to preserve the objectives of street extensions.

- (7) **Intersection Angles:** Streets shall be laid out to intersect at angles as near to right angles (90 degrees) as practical except where topography require a lesser angle, but in no case shall the acute angle be less than 60 degrees unless there is a special intersection design. Intersections which contain an acute angle of less than 60 degrees, or which include an arterial street shall have a minimum corner radius sufficient to allow for a roadway radius of 20 feet and sufficient right-of-way for the roadway radius to maintain a uniform width between the roadway and the right-of-way line.
- (8) **Existing Streets:** Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of approval of the land division or land use approval.
- (9) **Half Street:** Half streets, while generally not acceptable, may be approved where essential to the reasonable development of the subdivision or partition when in conformity with the other requirements of these regulations and when the City finds it will be practical to require the dedication of the other half when the adjoining property is divided. Whenever a half street is adjacent to a tract to be divided, the other half of the street shall be provided within such tract. Reserve strips may be required to preserve the objectives of half streets.
- (10) **Cul-de-sac:** A cul-de-sac street should have a maximum length of 500 feet but may be longer where unusual circumstances exist. A cul-de-sac shall terminate with a circular turn-around with a minimum right-of-way radius of 50 feet.
- (11) **Street Names:** Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the name of an existing street. Street names and numbers shall conform to the established pattern in the City and shall be subject to the approval of the City.
- (12) **Streets Adjacent to Railroad Right-of-way:** Wherever the proposed land division contains or is adjacent to a railroad right-of-way, provision may be required for a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the land between the streets and the railroad. The distance shall be determined with due consideration at cross streets of the minimum distance required for approach grades to a future grade separation and to provide sufficient depth to allow screen planting along the railroad right-of-way.
- (13) **Frontage Access Streets:** Where a land division abuts or contains an existing or proposed Arterial Street, the City may require Frontage Access Streets for property access with a non-access reservation along the arterial to afford separation of through and local traffic.
- (14) **Private Streets:** Private streets are permitted within Planned Unit Developments, Manufactured Dwelling Parks, and singularly owned developments of sufficient size to warrant interior circulation on private streets. Design standards shall be the same as those required for public streets unless approved by the City. The

City shall require verification of legal requirements for the continued maintenance of private streets.

- (15) Railroad Crossings: Where an adjacent development results in a need to install or improve a railroad crossing, the cost for such improvements shall be borne by the land divider unless an equitable means of cost distribution is approved by the City.
- (16) Traffic Signals: Where a proposed intersection will result in the need for street signals, they shall be provided by the land divider and the costs shall be borne by the land divider unless an equitable means of cost distribution is approved by the City.
- (17) Street Signs: Street signs for identification and traffic control shall be provided by the land divider and the costs shall be borne by the land divider unless an equitable means of cost distribution is approved by the City.
- (18) Mailboxes: Joint mailboxes may be provided in residential developments. Joint mailbox structures shall be placed adjacent to roadway curbs as recommended by the Post Office having jurisdiction and shall be noted on the plan. The cost shall be borne by the land divider.

### **Section 5.124 Sidewalks**

Public sidewalk improvements are required for all land divisions and property development in the City of Adair Village. Under approved conditions, the City may defer sidewalks.

- (1) Sidewalks shall be constructed within the street right-of-way. Sidewalk easements shall only be accepted where the Planning Commission determines that full right-of-way acquisition is impractical.
- (2) Sidewalks shall connect to and align with existing sidewalks. Sidewalks may transition to another alignment as part of the approval of the Tentative Plan.
- (3) The City may approve alternate sidewalk alignments and widths to accommodate existing conditions or proposals.
- (4) Sidewalks in residential areas should be a minimum of 5 feet in width and shall be installed adjacent to the curb unless a planter strip of at least 4 feet in width is approved adjacent to the curb where sufficient right-of-way is available.
- (5) Sidewalks adjacent to Collector or Arterial Streets shall be a minimum of 5 feet in width separated by a planter strip of 4 feet in width adjacent to the curb where possible. Sidewalks may be approved adjacent to the curb where direct access is required. Sidewalks adjacent to the curb should be a minimum of 7 feet in width or a minimum of 10 feet in width adjacent to Commercial properties. Planter openings adjacent to the curb are encouraged within the 10-foot walks.
- (6) Planter strips and the remaining right-of-way shall be landscaped and incorporated as part of the front yard of adjacent property.

- (7) Maintenance of sidewalks and planters shall be the continuing obligation of the abutting property owner.
- (8) Midblock Sidewalks. The City may require midblock sidewalks for long blocks or to provide access to schools, parks, shopping, public transportation stops or other community services. Midblock sidewalks shall be raised and shall be 6 feet in width.

### **Section 5.125 Bikeways**

- (1) Developments adjoining existing or proposed bikeways shall include provisions for connection and extension of such bikeways through dedication of easements or rights-of-way. The City may include bikeway improvements as conditions of approval for developments that will benefit from bikeways. Where possible, bikeways should be separated from other modes of travel, including pedestrian-ways.
- (2) Minimum width for bikeways shall be 5 feet per travel lane.

### **Section 5.126 Storm Drainage**

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 and off-site drainage improvements may be required. Property owners 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.

- (1) General Provisions. All proposed storm drainage system design plans shall be approved by the City. Surface water drainage patterns and proposed storm drainage must be shown on every development plan submitted for approval. The City will approve a development request only where adequate provisions for storm and floodwater run-off have been made as determined by the City Administrator.
  - (a) Urban level curb inlets, catch basins, and drainage pipe improvements are required for all land divisions and property development in the City of Adair Village. Urban storm drainage systems may be deferred by the City in lieu of a rural system of culverts and open drainageways.
  - (b) All storm water drainage systems shall be separate from and independent of any sanitary sewerage system.
  - (c) Surface water shall not drain across street intersections or allow flooding of the street.
  - (d) Surface water shall not drain across another property unless it is contained in a culvert or natural drainageway easement.
  - (e) Ditches are not allowed without City approval, except natural drainageways or swales may be approved.

- (f) Site drainage design shall accommodate upstream run-off and the impacts of downstream run-off. Off-site improvements may be required for approval.
- (g) Drainage controls shall be designed to regulate surface water run-off into receiving streams, drainage facilities or onto adjoining properties. Controls may include, but are not limited to:
  - 1. Detention ponds, swales, or storage cells.
  - 2. Minimization of impervious surfaces.
  - 3. Use of open greenway drainageways.
  - 4. Flow controls.
  - 5. Off-site stabilization of drainage channels.
- (2) Natural Drainageways. Open natural drainageways of sufficient width and capacity to provide for flow and maintenance are permitted and encouraged. For the purposes of this Section, an open natural drainageway is defined as a natural path that has the specific function of transmitting natural stream water or storm water run-off from a point of higher elevation to a point of lower elevation.

Natural drainageways should be protected as linear open space features wherever possible within the community and shall be protected from pollutants and sediments. Section 5.117 requires setbacks from drainageways and watercourses.
- (3) Easements. Where a land division is traversed by a water course, drainageway, channel or stream, there shall be provided a public storm water easement or drainage right-of-way conforming substantially with the lines of such water course and such further width as the City Administrator determines will be adequate for conveyance and maintenance. Improvements to existing drainageways may be required of the property owner. The property owner is also responsible for continuing maintenance and protection of natural drainageways.
- (4) Accommodation of Upstream Drainage. A culvert or other drainage facility shall be large enough to accommodate potential run-off from its entire upstream drainage area, whether inside or outside of the development. The City Administrator must review and approve the necessary size of the facility, based on sound engineering principles and assuming conditions of maximum potential watershed development permitted by the Comprehensive Plan.
- (5) Effect on Downstream Drainage. Where it is anticipated by the City Administrator that the additional run-off resulting from the development will overload an existing drainage facility, the City may withhold approval of the development until mitigation measures have been approved.
- (6) Drainage Management Practices. Developments within the City must employ drainage management practices approved by the City Administrator that limit the amount and rate of surface water run-off into receiving streams or drainage facilities. Stormwater runoff rates for new developments shall not exceed bare

land runoff rates. Drainage management practices must include, but are not limited to one or more of the following practices:

- (a) Temporary ponding or detention of water to control rapid runoff.
  - (b) Permanent storage basins.
  - (c) Minimization of impervious surfaces.
  - (d) Emphasis on natural drainageways.
  - (e) Prevention of water flowing from the development in an uncontrolled fashion.
  - (f) Stabilization of natural drainageways as necessary below drainage and culvert discharge points for a distance sufficient to convey the discharge without channel erosion.
  - (g) Runoff from impervious surfaces must be collected and transported to a natural drainage facility with sufficient capacity to accept the discharge.
  - (h) Other practices and facilities designed to transport storm water and improve water quality.
- (7) **Design Requirements for New Development.** All new development within the City shall make provisions for the continuation or appropriate projection of existing storm sewer lines or drainageways serving surrounding areas. Drainage extensions may be required-through the interior of a property to be developed where the City Administrator determines that the extension is needed to facilitate upstream flows.
- (8) **NPDES Permit Required.** A National Pollutant Discharge Elimination System (NPDES) permit must be obtained from the Department of Environmental Quality (DEQ) for construction activities (including clearing, grading, and excavation) requiring permitting.

## **Section 5.127 Water**

- (1) **Water Plan Approval.** All proposed water plans and systems must be approved by the City as part of the review and approval process.
- (2) **Design Requirements for New Development.** All new development within the City shall make provisions for the extension of public water lines to serve adjacent areas, and as provided in the Water System Master Plan.
- (3) **Water Line Extensions.** Water distribution lines must be extended along the full length of the property's frontage along the right-of-way or to a point identified by the City Administrator as necessary to accommodate likely system expansion. Water line extensions may be required through the interior of properties when necessary, to provide service to other properties or to provide system looping for fire flows. All public water system line extensions shall have a minimum 8-inch diameter unless a smaller size is recommended by the City Engineer and approved by the City.

- (4) All new development, including a single-family residence, must extend and connect to the public water system when service is available within 200 feet of the property. Fire hydrants, mains, and related appurtenances shall be installed by the developer as required by the Local Fire District.
- (5) When public water is not available, one well serving a single property may be approved by the City if requested.
- (6) Well water may be utilized for irrigation purposes. Irrigation and municipal water shall be separated and shall not be interconnected in any way. Backflow prevention devices shall be installed on all irrigation systems attached to the municipal water system.
- (7) Restriction of Development. The City may limit development approvals where a deficiency exists in the water system or portion thereof that cannot be corrected as a part of the proposed development improvements.

### **Section 5.128 Sanitary Sewers**

- (1) Sewer Plan Approval. All proposed sanitary sewer plans, and systems must be approved by the City as part of the review and approval process.
- (2) Design Requirements for New Development. All new development within the City shall make provisions for the extension of sanitary sewer lines to serve adjacent areas, or as provided in the Sanitary Sewer System Master Plan.
- (3) Sewer Line Extensions. Sewer collection lines must be extended along the full length of the property's frontage along the right-of-way or to a point identified by the City Administrator as necessary to accommodate likely system expansion. Line extensions may be required through the interior of a property to be developed where the City Administrator determines that the extension is needed to provide service to other properties. All public sewer system line extensions shall have a minimum 8-inch diameter unless a smaller size is recommended by the City Engineer and approved by the City.
- (4) All new development, including a single-family residence, must extend and connect to the public sewer system when service is available within 200 feet of the property.
- (5) When Public Sewer is not available approval of an on-site system may be approved by the City and County if requested. Lot or parcel size and configuration may require adjustments to accommodate on-site systems.
- (6) Restriction of Development. The City may limit development approvals where a deficiency exists in the sewer system or portion thereof which cannot be corrected as a part of the development improvements.

### **Section 5.129 Utilities**

- (1) It is the intent of the City to place all utilities underground wherever practical except as otherwise provided herein.

- (2) All utilities shall be located underground in subdivisions and partitions.
- (3) All subdivided lots and partition parcels capable of further division in the future shall have a covenant requiring underground utility installations in the Covenants, Conditions and Restrictions for each lot or parcel.
- (4) Exceptions. The City may permit overhead utilities as a condition of approval where the Applicant can demonstrate one of the following conditions:
  - (a) Underground utility locations are not feasible.
  - (b) The proposed lots or parcels are large rural lots where the existing properties in the vicinity have overhead utilities.
  - (c) Temporary or emergency installations.
  - (d) Major transmission facilities located within rights-of-way or easement.
  - (e) Industrial developments requiring large power overhead power facilities.
  - (f) Surface mounted structures, substations or facilities requiring above ground locations by the serving utility.

### **Section 5.130 Easements**

- (1) Easements granting limited use of property for any defined purpose may be approved for any lot or parcel.
- (2) Access easements may be approved by the City as provided in Section 5.122.
- (3) Utility easements shall be provided for sewers, water mains and public or private utilities necessary to provide full service to all developments. Land dividers shall show on the Tentative Plan and on the final Plat all easements and shall provide all dedications, covenants, conditions, or restrictions with the Supplemental Data submitted for review. Unless otherwise specified by the City, standard exterior utility easements adjacent to streets shall be 5 feet wide except for utility pole tieback easements that may be 10 feet in width. Minimum interior utility easements shall be 10 feet wide centered on lot or parcel lines where feasible
- (4) Water Courses. If a tract is traversed by a water course such as a drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way containing the top of bank, vegetative fringe, and such further width as will be adequate for storm or flood protection and maintenance purposes. Storm drainage and minimum setbacks are specified in Section 5.117 & 5.126. Culverts or other drainage facilities shall be large enough to accommodate storm and flood run-off from the entire upstream drainage area and the downstream receiving systems and shall be verified and approved by the City.

### **Section 5.131 Blocks**

- (1) General: The length, width and shape of blocks shall consider the following:



- (a) The distance and alignment of existing blocks and streets in the vicinity.
  - (b) The need for adequate building site sizes.
  - (c) Street alignments and traffic needs.
  - (d) Topography limitations.
- (2) Size: A block shall have sufficient depth to provide for two tiers of building sites unless topography or the location of adjoining streets justifies an exception. Average block sizes should be approximately 400 feet. No block shall be more than 1,200 feet in length between street corner lines unless approved by the City.
- (3) Large Lot or Parcel Block Configurations: In dividing tracts into large rural lots or parcels which at some future times are likely to be re-divided, the City may require that the blocks or sites be of such size and shape to provide for extension and opening of streets at intervals which will permit a subsequent division of any tract into lots or parcels of smaller urban size.

## **Section 5.132 Building Sites**

- (1) Size and shape: The size, width, shape, and orientation of building sites shall be appropriate for the location and use contemplated and shall comply with the standards of the Zoning District and the other standards of Article 5 specified herein.
- (a) No lot or parcel shall be created or utilized unless there will exist an adequate quantity and quality of water and an adequate sewage disposal system to support the proposed use.
  - (b) In areas that will not be served by a public sewer minimum lot and parcel sizes shall permit compliance with the requirements of the Department of Environmental Quality for sewage disposal by septic tank or other approved methods taking into consideration soil structure and water table.
  - (c) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.
  - (d) Existing lots or parcels smaller than City standards may be maintained as a conforming use within the district. In accordance with Section 4.080, damaged buildings or structures may be restored to their previous use or destroyed buildings may be replaced in conformance with this Code.
  - (e) Large Lots or Parcels: Large lots or parcels which may be further divided into smaller lots in the future shall be of such size and shape that will accommodate the efficient provision of future streets and lots or parcels of smaller sizes. The land division request may be denied if the proposed lots or parcels do not provide for efficient future divisions and streets.

Large lot or parcel plans must show by dash lines future potential divisions to minimum Code standards prior to approval. Building locations must be within the proposed minimum property lines and setback standards specified herein to facilitate an orderly division and use of the property in the future. Large lot or parcel divisions shall also show future urban street alignments and easements in addition to future urban lot lines on the Tentative Plan.

- (f) Flag Lots or Parcels: Flag lots or parcels are discouraged. They will only be allowed when other alternative means of access as described in Section 5.122, Item (2) cannot be provided. Minimum width for a flag lot access is 25 feet.
- (g) Through Lots and Parcels: Through lots and parcels shall be avoided except where they are essential to the intended use.
- (h) Lot and Parcel Side Lines: The lines of lots and parcels, as far as is practicable, shall run at right angles to the street upon which they face, except that on curved streets they shall be radial to the curve.
- (i) Building Lines: If special building setback lines are to be established in a land division, they shall be shown on the subdivision or partition Tentative Plan and Plat or, if temporary in nature, they shall be included in the deed restrictions.

### **Section 5.133 Grading**

General grading shall conform to the following standards unless engineered and approved by the City.

- (1) Cut slopes shall not exceed one and one-half feet horizontally to one foot vertically.
- (2) Fill slopes shall not exceed two feet horizontally to one foot vertically.
- (3) The type and characteristics of imported fill soils shall be the same or compatible with the existing soils on the site.
- (4) Fills for streets and building sites shall be engineered and approved by the City.
- (5) All sites shall be graded to direct storm water to City storm sewers or to natural drainage ways.

### **Section 5.134 Landscaping**

All yard setbacks and parking areas shall be landscaped in accordance with the following requirements:

- (1) General Provisions.
  - (a) Landscaping shall primarily consist of ground cover, trees, shrubs, or other living plants with sufficient irrigation to properly maintain all vegetation. Decorative design elements such as fountains, pools, benches, sculptures, planters, fences, and similar elements may be placed within the area.

Exceptions: Undeveloped properties or the undeveloped portion of large properties exceeding 4,000 square feet in area are exempt from the landscape requirements specified herein provided the lot or area is maintained so weeds and wild vegetation does not adversely affect adjacent developed properties. Removal of noxious weeds and vegetation will be enforced through the City's Nuisance Ordinance.

- (b) Provisions for landscaping, screening and maintenance are a continuing obligation of the property owner. An approved means of irrigation is required unless a planting and maintenance plan is approved by the City Administrator. All required landscaped areas shall be cleared of unwanted vegetation and weeds at least once a year prior to July. Dead landscape plantings shall be replaced by April of the following year.
- (c) Site plans indicating landscape improvements shall be included with the plans submitted to the City for approval. Applications for Building Permits shall include landscape plans and improvement specifications that shall be installed before issuance of a Certificate of Occupancy unless a seasonal delay is approved by the City Administrator. Existing trees, plantings and special site features shall be included on all submitted plans and shall clearly indicate items proposed to be removed and those intended to be preserved.
- (d) Existing trees, plantings and special site features shall be preserved, protected, and maintained within the City to the fullest extent possible. Trees shall not be removed without approval of the City for projects requiring review and approval. Trees exceeding 6 inches in diameter shall not be removed from properties within the City without approval of the City Administrator unless the tree poses an immediate danger. Building Permit Applications shall include identified tree removals and be approved by the City Administrator.

(2) Yards and Open Space.

- (a) All required yards in each zone and the entire open space of all commercial and multiple-family dwelling sites exclusive of walks, drives, parking areas and buildings shall be landscaped and permanently maintained. All other site areas and unused property shall be maintained in suitable ground cover or kept in a clean, weed-free manner.
- (b) Exterior yard setbacks adjacent to a street shall include:
  - 1. One 8-foot-high tree for each 40 feet of street frontage.
  - 2. The equivalent of one accent shrub, 1-gallon size, for each 100 square feet of landscaped area.
- (c) All other yard setbacks shall contain landscaped trees, shrubs, and groundcover. Other site areas and unused property shall be maintained in suitable living ground cover and kept in a clean weed-free manner.
- (d) Landscaped buffers shall be provided to city specifications for all commercial and industrial developments abutting a street or residential property.

- (e) No yard or open space provided around any building for the purpose of complying with the provisions of this Code shall be considered as providing a yard or open space for any other building.
  - (f) No yard or open space on adjoining property shall be considered as providing required yard or open space of another lot or development site under the provisions of this Code.
  - (g) Yard Setbacks complying with the regulations of this Code may be used for parking as specifically provided in Section 5.120, Item (2) (b), unless approved by the City.
- (3) Fencing.
- (a) Materials: Fences and walls shall not be constructed of or contain any material which would do bodily harm such as electric, razor wire, broken glass, spikes, or any other hazardous or dangerous materials unless approved by the Planning Commission.
    - (i) Barbed Wire Fences are prohibited, except in approved agricultural areas. Barbed wire may be placed above the top of other fencing in industrial or educational zones, but must be at least 6'-6" above grade.
    - (ii) Electric Fences are prohibited, unless they are:
      1. Completely enclosed inside a property boundary by a barrier type fence that satisfies this Code.
      2. On the outer boundary of the city limits bordering County RR-5 or EFU zoning districts.
    - (iii) Protective fences other than those specified herein shall comply with State Laws and shall be submitted for approval of the City.
  - (b) Maintenance: Fences shall be structurally maintained in a safe condition of repair and shall not be allowed to become, and/or remain, in a condition of disrepair including, but not limited to, noticeable leaning, missing sections, broken supports, and growth of noxious vegetation. Enforcement shall be administered as specified in Section 1.180.
  - (c) Heights and Setbacks: Fences, hedges and walls may never be located outside of property lines and must always meet clear vision requirements. They may be located within yard setbacks. Height is limited to 6 feet for side or interior yards. Height is limited to 3 feet in any front or exterior yard that abuts a street, other than an alley, but may be extended to four feet, if the top one foot is of material or design that allows at least 50 percent visibility. Front or exterior yard fences may not exceed three (3) feet in height, until they are at least 12 feet from the outside of the sidewalk, curb edge, or property line. Fence height includes the height of the fence wall or pickets, but does not include the posts, decorative finials or similar elements, and arbors or trellises at entrance gates.

- (i) Exceptions to height:
  - (a) A side yard on a cul-de-sac shall be deemed equivalent to a front yard for height limitations as described above Section 5.134 (3)(c), and applicable rules for setbacks as described below Section 5.134 (d)(i-iv) would apply for location
  - (b) A single-family use or zone that shares an interior property line with a multiple-family use or zone (See Section 6.104) may have a fence up to eight (8) feet tall along that property line.
  - (c) Properties listed on the National Register of Historic Places may have front yard fences taller than 3 feet if the fence is appropriate to the building style and scale and is approved by the Planning Commission.
  - (d) Corner lots, which have two front yards, may have a fence of up to 6 feet tall in the front yard, adjacent to the street that does not contain the dwelling's main entrance door, when the six-foot tall fence does not extend beyond the front of the house and one of the following conditions is met:
    - (i) If the adjoining street is improved with sidewalks and a planter strip, the fence may be on or behind the property line.
    - (ii) If the adjoining street is improved with sidewalks, but no planter strip, the fence is located a minimum of (6) feet from the outside edge of the Sidewalk, but a minimum of one foot from the inside edge of the sidewalk.
    - (iii) If the adjoining street is improved with curbs and gutters but no sidewalk, the fence is located six (6) feet from the outside edge of the curb.
    - (iv) If the adjoining street is unimproved, the fence is no closer than three (3) feet from the property line.
  - (e) Sight-obscuring fences, walls or landscaping may be required to screen objectionable activities as part of the City's review and approval process. Sight obscuring means 75% opaque when viewed from any angle at a point 25 feet away. Vegetative materials must be evergreen species that meet this standard year-round within 3 years of planting.
  - (f) Hedges: A hedge or other dense landscaping may satisfy a requirement for a sight obscuring fence where required. However, no such hedge shall be grown or maintained at a height greater than that permitted by the regulations for a fence or wall in a vision clearance area.
  - (g) Retaining Walls: Where a retaining wall protects a cut or fill, and is in a line separating lots, the retaining wall may be topped by a fence, wall or hedge of the same height that would otherwise be permitted at the location if no retaining wall existed.

- (h) Berms: Where an earthen berm over 18" high is proposed, the dimensions shall be submitted to the Planning Commission for approval. The berm maybe topped by a fence, wall or hedge to the same combined height that would otherwise be permitted at the location. In front yards, vision obscuring fences and berms shall not exceed a height of 3 feet from the grade prior to construction of the berm.
- (i) In any industrial or educational zones, fences, or walls not to exceed eight feet in height and in any commercial zone, fences or walls not to exceed six feet in height may be located or maintained in any yard except a front yard or where requirements of vision clearance apply.
- (j) In residential zones, fences to a height of six feet are permitted in rear yards or side yards up to the line parallel to and adjoining the front of the residence. All lots must also comply with the vision clearance requirements.
- (k) In residential front yards, open weave, wire, chain-link type fences that do not have vegetation growing on them, or that do not have other vision obstruction additions are permitted in residential front yards and vision clearance areas to a maximum height of 4'-0" above grade.
- (l) Privacy screens are a section of solid fencing in front yard that blocks direct vision into or out of a door or window. Privacy screens are permitted in residential front yards. Front yard privacy screens shall be setback at least 15' from the front or street side property line or not more than 10'-0" in front of the residence. Privacy screens shall not extend more than 2'-0" beyond either side of the entry area doorway or window. Front yard privacy screens shall not be more than 6'-0" high.
- (m) Fences must comply with Section 5.122, Clear Vision Areas.

(4) Parking Areas.

- (a) Parking lots shall be screened from abutting residential land uses by a combination of fences, walls, and landscaping adequate to provide privacy and separation for the abutting land use.
- (b) A minimum of three (3) percent of the space given to vehicular circulation such as driveways, driveway easements, or open parking areas shall be in landscaping and trees evenly distributed throughout. Curbed landscaped islands and trees shall be provided at the ends of parking rows and long rows of parking spaces shall be interrupted by intermediate landscaped islands. The minimum dimension of the landscape including the boundary edge shall be three (3) feet and the landscaping shall be protected from vehicular damage by a curb or wheel guard.
- (c) Where parking areas project into required yards, the remaining yard shall be landscaped to provide screening of the parking area. A 5-foot-wide landscaped buffer and screening, as required in Section 5.120 (2)(b), shall be maintained at the property line.

- (5) Service Facilities. Garbage collection and service areas and facilities located outside the building shall be appropriately screened and landscaped.

### **Section 5.135 Exterior Lighting**

Exterior lighting shall be in such a manner so as not to face directly into on-coming traffic or into adjacent residences.

### **Section 5.136 Signs**

Signs include any writing (including letters, words, or numerals); emblem (including devices, symbols, or trademarks); flag (including banners or pennants); identification displays (including objects, inflatables, or balloons); or any other device used to inform, attract attention or advertise that is visible from a public right-of-way.

- (1) General Sign Provisions:
  - (a) Each sign or outdoor advertising display shall be located on the same property as the use it identifies or advertises or be approved by the City.
  - (b) Signs may be illuminated by indirect or internal lighting. Lighting and signs shall not, by light, brilliance, type, design, or character, create a public or private nuisance or interfere with traffic or limit visibility, and shall not produce glare into residences. The use of flashing or rotating lights is prohibited.
  - (c) No sign shall be constructed or erected such that the vision clearance area or other areas necessary for a safe sight distance by the traveling public would be inhibited or impaired.
  - (d) Sign materials and design elements should be complimentary to those used in development.
  - (e) All attached or freestanding signs shall be engineered and comply with the Oregon Amended International Building Code and the Oregon adopted Electric Code for any electrically powered signs.
  - (f) Any freestanding or projecting sign may be double-faced.
  - (g) All signs, together with their supporting structure shall be maintained in a safe, clean, and attractive condition.
  - (h) Abandoned signs that no longer apply to the property shall be removed by the property owner within 90 days of disuse.
- (2) Permitted Signs
  - (a) Any on-site sign specifically identified as permitted herein.
  - (b) Signs existing at the date of adoption of the sign provisions.
  - (c) Flags of national, state, or local government.
  - (d) Signs placed by local, state, or federal agencies.

- (e) Public safety and convenience signs including parking and directional signs, open/closed and business hour signs, restroom and other locational signs not exceeding 8 square feet in area.
  - (f) Temporary seasonal signs and decorations subject to safety and nuisance standards.
  - (g) Temporary event signs and construction project signs not exceeding 32 square feet in area per street frontage for the duration of the event.
- (3) Permitted Residential Sign Standards
- (a) One name plate not exceeding one 1.5 square foot in area, placed flat against the building for each dwelling or Home Occupation as defined in Section 6.101 of this Code.
  - (b) House or building numbers not exceeding 4 inches in height.
  - (c) One non-illuminated temporary sign not exceeding 6 square feet in area for real estate purposes, garage or personal property sales, or political advertisement.
  - (d) One Freestanding Ground level identification sign per street frontage for Subdivisions, Apartment complexes or Manufactured Home Parks not exceeding 6 feet in height or 90 square feet in area per sign.
  - (e) One Temporary Freestanding Subdivision or Manufactured Home Parks sales sign per street frontage not exceeding 64 square feet in area per sign.
- (4) Permitted Commercial & Industrial Sign Standards
- (a) One Surface Wall or Window Sign per street frontage.
  - (b) One Projecting Sign per street frontage not exceeding 80 square feet in area per business. Projecting signs shall have a minimum clearance of 8 feet in pedestrian areas and 15 feet over parking or drive areas.
  - (c) One Freestanding Ground level sign per street frontage of a property not to exceed 6 feet in height or 90 square feet in area per sign.
  - (d) One Temporary business or property sales sign per street frontage not exceeding 32 square feet in area per sign.
  - (e) One Freestanding Elevated Signs limited to Highway 99W frontage of a property not to exceed 20 feet in height or 100 square feet in area. Elevated signs shall have a minimum clearance of 8 feet in pedestrian areas and 15 feet over parking or drive areas.
- (5) Application Information

Applications for signs requiring approval shall conform to Section 2.130 & 2.140 and Section 2.400 for a Site Plan Review and shall include:



- (a) A Site Plan showing the sign locations on site.
- (b) Building elevations showing sign locations.
- (c) Sign construction showing dimensions, area, height, and structure.
- (d) Sign design showing lettering, logos, symbols, materials, colors, and method of illumination.

## **Section 5.137 Solar Energy Access**

- (1) Purpose. Because of the existing shortage of conventional energy sources, it has been determined to be in the public interest to encourage the use of solar energy for the heating and cooling of buildings. As a general rule, existing zoning regulations for height, setback, and lot density limitations in residential areas permit adequate access to sunlight by each lot without obstruction by adjacent structures. Trees, particularly coniferous trees, should be planted in such a manner as to prevent the casting of shadows upon solar collectors. However, where existing zoning is insufficient to provide adequate protection from interference by structures, trees, or topography, it is the intent of this section to provide an additional means to obtain protection from obstruction of the sun. It is the intent of this section to provide adequate protection for the use of solar collectors without at the same time causing undue hardships on the rights of property owners.
- (2) Definitions.
  - (a) Solar Easement. A volume of airspace extending above a plane sloping upward to the south at an angle from the horizontal of 22 degrees intended to preserve a window of exposure to the sun for solar collectors.
  - (b) Solar Collector. Any device relying upon direct solar radiation that is employed in the collection of solar radiation for heating and/or cooling of a structure or building.
- (3) Use Permitted. The use of solar energy collectors for the purpose of providing energy for heating and/or cooling is a Permitted Use within all zones, whether as a part of a structure or incidental to a group of structures in the nearby vicinity. Use of solar energy collectors is subject to the restraints imposed by the diversity of topography within the City plus the zoning, height and setback limitations contained within this Code, and existing coniferous trees. No guarantee is hereby given that all property within the City can achieve solar an access. However, as a general policy, reasonable care should be taken to protect the opportunity for the utilization of solar collectors at all the locations available.
- (4) Protection of Solar Access.
  - (a) Airspace easements shall be maintained to establish a window of exposure to the sun to protect an existing or intended solar collector's exposure to the sun from obstruction by buildings and trees.

(b) Any person seeking a building permit to construct or modify an existing structure or building to increase the consumption of airspace shall certify in writing that no airspace solar easement is violated on an adjacent lot. Should the Building Department determine that the proposed construction intrudes upon the solar easement, no building permit shall be granted until all reasonable alternative solutions have been considered.

- (5) Variances. Variances in accordance with Section 2.600 may be granted from the zoning standards such as height, setback, and lot density where such variances are necessary to permit unimpaired access to the sun during the hours of 10:00 am to 2:00 pm so long as such variances do not interfere with an existing solar collector to any degree or preclude the construction of a solar collector on property within the vicinity and is not otherwise injurious to adjacent property.

No variance shall be granted from the height limitation or side yard setbacks in any zones where such a variance would be upon the northerly property boundary unless the applicant establishes that such a variance will not adversely affect an existing solar collector or the opportunity to reasonably install a solar collector upon a northerly adjacent property.

- (6) Solar Orientation of Developments. If, for the reason of solar orientation, an entire area is developed cooperatively or as a unit, all yard regulations may be varied to carry out the solar access purpose, providing that such a development will not be injurious to adjacent property.

## **ARTICLE 6 USE STANDARDS**

### **Section 6.010 Use Standards**

In addition to the Development Standards specified in Article 5, there are also uses that may occur in more than one district. The following Sections specify development standards applicable to specialized uses within the City of Adair Village.

### **Section 6.101 Home Occupation Standards**

A Home Occupation is a business use within a residence located in any residential district and must comply with the Conditional Use provisions of Section 2.500 and the following additional standards:

- (1) The home occupation shall be secondary to the main use of the dwelling as a residence.
- (2) All aspects of the home occupation shall be contained and conducted within a completely enclosed building.
- (3) The home occupation shall be limited to either a pre-existing garage or accessory structure, or not over 25% of the floor area of the main floor of a dwelling. If located within an accessory structure or a garage, the home occupation shall not utilize over 500 square feet of floor area unless approved by the Planning Commission.
- (4) No structural alteration, including the provision of an additional entrance, shall be permitted to accommodate the home occupation, except when otherwise required by law. Such structural alteration shall not detract from the outward appearance of the property as a residential use.

- (5) No persons other than members of the immediate family residing within the dwelling shall be engaged in the home occupation.
- (6) No window display or sample commodities displayed outside the dwelling shall be allowed.
- (7) No materials or mechanical equipment shall be used which are detrimental to the residential use of the dwelling or any nearby dwellings because of vibration, noise, dust, smoke, odor, interference with radio or television reception, or any other factor.
- (8) No parking of customer vehicles in a manner or frequency that would cause disturbance or inconvenience to nearby residents or that would necessitate off-street parking shall be allowed.
- (9) No signs shall be permitted except for a single nameplate not to exceed 1-1/2 square feet in area.

### **Section 6.102 Residential Care Home Standards**

Residential Care Homes are a permitted use in a dwelling located within any residential district and in commercial districts allowing single-family dwellings as follows:

- (1) Residential Care Homes for 5 or less people as provided in the applicable provisions of State law.
- (2) Group Child Care Home for 12 or less children as provided in the applicable provisions of State law.
- (3) Outdoor areas per shall be provided in accordance with State Standards for each type of use. The outdoor area shall be adequately fenced to provide for the safety and privacy of those at the facility.
- (4) The Care Home shall be readily accessible for people with disabilities and fire or other emergency access.
- (5) The Care Home shall meet all applicable state licensing requirements. Proof that these requirements are met shall be submitted to the City for inclusion in the Record File.
- (6) The Care Home shall comply with all applicable State laws and licensing requirements. Proof that these requirements are met shall be provided.

### **Section 6.103 Residential Care Facility Standards**

A Residential Care Facility other than a private residence for more than 12 children or for more than 5 adults may be allowed in Residential Districts in accordance with the Conditional Use provisions of Section 2.500 provided municipal water and sewer service is available with the following additional standards:

- (1) A Residential Care Facility, other than a private residence, shall be used if more than 12 children are cared for or if more than 5 people are to be enrolled or cared for at the facility. Residential Care Facilities are a Conditional Use in residential districts and shall be sufficiently buffered from abutting residential property to minimize adverse impacts.
- (2) Access shall be from a designated arterial or collector street.
- (3) Requirements for front, rear, side, and street side yards, for Care Facilities may be increased from the District standards in which the facility is located under the Conditional Use procedures.

- (4) Additional landscaping, privacy fencing, buffers or other screening devices may be required to screen or protect the facility or adjacent properties under the Conditional Use procedures.
- (5) Outdoor areas shall be provided in accordance with State Standards for each type of use. The outdoor area shall be adequately fenced to provide for the safety and privacy of those at the facility.
- (6) The Care Facility shall be readily accessible for people with disabilities and fire or other emergency access.
- (7) The Care Facility shall comply with all applicable State laws and licensing requirements. Proof that these requirements are met shall be provided.

### **Section 6.104 Multiple-Family Standards**

Multiple-Family housing is allowed in the R-2 and R-3 residential zones in accordance with the Planned Development Provisions of Section 7.200 provided municipal water and sewer service is available.

- (1) Minimum Lot Area - One Acre
- (2) Maximum Density - 12 Units per Acre unless approved by the Planning Commission.
- (3) Access shall be from a designated arterial or collector street.
- (4) The City may require establishment of deed covenants, conditions, and restrictions (CC&Rs) or other conditions including but not limited to any of the following where such are deemed necessary for the mitigation of potential adverse impacts on a neighborhood or adjacent areas:
  - (a) Regulate or limit the type of dwelling units.
  - (b) Additional landscaping or screening on the property boundary.
  - (c) Increased building setbacks from property boundaries.
- (5) On-site bicycle storage facilities, bicycle paths and pedestrian ways shall be provided for developments exceeding six dwelling units.

### **Section 6.105 Duplex Conversion Standards**

Division of existing duplex properties in the R-1 Zone containing 2 dwelling units may be partitioned into two single-family parcels according to the following standards:

- (1) Duplex Divisions. The City Administrator may authorize width and area exceptions for duplex divisions in accordance with Section 4.111 (4) (i) where there appear to be no detrimental effects from allowing the division of an existing conforming duplex property containing a two-family dwelling (duplex) provided the original lot contains at least 11,000 square feet of area and the resulting duplex division parcels would be relatively equal in size - a ten percent deviation or less with a minimum area of 5,500 square feet and a minimum average width of not less than 45 feet. Assurance must be provided that each unit establish independent utility service, including but not limited to water, electric, sewer, and natural gas, unless common utilities are approved by the affected utility agency and the City, and are adequately covered by easements and agreements. A duplex division may be created only if each parcel resulting from a duplex division satisfies the requirements of the City Land Use Development Code and the State Building Code.

- (2) The applicant shall provide drawings and descriptive data of all required construction to comply with the State Building Code including but not limited to a cross section of the existing and proposed common wall(s) from foundation to roof parapet.
- (3) Each dwelling unit shall be situated on an individual legally partitioned parcel in conformance with the land partition requirements Sections 2.320 and 2.330. The two dwellings shall have a common wall at the zero-lot line.
- (4) The common wall separating two single-family units shall be a firewall and shall be constructed to ensure fire protection as per the State Fire Code and State Building Code and shall extend through the attic space. An attic common firewall shall be provided at the proposed property line division where there are no common walls below. This condition may occur at open recessed entries and carports. Fire protection of the ceilings and walls of these open areas shall be provided as per the State Building Code. Attic access shall be provided for each dwelling unit.
- (5) The Common wall structure shall provide a sound barrier with a sound transmission class rating of not less than 50 as defined by the State Building Code. The building technique used to achieve the sound barrier rating shall be the responsibility of the owner and the general contractor and will be accepted upon inspection if it meets the code requirements and is supported by proof of meeting sound transmission controls as specified.
- (6) Duplex Division Agreement. Prior to granting final approval for creation of a duplex division the City shall require the applicant(s) to enter into a written agreement, in a form approved by the city attorney, that establishes the rights, responsibilities and liabilities of the parties with respect to maintenance and use of any common areas of the former duplex such as, but not limited to, common walls, roofing, pipes, wiring, exterior maintenance and color. Such agreements shall hold the City of Adair Village harmless from any costs, claims, damage, or other facilities and shall be binding upon the successors, assigns, lessees, heirs, executors, administrators, and representatives of the parties.

## **Section 6.110 Manufactured Dwelling (Home) Standards**

The Oregon Manufactured Dwelling and Park Specialty Code as provided in Oregon Revised Statutes (ORS), Chapter 446 and Oregon Administrative Rules (OAR), Chapter 918 specify the standards and regulations for Manufactured Dwelling (Home) use in the State of Oregon. The following Sections 6.110 through 6.117 contain additional development standards for all manufactured dwelling developments within the City. The standards contained herein are intended to support suitable living environments for residents of manufactured dwellings and to increase compatibility with adjacent land uses.

## **Section 6.111 General Provisions**

- (1) Definitions. The definitions of terms used are as defined in Oregon Revised Statutes (ORS) Chapter 446 or Oregon Administrative Rules Chapter 918 or Article 1 of this Code.
- (2) Relationship to Deed Restrictions. Nothing in these provisions shall be interpreted as superseding more restrictive deed covenants, conditions, or restrictions (CC&R's). The Standards contain herein are the "minimum

- requirements" of the City. Applicant/Owners may specify more restrictive standards for their development as part of their CC&R's.
- (3) **Manufactured Housing Construction & Safety Standards.** All manufactured dwellings must comply with the minimum construction standards in effect at the time of construction, and all associated rules, regulations, amendments, and interpretations of both federal and state authorities. All manufactured dwellings placed in the City must bear a U.S. Department of Housing and Urban Development, HUD, certification label or a State of Oregon Manufactured Dwelling Insignia of Compliance.
  - (4) **Building Permit.** The owner of a lot upon which a manufactured dwelling is to be installed shall, before installation, obtain a Manufactured Dwelling Building Installation Permit from the City. In applying for and obtaining said permit, the owner of a lot shall be deemed to have agreed to comply with Oregon State Standards and the terms of this Code.
  - (5) **Inspection.** The manufactured dwelling shall be inspected by the Building Inspector, who shall determine that the manufactured dwelling complies with State standards for manufactured dwelling construction and siting, the standards set forth in this Code and, prior to approval of installation, require the owner of said manufactured dwelling to bring the manufactured dwelling up to the required standards by repair and improvement.
    - a. No reconstruction or equipment installation shall have been made to the manufactured dwelling unless it has been state approved as evidenced by an appropriate State of Oregon insignia.
  - (6) **Foundations/Enclosures/Support Systems.** All load bearing foundations, supports, and enclosures shall be installed in conformance with state regulations and with the manufacturer's installation specifications.
    - (b) Permanent Perimeter Foundations shall be constructed in accordance with the Oregon Residential Specialty Code. Permitted perimeter foundation materials are concrete, masonry, or other materials approved by the Building Official.
  - (7) **Accessory Structures.** All accessory structures must be constructed to the Oregon Residential Specialty Code.
  - (8) **Removal.** If the manufactured dwelling is removed from its foundation, the owner shall, within (6) months of said removal, make application for and replace said manufactured dwelling with an approved manufactured dwelling, or remove the foundation that protrudes above the slab or ground level. Disconnect and cap all sewer, water, and utility services. Should said owner fail to do so, the city may contract to make such removal and disconnection and collect the costs thereof from said owner or place a lien against said real property for said costs unpaid by said owner.
  - (9) **Continued Use.** Any manufactured dwelling in place at the time of passing this Code and appropriately connected to a sewer and water system, but otherwise not conforming to the above requirements, may be maintained in the place of location. Any replacement of said manufactured dwelling shall comply with the requirements stated herein and The State of Oregon Installation Standards.

## **Section 6.112 Classification of Manufactured Dwellings**

**Manufactured Dwelling Classes.** For purposes of these regulations, manufactured dwellings are divided into four classes, "A", "B", and "C". These classes are segregated by the size, age, and

condition of the manufactured dwelling. All manufactured dwellings placed within the City after the effective date of this Code must comply with the following placement standards.

- (1) Class "A". A Class "A" manufactured dwelling is one that complies the following standards:
  - (a) A double-wide or multi-sectional unit ten (10) years old or newer bearing a U.S. Department of Housing and Urban Development, HUD, certification label in conformance with the Federal Manufactured Dwelling Construction and Safety Standards in effect on the date of manufacture. The unit shall be in excellent condition and free of structural, electrical, mechanical, or plumbing defects. Inspection and verification by the Building Official is required prior to placement.
  - (b) Contains more than one thousand (1,000) square feet of occupied space in a double-section or larger multi-section unit.
  - (c) Placed onto an approved foundation system and enclosed with a perimeter foundation, siding or skirting with wheels, axles, and hitch mechanisms removed in accordance with approved state installation standards. Placement on individual lots requires an excavated permanent perimeter foundation.
  - (d) Minimum roof pitch shall be 3-inch rise for each 12 inches of run with materials commonly used for site-built houses such as composition, wood, or tile shingles.
  - (e) Exterior materials shall be like those used on site-built houses.
  - (f) Placement: Class "A" manufactured dwellings are permitted on all individual lots in all Residential Districts and in all approved manufactured dwelling parks. Class "A" manufactured dwellings are also permitted for approved temporary uses specified in Section 6.114.
- (2) Class "B". A Class "B" manufactured dwelling is one that complies the following standards:
  - (a) A single-section unit ten (10) years old or newer bearing a U.S. Department of Housing and Urban Development, HUD, certification label in conformance with the Federal Manufactured Dwelling Construction and Safety Standards in effect on the date of manufacture. The unit shall be in excellent condition and free of structural, electrical, mechanical, or plumbing defects. Inspection and verification by the Building Official required prior to placement.
  - (b) Contains more than five hundred (500) square feet of occupied space in a single or expando unit.
  - (c) Placed onto an approved foundation system and enclosed with a perimeter foundation, siding or skirting with wheels, axles, and hitch mechanisms removed in accordance with approved state installation standards. Placement on individual lots requires an excavated permanent perimeter foundation.
  - (d) Exterior materials shall be like those used on site-built houses.
  - (e) Placement: Class "B" manufactured dwellings are permitted in all manufactured dwelling parks and approved temporary uses specified in Section 6.11. Class "B" manufactured dwellings may also be permitted by Conditional Use on individual lots as specified in Section 6.113.
- (3) Class "C". A Class "C" manufactured dwelling is one which meets the following standards:

- (a) A single or double section unit built after June 15, 1976, and not classified as a Class "A" or "B" manufactured dwelling, bearing a U.S. Department of Housing and Urban Development, HUD, certification label in conformance with the Federal Manufactured Dwelling Construction and Safety Standards in effect on the date of manufacture. The unit shall be in good condition and free of structural, electrical, mechanical, or plumbing defects. Inspection and verification by the Building Official required prior to placement.
- (b) Contains more than three hundred twenty (320) square feet of occupied space in a single, double, expando, or multi-section unit.
- (c) Placed onto an approved foundation system and enclosed with a perimeter foundation, siding or skirting with wheels, axles, and hitch mechanisms removed in accordance with approved state installation standards. Placement on individual lots requires an excavated permanent perimeter foundation.
- (d) Placement: Class "C" manufactured dwellings are permitted as replacement units for older non-conforming manufactured dwellings existing on individual lots prior to the date of this Code.

## **Section 6.113 Placement on Individual Lots**

- (1) **Manufactured Dwelling Placements.** Class "A" Manufactured Dwellings are permitted on individual parcels outside of Manufactured Dwelling Parks in the City's Residential Districts, R-1 and R-2, in accordance with the standards of this Section and all other provisions of the Land Development Code for conventional built dwellings placed within a Residential District.
  - (a) All manufactured dwellings placed outside of manufactured dwelling parks shall be set onto an excavated area with a permanent perimeter foundation of concrete or masonry.
  - (b) All manufactured dwellings placed on individual lots or parcels outside of manufactured dwelling parks shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standard equivalent to the performance standards required for single-family dwellings constructed under the state building code as defined in ORS 455.010.
- (2) **Conditional Use approval is required for placement of a Class "B" manufactured dwelling on an individual lot.** To be approved, the unit must be found to have design compatibility with other dwellings within 500 feet of the subject lot or parcel. The criteria for determining acceptable compatibility shall be based upon a review of the following design elements:
  - (a) Roofing materials shall be similar in appearance to site-built housing in the vicinity. The roof pitch shall be a minimum roof pitch of 2/12.
  - (b) The perimeter foundation and siding materials shall be similar in appearance or complementary to other dwellings in the vicinity.
  - (c) The placement of the manufactured dwelling and accessory structures upon the lot shall be consistent with other dwellings in the review area in terms of setback dimensions, angle to the street, location of garage or carport, and any other special features of the neighborhood or vicinity.
  - (d) The location and design of porches, patios, driveways, walkways, and landscaping shall be like and complementary to the features of other dwellings in the vicinity.



## Section 6.114 Temporary Manufactured Dwelling Use

- (1) Application: Applicants for a temporary use permit shall make written application for a Site Plan Review on the City's Application Form. The City Administrator may grant approval for a Temporary Manufactured Dwelling use subject to the Site Plan Review procedures of Section 2.400. The Applicant shall provide a statement of intended use and the estimated length of time for the temporary use on the application form and shall submit the site plan information specified in Section 2.140.
- (2) Approved Uses: A temporary Manufactured dwelling use may be granted for the following uses:
  - (a) A manufactured dwelling as a temporary accessory dwelling to a residence for designated members of the immediate family. The temporary use shall be subject to a Periodic Review by the City Administrator. The manufactured dwelling and all accessory elements shall be removed within 60 days of non-occupancy by the designated family members.
  - (b) Temporary on-site residence for owners whose dwelling is under construction or a dwelling that has been destroyed.
  - (c) Caretaker residence for a public, commercial, or industrial facility.
  - (d) Temporary offices accessible to the public for use during construction or remodeling.
  - (e) Temporary building space for public and semi-public agencies.
  - (f) Other temporary uses may be considered by The City Administrator.
- (3) Conditions of Use: The Temporary Use Permit may be limited to a specified time and shall be a Class "A" or "B" Manufactured Dwelling for use on a single lot in accordance with the following provisions:
  - (a) Compliance with the Oregon Manufactured Dwelling and Park Specialty Code Installation Standards.
  - (b) Manufactured dwellings shall not be included or sold as a part of any property on which it is located.
  - (c) Manufactured dwellings shall not be expanded or attached to a permanent structure.
  - (d) Manufactured dwellings shall have approved connections to utility systems and the owners shall be allowed to hook to an existing residential sewer service lateral.
  - (e) Use shall be limited to the function as set forth in the application for the temporary permit.
  - (f) The manufactured dwelling shall comply with residential setback requirements and shall be sited to have the least possible impact on adjacent properties or adjoining streets.
- (4) Renewal: The permit as issued shall not exceed the designated approval period. The City shall notify holders of a permit at least thirty (30) days prior to the date of expiration. Applicants for renewal of a temporary use permit shall reapply and submit the same information as required for the original permit.
- (5) Right of Revocation: The City shall have the right to revoke any Temporary Use Permit granted under this Section. If upon inspection, the use is found to be in noncompliance with the application for which the permit is issued, the City shall notify the owner and seek compliance as specified in Section 1.180.

- (6) Removal: If the manufactured dwelling is required to be removed from the site, the owner of the property shall remove the foundation and all additions to the manufactured dwelling and permanently disconnect and secure all utilities. The City may perform the work and place a lien against the property for the cost, after 60 days from the date on which the manufactured dwelling is required to be moved from the site. This condition shall not apply if another approved manufactured dwelling is placed on the original foundation within 60 days of the removal of the original unit.

### **Section 6.115 Manufactured Dwelling Parks**

The City of Adair Village presently permits Manufactured Dwelling Parks only as an approved Planned Development the R-2 Residential Zone. The Planned Development procedures are specified in Section 7.200.

The State of Oregon has prepared a statewide uniform standard for the construction of manufactured dwelling parks that applies to all cities in the State of Oregon. Any proposed manufactured dwelling park shall comply with the current edition of the Oregon Manufactured Dwelling and Park Specialty Code.

### **Section 6.201 Residential Use in Commercial Districts**

- (1) Existing Housing: In commercial districts pre-existing residential structures may be occupied by commercial uses permitted in the commercial district provided the structure meets minimum building and safety standards as provided in the Building Code and provided further that the City Administrator approves a Site Plan Review in conformance with Section 2.400 that addresses the development plan, vehicular access, and parking, signing, and exterior lighting.
- (2) New Housing: Multi-family housing may be permitted in the C-1 District in accordance with the Planned Development provisions of Section 7.200 and the standards contained in this Code.

### **Section 6.301 Public & Semi-Public Standards**

Public and Semi-public uses represent a wide range of "Civic" use types that include utilities, public safety, maintenance, governmental, recreational, educational, cultural, religious, and civic assembly uses or facilities. In addition to the standards of the Public Use Zone, P-1, public uses located in other zoning districts shall comply with the following standards in addition to the requirements of the underlying zone:

- (1) Public and Semi-public uses in residential districts may be permitted in accordance with the Conditional Use provisions of Section 2.500 and the standards contained herein.
- (2) Public and Semi-public uses in commercial or industrial districts may be permitted in accordance with the Site Plan Review provisions of Section 2.400 and the standards contained herein.
- (3) Requirements for front, rear, side, and street side yards, for public uses shall not be less than that specified for the Primary Land Use District unless specifically approved as part of the Conditional Use or Site Plan Review procedures.

- (4) Additional landscaping, fencing, buffers, or other screening devices may be required to screen or protect adjacent properties or the street.
- (5) Off-street parking for the specified use shall comply with Section 5.121.
- (6) In residential districts, all equipment and material storage shall be within an enclosed building unless it is deemed necessary and approvable in accordance with the Conditional Use provisions of Section 2.500.
- (7) Exterior lighting shall be directed away from abutting residential properties.
- (8) Offices and workshops should be in the commercial or industrial districts whenever possible and should not be permitted in a residential district unless it is deemed necessary and approvable in accordance with the Conditional Use provisions of Section 2.500.
- (9) Public utility facilities including treatment, maintenance and storage areas should be in the industrial district whenever possible and should not be permitted in a residential or commercial district unless it is deemed necessary and approvable in accordance with the Conditional Use or Site Plan Review provisions of Section 2.500 or Section 2.400.
- (10) The minimum lot size requirement may be waived on finding that the waiver will not result in noise or other detrimental impacts to adjacent or nearby property.

## **Section 6.401 Agricultural Use Standards**

Limited agricultural use of property in the City is allowed under the following conditions and standards:

- (1) Agricultural uses existing at the time of annexation to the City may continue but may not be expanded except in conformance with the standards contained herein.
- (2) The raising of crops in the general field of horticulture including berry, brush, tree, flower, and vegetables for on-site dwelling consumption is allowed on any lot within the city.
- (3) The raising of crops in the general field of horticulture including berry, brush, tree, flower, and vegetables for sale as a Home Occupation Conditional Use in all residential districts and is an interim Permitted Use in the Industrial District.
- (4) The raising of farm animals in the general field of animal husbandry including fowl, rabbits, sheep, goats, pigs, cows, horses, llamas and similar domesticated animals for on-site dwelling consumption or use, sale or trade and sale or trade of animal products may be permitted within the R-2 Residential District as a Conditional Use in accordance with Section 2.500 under the following conditions:
  - (a) Fencing must be designed and constructed to confine all animals within the property line.
  - (b) A Setback of 200 feet from any off-site residence is required for all fenced animals or buildings housing farm animals.
  - (c) Proper sanitation shall be maintained in conformance with applicable health standards for all farm animals. Proper sanitation includes:
    1. Not allowing animal waste to accumulate.
    2. Not allowing animal waste to contaminate groundwater or drainageways.
    3. Taking the necessary steps to ensure odors resulting from farm animals is not detectable beyond the property line.
    4. Storing all farm animal food in metal or other rodent proof containers.

It is the responsibility of the applicant for a Conditional Use Permit to clearly demonstrate that proper health and sanitation standards will be maintained and that potential nuisance factors such as noise, smell and unsightly conditions are mitigated.

- (d) Minimum area requirements include:
  - 1. Minimum property area of 20,000 sf.
  - 2. Minimum area per large size animal (Similar to cows or horses) over six llamas) over six months of age - 5,000 sf each.
- (5) It is the continuing responsibility of the owner to properly contain or restrain all animals or fowl and to maintain proper sanitation at all times, and further provided that such raising activities are not part of nor conducted in conjunction with any livestock sales yard, slaughterhouse, or animal by-product business.
- (6) The above standards are the minimum standards applicable to property located within the City, additional site area or other standards may be required to comply with Health and Sanitation Standards.

## **ARTICLE 7 SPECIAL AREA STANDARDS**

### **Section 7.010 Classification of Special Area Standards**

For the purposes of this Code the following Special Area Standards are hereby established:

ABBREVIATED

#### SPECIAL AREA STANDARD DESIGNATION

Wetlands & Riparian Areas WR

Planned Development Area PD

- (1) Special Area Standards may apply within any Primary Zoning District. The Special Area Standards shall establish additional requirements, standards and procedures for the use and development of property in the Primary Zone. In cases of conflict between the standards and requirements of the Primary Zone and the Special Area Standards, the standards and requirements of the Special Area Standards shall apply.

### **Section 7.100 Wetland and Riparian Area Standards**

Statewide Goal 5 was adopted "To protect natural resources and conserve scenic and historic areas and open spaces."

Oregon Administrative Rules 660-023-0000 "Establishes procedures and criteria for inventorying and evaluating Goal 5 resources and for developing land use programs to conserve and protect significant Goal 5 resources.

Oregon Administrative Rule 660-023-0020 Standard & Specific Rules. The Goal 5 Standard Rule process consists of procedures and requirements to guide local planning for all Goal 5 resource categories. The Economic, Social, Environmental, and Energy, ESEE decision process is a Standard Rule.

Oregon Administrative Rule 660-023-0020 Safe Harbor. This division also provides Specific Rules for each of the fifteen Goal 5 resource categories. The Safe Harbor Process is a Specific

Rule. "A "safe harbor" consists of an optional course of action that satisfies certain requirements under the standard process. Local governments may follow Safe Harbor requirements rather than addressing certain requirements in the Standard Goal 5 process including the ESEE Decision Process.

The City of Adair Village has selected the Safe Harbor Methodology to protect and maintain the City's Wetland resources.

For the purposes of this Code the following Special Area Standards are hereby established:

## **Section 7.110 Riparian Area Standards**

Oregon Administrative Rule 660-023-0090 Riparian Corridors

Riparian Areas are those areas adjacent to a water resource that display transitions between terrestrial and aquatic zones. These areas are beneficial to many organisms and provide for flood storage amelioration, erosion control and bank or slope stabilization. This is the zone where vegetative material is deposited, where significant shading of streams can occur, where humidity is typically higher and temperatures typically cooler. Thermal regulation, erosion control, flood control, water quality improvement, and wildlife habitat are primary functions of riparian areas.

- (1) Clarification. The City does not have Riparian Corridors as defined in Oregon Administrative Rule 660-023-0090. However, the City does have non-fish-bearing Drainage Ways that have a Riparian Area that the City has protected for many years within the provisions contained in the Adair Village Land Use Development Code.
- (2) Definitions. For the purposes of this Code, the following definitions apply herein:
  - (a) "Drainage Way" is a route or course along which water moves or may move to drain a region, usually seasonally intermittent flows.
  - (b) "Riparian Area" is the area adjacent to a Drainage Way consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem.
  - (c) "Riparian Area Boundary" is a defined line that is upland from the Drainage Way top of bank a specified distance.
  - (d) "Top of Bank" is the top of the sloped cut channel of the Drainage Way
  - (e) "Structure" is a building or other major improvement that is built, constructed, or installed, not including minor improvements, such as fences, utility poles, flagpoles, or irrigation system components that are not customarily regulated through development ordinances.
- (3) Required Protective Standards. The City has adopted protective standards to protect and maintain the Riparian Areas and Wetlands associated with these Drainage Ways:
  - (a) Existing Drainage Ways:

1. Bowers Slough. Bower's Slough is actually a tributary drainage way to Bowers Slough that is a tributary to the Willamette River.
  2. A tributary drainage way to Calloway Creek.
  3. A Tributary Drainage Way to Soap Creek that is a tributary drainage way to the Luckiamute River. Located in City's Industrial Park 2 miles north of the City on Camp Adair Road owned by the City of Adair Village but located in Benton County. Benton County Standards apply although implementation is the responsibility of the City.
- (b) The minimum Riparian Area Setback distance from all Drainage Ways within the City shall be 20 feet from the top of bank.
  - (c) Where the Riparian Area includes all or portions of a wetland, the setback distance shall be from the upland border of the Wetland.
  - (d) Where existing riparian vegetation extends beyond the Riparian Area Setback the setback distance shall include the border of the riparian vegetation.
- (3) Allowed Activities within Riparian Areas

The following activities and maintenance thereof are allowed within a Riparian Area upon City review and approval and provided any applicable state or federal permits are secured:

- (a) Replacement of a permanent, legal, nonconforming structure in existence on the date of adoption of this ordinance with a structure of the same footprint, or expansion of the original footprint if it does not encroach into additional Riparian Areas and is in accordance with the provisions of Non-Conforming Uses specified in Code Section 4.080.
  - (b) Expansion of existing roads and streets, including expansion of existing bridges, and culverts, provided that such practices avoid sedimentation and other discharges into the Riparian Area.
  - (c) Installation of interpretive/educational displays and/or public pedestrian paths, if these do not present an obstruction to the Riparian Area.
  - (d) New fencing may be permitted by the City Administrator where the applicant demonstrates that the following criteria are satisfied:
    1. The fencing does not affect the hydrology of the Riparian Area.
    2. The fencing does not present an obstruction that would increase flood velocity or intensity.
    3. Applications for new fencing within a Riparian Area shall contain a scale drawing that clearly depicts the wetland area boundary.
- (4) Restricted Activities within Riparian Areas

To protect the City's Riparian Corridors Areas the permanent alteration of the riparian area by excavation, fill or grading or by the placement of structures or impervious surfaces or removal of riparian vegetation is not permitted unless a demonstrated need is presented and approved by the City under the Site Plan Review procedures of Code Section 2.400. The following activities require an approval:

- (a) Placement of new structures or impervious surfaces including streets, roads, bridges, and paths.
  - (b) Excavation, grading, fill, or removal of native vegetation.
  - (c) Expansion of areas of landscaping with non-native species, such as a lawn or garden, into the wetland protection area.
  - (d) Disposal or temporary storage of refuse, yard debris, or other material.
  - (e) Discharge or direct runoff of contaminated water.
  - (f) Placement of utilities
  - (g) Removal of riparian vegetation necessary for the development of facilities note above with replacement of riparian vegetation within the Riparian Area.
  - (h) The permanent alteration of the Riparian Area by placement of structures or impervious surfaces within the riparian corridor boundary may be authorized upon a demonstration that equal or better protection for identified resources will be ensured through replacement, restoration, or enhanced improvements of the Riparian Areas.
  - (i) Any use not specifically allowed or exempted.
- (5) Exempted Activities within Riparian Areas

The continuation and/or maintenance of the following activities is exempted from Riparian Area protection regulations if compliance and approval with applicable state or federal regulations and permits is obtained:

- (a) A continuation of any use that was lawfully existing on the date of adoption of this ordinance may continue within a Riparian Area. Such use or development may continue at a similar level and manner as existed on the date of adoption of this ordinance per the standards for Non-Conforming Uses in Code Section 4.080.
- (b) The maintenance and alteration of pre-existing ornamental landscaping so long as no additional native vegetation is disturbed. The provisions of this section shall not be affected by any change in ownership of properties containing a wetland protection area.
- (c) Restoration and enhancement of native vegetation.
- (d) Cutting and removal of trees that pose a hazard to life or property due to the threat of falling.

- (e) Cutting and removal of trees to establish and maintain defensible space for fire protection.
- (f) Removal of non-native and noxious vegetation.
- (g) Maintenance and repair of existing utilities.
- (h) Normal farm practices such as grazing, plowing, planting, cultivating, harvesting, and other farm practices adjacent to the Riparian Area setback.
- (i) Maintenance of existing drainage ways, ditches, or other structures, to maintain flow at original design capacity and mitigate upstream flooding, provided that management practices avoid sedimentation and impact to native vegetation, any spoils are placed in uplands, and any applicable state permits are obtained.
- (j) Emergency stream bank stabilization to remedy immediate threats to life or property.
- (k) Riparian Area restoration and enhancement activities.

## **Section 7.120 Wetland Area Standards**

Oregon Administrative Rules 660-023-0100 Wetland Areas

Wetland Areas are defined as those areas that are inundated or saturated often enough to support a prevalence of vegetation adapted for life in saturated soil conditions. Wetlands include swamps, bogs, marshes, and similar areas.

- (1) Wetland Protection Area - An area of wetlands determined to be Locally Significant as shown on the Adair Village Local Wetland Inventory (LWI). The Wetland Protection Area extends 20 feet from the mapped LWI boundary unless an onsite or off-site determination or wetland delineation provides a more refined estimation of the wetland boundary.
- (2) Allowed Activities within Wetland Protection Areas

The following activities and maintenance thereof are allowed within a Wetland Protection Area upon City review and approval and provided any applicable state or federal permits are secured:

- (a) Replacement of a permanent, legal, nonconforming structure in existence on the date of adoption of this ordinance with a structure of the same building footprint, or expansion of the original building footprint if it does not encroach into additional wetland areas, and in accordance with the provisions of Non-Conforming Uses specified in Code Section 4.080.
- (b) Expansion of existing roads and streets, including expansion of existing bridges, and culverts, provided that such practices avoid sedimentation and other discharges into the wetland or waterway.



- (c) Installation of interpretive/educational displays and/or public pedestrian paths, if these do not present an obstruction that would increase flood velocity or intensity.
- (d) New fencing may be permitted by the City Administrator where the applicant demonstrates that the following criteria are satisfied:
  - 1. The fencing does not affect the hydrology of the site.
  - 2. The fencing does not present an obstruction that would increase flood velocity or intensity.
  - 3. Fish habitat is not adversely affected by the fencing.
  - 4. Applications for new fencing within a wetland protection area shall contain a scale drawing that clearly depicts the wetland area boundary.

(3) Prohibited Activities within Wetland Protection Areas

Except as exempted or allowed in this code, the following activities are prohibited within a wetland protection area:

- (a) Placement of new structures or impervious surfaces.
- (b) Excavation, grading, fill, or removal of native vegetation.
- (c) Expansion of areas of landscaping with non-native species, such as a lawn or garden, into the wetland protection area.
- (d) Disposal or temporary storage of refuse, yard debris, or other material.
- (e) Discharge or direct runoff of untreated stormwater.
- (f) Any use not specifically allowed or exempted.

(4) Exempted Activities within Wetland Protection Areas

The continuation and/or maintenance of the following activities is exempted from local wetland protection area regulations if compliance and approval with applicable state or federal regulations and permits is obtained:

- (a) A continuation of any use that was lawfully existing on the date of adoption of this ordinance may continue within a wetland protection area. Such use or development may continue at a similar level and manner as existed on the date of adoption of this ordinance per the standards for Non-Conforming Uses in Code Section 4.080.
- (b) The maintenance and alteration of pre-existing ornamental landscaping so long as no additional native vegetation is disturbed. The provisions of this section shall not be affected by any change in ownership of properties containing a wetland protection area.
- (c) Restoration and enhancement of native vegetation.

- (d) Cutting and removal of trees that pose a hazard to life or property due to the threat of falling.
  - (e) Cutting and removal of trees to establish and maintain defensible space for fire protection.
  - (f) Removal of non-native vegetation
  - (g) Maintenance and repair of existing utilities.
  - (h) Normal farm practices such as grazing, plowing, planting, cultivating, harvesting, and other practices under the review authority of the Oregon Department of Agriculture, ODA.
  - (i) The following activities are also exempted from wetland protection area regulations, but are subject to state or federal permits:
    1. Maintenance of existing drainage ways, ditches, or other structures, to maintain flow at original design capacity and mitigate upstream flooding, if management practices avoid sedimentation and impact to native vegetation, any spoils are placed in uplands, and any applicable state permits are obtained.
    2. Emergency stream bank stabilization to remedy immediate threats to life or property. (DSL)
    3. Wetland restoration and enhancement activities. Department of State Lands (DSL).
- (5) Locally Significant Wetland - Wetlands are determined to be Locally Significant Wetlands based on Oregon Administrative Rules for Identifying Significant Wetlands (OAR 141-86-300 through 141-86- 350). If the assessed wetland unit provides “diverse” wildlife habitat, “intact” fish habitat, “intact” water quality function, or “intact” hydrologic control function, then the wetland is locally significant. Locally Significant Wetlands are identified on the Adair Village Local Wetland Inventory Map dated 8/5/2011 and approved by DSL on 3/22/2012. Locally Significant Wetlands also constitute the Wetland Protection Area.
- Oregon State Law requires that local wetland inventories identify wetlands that are “locally significant”. Local significance is based on criteria that assess how well each wetland performs typical functions such as Flood Control, Water Quality, Fish Habitat and Wildlife Habitat. Locally significant wetlands have one or more wetland function that is “highly” functional. Because of this high function these wetlands require protections to maintain those functions. Other wetlands should not be assumed to be implicitly “in-significant.” All wetlands are important whether mapped or not and are regulated by DSL and the Army Corps of Engineers, ACOE. The primary difference is that Locally Significant Wetlands must be addressed with both state and local requirements.
- (6) Local Wetlands Inventory (LWI) - Maps and Reports adopted by City as the Adair Village Local Wetland Inventory and any subsequent revisions approved by the Oregon Department of State Lands. The LWI is a comprehensive survey and

assessment of all wetlands within the urbanizing area. This includes both locally significant wetlands, and wetlands that are not identified as locally significant. This also includes “probable wetlands,” which are areas noted during the LWI field work that appear to meet, or do meet, wetland criteria but are small or of undetermined size, and are mapped as a point rather than a polygon on the LWI map.

- (7) Wetlands not subject to Goal 5 protection – All state jurisdictional wetlands, mapped or not, are subject to the state Removal-Fill Law administered by DSL. All wetlands are “potentially jurisdictional wetlands.” Wetlands on the Local Wetland Inventory Map not identified as Locally Significant are considered “Other Potentially Jurisdictional Wetlands.” These wetlands are not subject to City wetland protection area standards, but, like all wetland areas, are subject to DSL notice/review and potentially subject to DSL and the US Army Corps of Engineers permitting.

All wetlands are under the jurisdiction of DSL and the ACOE. In the case of any proposed development within, or within 20 feet of a mapped wetland boundary, the City will submit a “Wetland Land Use Notification Form” to DSL. DSL may require that wetland delineation be completed before development continues. A delineation will provide a much more accurate wetland boundary than the mapping completed on the LWI. Removal of more than 50 cubic yards of material from an area within the mapped wetland boundary requires a joint fill/removal permit from DSL (and Army COE). Information about the permit and the permit itself can be found on the DSL Website.

### **Section 7.130 Wetland & Riparian Area Administration**

- (1) Regulation. Development within wetland or riparian areas is prohibited unless replacement or enhancement mitigation is accepted by the regulatory agencies. The Oregon Division of State Lands, DSL is the coordinating agency for wetland permits. The US Army Corp of Engineers, ACOE is the federal regulatory agency administering Section 404 of the National Clean Waters Act. The City of Adair Village shares jurisdiction over “Locally Significant Wetlands” together with DSL and the Corps. Applicable local regulations are outlined in Code Section 7.130.
- (2) Applicant Notice. All Applications for development of land within the City of Adair Village shall provide the City with information on the possible presence of wetlands or riparian areas on the property in conformance with Section 2.140 (15). The City shall provide written notice to the Applicant that there may be a potential need for state and federal permits due to the possible presence of wetlands or riparian areas on the property.
- (3) City Notice. ORS 227.350 specifies that cities shall provide notice of proposed wetlands development to the Division of State Lands, DSL.

The City shall provide notice to the DSL, the applicant, and the owner of record, within 5 working days of the acceptance of any complete application for the following activities that are wholly or partially within 20 feet of areas identified as Wetlands on the Adair Village Local Wetland Inventory Map:

- (a) Subdivisions.
  - (b) Building permits for new structures.
  - (c) Other development permits and approvals that allow physical alteration to the land involving excavation and grading, including permits for removal or fill, or both.
  - (d) Conditional Use permits and Variances that involve physical alterations to the land or construction of new structures.
  - (e) Planned Development (PD) approvals.
- (4) The provisions of Subsection (2) of this Section does not apply if a permit from DSL or other approving agencies has been issued for the proposed activity and has been included in the Record File of an Application.
  - (5) Approval of any activity described in Subsection (3) above shall include one of the following notice statements:
    - (a) Issuance of a permit under ORS 196.600 to 196.905 by the Division of State Lands required for the project before any physical alteration takes place within the Wetlands.
    - (b) Notice from the DSL or other approving agency that no permit is required; or
    - (c) Notice from the DSL that no permit is required until specific proposals to remove, fill or alter the Wetlands are submitted for City Approval.
  - (6) If the DSL fails to respond to any notice provided under Subsection (2) of this section within 30 days of notice, City approval may be issued with written notice to the applicant and the owner of record that the proposed action may require state or federal permits.
  - (7) The City may issue conditional local approval for property identified as having Wetlands by providing the applicant and the owner of record of the affected property a written notice of the possible presence of Wetlands and the potential need for state and federal permits. DSL shall be provided with a copy of the Notification.
  - (8) Notice of activities authorized within an approved Wetland Conservation Area shall be provided to DSL within five days following local approval.
  - (9) Failure by the City to provide notice as required in this section will not invalidate City approval.
  - (10) Application. The Special Area Standards specified herein shall apply to the property in addition to the standards of the Primary Zone when a designated wetland or riparian area has been identified on the property.
  - (11) Development Standards. No development shall be permitted within designated Wetland or Riparian areas unless approval has been acquired from the City, DSL, or any other regulatory agency having jurisdiction.

- (12) Variances. Code Section 2.600 includes a procedure to consider exception claims for any existing lot or parcel demonstrated to have a hardship or that has been rendered unbuildable by application of this ordinance.
- (13) Unauthorized Alterations and Enforcement

When a Wetland or Riparian Area has been altered in violation of Code Sections 7.110, 7.120 or 7.130, enforcement shall be conducted as outlined in Code Section 1.180. In instances where violations of DSL requirements have occurred, DSL enforcement mechanisms apply. In some cases, both local and DSL enforcements may occur.

## **Section 7.200 Planned Development Area Standards - PD**

The purpose of the Planned Development is to provide opportunities to create more desirable working or living environments by the application of new development standards applied under an approved plan and program that is professionally prepared. The PD Standards are intended to be used to encourage the application of new techniques and new technology to community development that can achieve economies in land development while providing building groupings, open spaces and circulation systems that enhance the working or living environment of the inhabitants. A Planned Development may be residential, commercial, or industrial or a mixed combination of land uses. Application procedures are as follows:

- (1) Planned Development Application & Approval Process:
  - (a) The City or a property owner may request a Planned Development in combination with any Primary Zone or other Area Standards in accordance with the application requirements of Sections 2.110 through 2.140 and the Conditional Use procedures of Section 2.500 and the requirements of Sections 7.200 contained herein.
  - (b) Application for approval of a Planned Development requires a two-stage approach:
    - 1. The Applicant shall first request a review for a PD Conceptual Plan and submit drawings and a written program that is presented in enough detail to clearly describe the proposed development. Fifteen (15) copies of the drawings and program shall be submitted to the City for review on 11 x 17-inch color or black & white reproducible paper for distribution and review by the City. Larger drawings may also be submitted for review and discussion

An informal Pre-application review by City Staff and members of the Planning Commission and City Council will be scheduled in conformance with Sections 2.110 and 2.120 to determine if the requested PD conforms to the City's PD requirements and is conceptually compatible with the surrounding area and the City as a whole.

The purpose of the Review is to determine if the requested PD can conform to City standards, including:

- a. The Planned Development regulations.
- b. The Adair Village Comprehensive Plan.
- c. The Development Standards of the City.
- d. Compatibility with the surrounding area.

This preliminary process is intended to save time and expense for the Applicant and to provide the City with an understanding of the intent.

2. After receiving approval to proceed the Applicant shall have a Planned Development plan prepared by a professional design team that contains drawings and a written program for a formal public hearing and decision by the City.

### **Section 7.210 PD Conceptual Plan Review**

An informal review with the Applicant and City Officials will be scheduled to determine if the proposed Planned Development can conform to City standards and is conceptually acceptable to City.

City Staff and members of the Planning Commission and City Council shall informally review the PD Conceptual Plan and may recommend preliminary approval to proceed in principle, with or without modifications, or denial. Such action shall be based upon compliance with the intent of City's Comprehensive Plan and development standards and the extent of deviation from City standards proposed in the Planned Development.

Approval in principle of the PD Conceptual Plan shall be limited to the preliminary acceptability of the land uses proposed and their interrelationships and shall not be construed to endorse the precise location of uses nor engineering feasibility.

The City may recommend expansion, additions, or modifications in the proposed Planned Development.

The City shall determine the extent of any environmental assessment or traffic analysis to be included with the Planned Development application.

### **Section 7.220 Planned Development Application**

- (1) After receiving approval in principle of the PD Conceptual Plan, the Applicant shall have a Planned Development Plan prepared by a professional design team in such design-related fields as Architecture, Landscape Architecture, Urban Planning, and Civil Engineering.
- (2) An application for a Planned Development shall request a Conditional Use Hearing in conformance with Section 2.500. Submittal of 15 copies of the Approval drawings and program to the City for review on 11 x 17-inch color or black & white reproducible paper for distribution and review. Larger drawings may also be submitted for the public hearing and for detailed analysis by the City.

The proposed Planned Development shall be submitted to the City at least 30 days prior to the date of the scheduled Public Hearing.

- (3) Upon receipt of the Planned Development, the Planning Commission shall hold a Public Hearing in accordance with the provisions of Section 3.510 and the Applicant shall present the proposed Plan.
- (4) A Public Hearing by the Adair Village Planning Commission shall be held in conformance with the Conditional Use procedures of Section 2.500. Following the hearing and approval of the Plan together with any Conditions of Approval applied by the City shall be submitted to the City for inclusion in the Record File of the Application.

If the Conditions of Approval are not fully complied with and their inclusion cannot be resolved with the City Administrator, the Application shall be resubmitted to the Planning Commission as an Appeal Request.

### **Section 7.230 Planned Development Standards**

- (1) **Minimum Site Size.** A Planned Development shall not be established on less than 5 acres unless the City finds a smaller area is suitable by virtue of the proposed development characteristics or location.
- (2) **Comprehensive Plan Compliance & Adjacent Property Protection.**
  - (a) The Planned Development plan and program shall present an organized arrangement of buildings, service facilities, open spaces, and improvements in compliance with the intent of the Comprehensive Plan that also protects the property rights of adjacent property owners.
  - (b) Yards and setbacks located on the periphery of a Planned Development shall be at least as deep as those required by the yard regulations of the underlying Zoning District unless the City finds that equal protection will be accorded through the specific design features of the approved plan.
- (3) **Lot Coverage and Building Height.** Lot coverage and building height shall be no greater than for the underlying Zoning District unless the City finds that an exception is warranted considering adjacent property protections and the amenities proposed in the total development.
- (4) **Open Space.** Open space in a Planned Development means the land area to be used for scenic or open recreational purposes within the development.
  - (a) Open space does not include street right-of-way, driveways, parking areas, required setbacks, or public service easements unless these areas have some special recreational design or purpose.
  - (b) Open space shall be adequate for the recreational and leisure use of the population occupying the Planned Development and shall be designed to enhance the development.

- (c) Landscaping shall be provided, and the Planned Development shall utilize and maintain the natural features of the property to the maximum extent possible
- (5) Density. The average density shall be no greater than for the underlying Zoning District unless the City finds that an exception is warranted considering adjacent property protections and the amenities proposed in an approved Planned Development.
- (6) Subdivision Lot Sizes. Minimum area, width, depth, and frontage requirements for subdivision lots in a Planned Development may differ from the underlying Zone if approved in accordance with the approved Planned Development.
- (7) Development Standards. The City may modify the development standards of the underlying zone to conform to the approved Planned Development if adjacent property rights and the health, safety, and welfare of the public are protected. Additional standards and controls may include, but are not limited to, the following:
  - (a) Establishing time limits for completion of all or any portion of the project, including, but not limited to utilities, drainage facilities, streets, curbs, gutters, sidewalks, parking areas, landscaping, fencing, screening, and recreation areas.
  - (b) Requiring CC&R legal guarantees for the shared maintenance of common facilities and open space. Documents dedicating development rights and provisions for maintenance shall be approved by the City.
  - (c) Requiring contractual agreements with the City to assure development of streets, sidewalks, drainage facilities, utilities, and other improvements in conformance with City Standards.
- (8) Phased Development. The Applicant may request approval to develop the site in successive stages as proposed in the Planned Development.
  - (a) Each such stage shall be a substantially complete unit of development.
  - (b) The City may require that development be done in stages if public facilities are not adequate to service the entire development initially.
- (9) Permitted Uses in Residential Planned Developments. The following uses and their accessory uses may be permitted in an approved Planned Development in a Residential District.
  - (a) Residential use of land.
  - (b) Supporting commercial uses when approved by the City.
  - (c) Supporting community service uses when approved by the City.



- (d) Proposed standards or controls shall be specified in the Planned Development. Where applicable the requirements may be made part of deed CC&R's.

## **Section 7.240 Planned Development Elements**

In addition to the Application requirements of Sections 2.130 & 2.140 and the approved PD Conceptual Plan the Applicant shall address the following elements in the submitted Planned Development:

- A complete site development plan in general conformance with the approved Conceptual Plan including a vicinity map showing location of streets and lots in the area within 300 feet of the proposed development.
- Existing and proposed topographic contour map of the site to a scale commensurate with the size of the development.
- Existing contiguous Land Uses.
- Location, widths, and names of all existing or platted streets or other public ways, railroad and utility rights-of-way, parks, or other public open spaces and land uses within 300 feet of the development.
- Existing sewers, water mains, and other underground facilities within and adjacent to the development and their certified capacities.
- Existing utility locations.
- Existing natural features such as trees, streams, and topography.
- Existing trees over six (6) inches in diameter and groves of trees shall be shown. Trees to be removed by the proposed development shall be so identified.
- Proposed land use development plan including housing unit densities including number of units per acre, type of residences, neighborhood commercial facilities and community facilities such as schools or parks.
- Proposed grading patterns and amended topographic map.
- Proposed Preliminary architectural plans and elevations of buildings and structures, indicating the general height, bulk, appearance, and number of dwelling units.
- Proposed Areas to be dedicated or reserved for interior circulation, public parks, playgrounds, school sites, public buildings, or other uses dedicated or reserved to the public, if any.
- Proposed location and dimensions of bikeways, pedestrian walkways, malls, trails, or easements.
- Proposed Vehicular and pedestrian access and circulation patterns within and adjacent to the proposed development.
- Proposed location, arrangement, number and dimensions of automobile garages and parking spaces and truck loading and unloading spaces, if any.
- Proposed Open space that is to be maintained and controlled by the owners of the property or maintained and controlled by a Homeowners Association and the proposed uses thereof.
- Proposed preliminary tree planting and landscaping plan.

- Proposed landscaping plan showing, screening and fencing proposals and proposed preliminary tree planting.
- Proposed method of solid waste disposal.
- Proposed method for provisions of water supply and sewage disposal including location and capacity of proposed sanitary sewers or other disposal facilities, water mains and other underground utilities.
- Proposed utilities for the project.
- Proposed method of surface water drainage and proposed system for the management of storm drainage.
- Street and open space lighting proposals.
- Proposed stages, if any, of development construction. Such stages shall be clearly marked on the Submitted Plans.
- Proposed Subdivision.

(a) A Subdivision Tentative Plan in conformance with Section 2.300 may be presented for approval as part of the Planned Development request or may be submitted later for approval.

## **Section 7.250 Planned Development Program**

- (1) Program Elements.
- (a) Narrative statement of the intent, purpose, and proposed amenities to be provided in the proposed Planned Development.
  - (b) Proposed members of the Professional Design Team.
  - (c) Proposed ownership pattern.
  - (d) Operation and maintenance proposal, such as condominium, co-op, or Homeowners Association.
  - (e) A development schedule including expected starting and completion dates indicating when roads, utilities and drainage facilities intended to serve the development are to be installed. If the development is to be constructed in stages, the intended schedule of events. Such stages shall be clearly marked on the proposed Planned Development.
  - (f) Method of public improvements financing, if any.
  - (g) Tables showing the total number of acres and the percentage of the total area that is proposed for each type of use including dwelling types, off-street parking, streets, parks, playgrounds, schools, and open spaces as shown on the proposed development plan.
  - (h) Tables showing the density of the proposed residential developments showing density by dwelling types including a comparison with the specified Code densities and an overall density for the proposed Planned Development.

Drafts of appropriate restrictive covenants and drafts of documents providing for the maintenance of any common open space or required dedications or reservations of public open spaces and of any dedications of development rights.

### **Section 7.260 Approval**

- (1) A Public Hearing by the Adair Village Planning Commission shall be held in conformance with the Conditional Use procedures of Section 2.500. Following the hearing and approval of the Planned Development, the Plan shall be resubmitted to the City containing any Conditions of Approval applied by the City.
- (2) Approval of the Planned Development includes approval of all attached drawings, the program and other submitted elements and all Conditions of Approval.

The approved plan together with any Conditions of Approval shall be titled "Approved Planned Development for (Name of the Development)" and shall be submitted for verification and acceptance by the City Administrator. Approval shall be noted and dated on the cover of the "Approved Planned Development for (Name of the Development)" and filed in the Record File of the Application. If the Conditions of Approval have not been fully complied with and their inclusion cannot be resolved with the City Administrator, the Application shall be resubmitted to the Planning commission for clarification.

- (3) The Subdivision procedures set forth in Section 2.320 shall be followed and included in the Record File if the property is to be divided or streets are to be dedicated unless private street exceptions have been approved by the City.
- (4) All public site dedications, development rights to open spaces or other dedications for the entire site or approved staged portion shall be certified and placed in the Record File prior to the issuance of any building permit.
- (5) Final copies of all approved articles governing operation and maintenance shall be placed in the Record File prior to the issuance of any building permit.
- (6) The Approved Planned Development shall be noted on the official zoning map. All building permits shall be issued only in conformance with the Approved Planned Development recorded in the Record File.

### **Section 7.270 Agreement & Security**

In accordance with Sections 8.510, 8.520 and 8.600 the owner of the Approved Planned Development shall file with the City an Agreement and Security between the Owner and the City to assure full and faithful performance of the Approved Planned Development.

Such assurance of full and faithful performance shall be for a sum approved by the City as sufficient to cover all costs to complete the work and recover the City's full cost and expenses, together with court costs and attorney fees. The agreement shall also provide for reimbursement of the City's cost of inspection in accordance with Section 8.100 (5).

If the Owner fails to carry out the provisions of the Agreement within the period specified and the City has costs or expenses resulting from such failure, the City shall call on the Security for reimbursement. If the Security exceeds the cost and expense incurred by the City, the City shall release the remainder. If the Security is less than the cost and expense incurred by the City, the Owner shall be liable to the City for the difference.

### **Section 7.280 Changes in Approved Development Plan**

- (1) Major Changes: Major changes in the Approved Planned Development after it has been adopted shall be considered a new petition and shall comply with the procedures for adoption.
- (2) Minor Changes: Minor changes in the Approved Planned Development may be approved by the City Administrator, provided that such changes:
  - (a) Do not change the character of the development or the density.
  - (b) Do not change the boundaries of the PD Area.
  - (c) Do not change any use, such as residential to commercial.
  - (d) Do not change the development configuration or the total amount of land devoted to a specific land use.
  - (e) Do not relax dimensional standards or other specific requirements established by the City as a Condition of Approval.
- (3) Expiration: If substantial construction or development has not taken place within the time requested in the Application or within two (2) years of the date of final acceptance of the Approved Development Plan, the City Administrator shall review the status with the owner and make a report on the findings to the Planning Commission with a recommendation on a time extension.
  - (a) Upon abandonment of a particular Planned Development, or if its development has not been substantially completed within the time specified in the Approved Planned Development, the City may schedule public hearings to remove the Approved Planned Development designation unless a request to extend the time limit is approved.
  - (b) The procedure for removal of an Approved Planned Development is essentially the same as for adoption. The decision shall be reviewed at a public hearing of the Planning Commission to determine whether continuation in whole or in part is in the public interest. The Planning Commission may maintain the Approved Planned Development, revoke the Approved Planned Development approval, or grant a time extension if it appears justifiable. If the Approved Planned Development is repealed, further use of the property and future structures thereon shall be in accordance with the existing Zoning.

# 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 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 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 later. 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 later. 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. 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 borne 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) **Streetlights:** 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 borne by the developer or land divider unless an equitable means of cost distribution is approved by the City.
- (6) **Mailboxes:** Joint mailboxes 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 borne by the developer or land divider.
- (8) **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.
  - (c) Site drainage design shall limit off-site impacts to those that would occur from vacant land. Roof drains, paving and catch basin out-flows may require detention facilities and/or other discharge controls. All storm drains shall be connected to the detention pond inlet piping. This system must be

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) 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.
- (11) 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.
- (12) 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 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 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:**

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 standards will take precedence unless jointly agreed upon by Benton County Public Works Department and the City of Adair Village.