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CITY CODE**

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CHAPTER 7 WATER

TITLE AND SCOPE

7.005 Title

This Chapter may be cited as the Water Ordinance.

7.010 Purpose and Scope

An ordinance providing a water code for the regulation and operation of the Adair Village Water Department: Defining the rights and obligations of the City of Adair Village and its water department customers in connection therewith; and providing a penalty for a violation thereof.

DEFINITIONS

7.020 General Definitions

- (1) **APPLICANT.** A person, corporation, association or agency applying for water service.
- (2) **CITY.** City of Adair Village, a municipal corporation of the State of Oregon.
- (3) **COMMERCIAL SERVICE.** Provision of water to premises which include mercantile establishments, stores, offices, public buildings, governmental agencies, public and private hospitals, schools, churches and mercantile establishments combined with residences.
- (4) **CUSTOMER.** An individual, partnership, corporation, entity, association or agency receiving water service from the utility at one location.
- (5) **DATE OF PRESENTATION.** The date upon which a bill or notice is mailed or delivered personally to the customer.
- (6) **DOMESTIC SERVICE.** Provisions of water for single or multiple unit residential housing purposes, including water for sprinkling lawns, gardens and shrubbery; watering livestock; washing vehicles; and other similar customary purposes.
- (7) **FIRE PROTECTION SERVICE.** Provision of water to premises for automatic fire protection.
- (8) **HIGH LEVEL SERVICE.** Those areas served by the Utility that in the opinion of the Utility requires secondary pumping to provide adequate service.
- (9) **INDUSTRIAL SERVICE.** Provision of water to a customer for use in manufacturing or processing activities.
- (10) **MAINS.** Distribution pipelines located in streets, highways, public ways or utility easement which are used to serve the general public. This pipe does not include the service line.

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- (11) MAIN EXTENSIONS. Extensions of distribution pipelines, exclusive of service connections, beyond existing facilities.
- (12) METER. The instrument used for measuring the amount of water delivered to the customer, normally installed at the point of delivery.
- (13) METER RATE SERVICE. Provision for supplying water in measured quantities.
- (14) MONTH. An interval of approximately 30 days between consecutive meter reading dates, not necessarily calendar month.
- (15) MUNICIPAL OR PUBLIC USE. Provision for supplying water to departments of the City of Village.
- (16) POINT OF DELIVERY. Unless otherwise designated in a service agreement, the point of delivery shall be the point of attachment of the Utility's service line to the customer's line, in the street or alley right-of-way, or utility easement in which the main is located.
- (17) PREMISES. The integral property or area, including improvements thereon to which water service is or will be provided.
- (18) RATE SCHEDULE OR WATER SERVICE CHARGES. A formal statement of the charges and conditions for a particular class or type of service in a given area or location.
- (19) READILY ACCESSIBLE. Safely and easily reached during regular daytime working hours; not subject to being "under lock and "fenced in", "covered up", or otherwise obstructed.
- (20) SERVICE AREA. The area in which water service may be furnished at the Utility's option, includes all that territory within the corporate limits of the City of Village and certain areas adjacent or in reasonable proximity thereto.
- (21) SERVICE CONNECTION. The pipe, valves and other facilities by means of which the Utility conducts water from its distribution mains to and through the meter, but does not include the piping from the meter to the property served.
- (22) SERVICE LINE. The pipe, valves and fittings laid from the water main to the point of delivery.
- (23) TEMPORARY SERVICE. A service for circuses, bazaars, fairs, construction work and similar uses that, because of their nature, will not be used steadily or permanently.
- (24) UTILITY. City of Adair Village, a municipal corporation of the State of Oregon (Water Department).

7.030 Authority of The City Water Department

- (1) The utility shall have power and authority to establish a Schedule of Water Service Charges,

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setting forth all rates, deposits, fees, penalties, and other charges for the use and consumption of water from the City's water system and to provide for payment of the same and may revise and amend the Schedule of Water Service Charges from time to time as necessary; after hearing in the manner provided by law. The Schedule Water Service Charges of the City shall be established by separate resolution without amending this ordinance. The water Service Charges in effect at the time this ordinance is adopted, shall continue in effect until changed. The utility shall have the authority to discontinue or disconnect any service where such charges are not duly paid within the time provided therefore, or when any of the rules or regulations of the City Water Department are disregarded or disobeyed, and to set forth penalties for delinquency in payments as necessary to insure prompt payment of water billings.

- (2) The Utility shall have the power and authority to enter into special agreements for water usage at special rates either greater or less than existing rates to water users within and outside the service area.
- (3) The Utility shall have the authority to enter into agreements to furnish water to customers outside the service areas at rates fixed by the agreements.

7.040 Description of Service

- (1) SUPPLY. The Utility will exercise reasonable diligence and care to deliver a continuous and sufficient supply of water to the customer at a proper pressure, and avoid any shortage or interruption in delivery.
- (2) CLASSES OF SERVICE. All services installed by the Utility will be classified as follows:
- (3) QUALITY. The Utility will exercise reasonable diligence to supply a safe and potable water at all times.
 - A. Residential within city limits.
 - B. Commercial within city limits.
 - C. Contract service.
 - D. Residential outside city limits.
 - E. Residential or commercial high level outside city limits.
 - F. Municipal or public use.
 - G. Fire protection.

7.045 Application for Service

- (1) APPLICATION. Each applicant for water service may be required to sign a form provided by the Utility, setting forth:

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- A. The date of application.
 - B. The location of premises to be served.
 - C. The date on which applicant will be ready for service.
 - D. Whether the premises have ever before been supplied by the Utility.
 - E. The purpose for which the service is to be used. The size of service.
 - G. The address to which the bills are to be mailed or delivered.
 - H. Whether the applicant is an owner or tenant of, or agent for, the premises.
 - I. An agreement to abide by all rules, regulations and ordinances of the Utility, as now existing or as hereafter changed or amended.
 - J. Such other information as the Utility may reasonable request.
- (2) **INDIVIDUAL LIABILITY FOR JOINT SERVICE.** Two or more parties who join to make application for service shall be jointly and individually liable and shall be sent a single periodic bill.
- (3) **CHANGES IN CUSTOMER' S EQUIPMENT.** Customers making any material change in the size, character or extent of the equipment or operation utilizing water service, or whose change in operations results in a large increase in the use of water, shall immediately give the utility written notice of the nature of the change and, if requested by the utility, amend their application.
- (4) **SPECIAL CONTRACTS.** Contracts, other than applications, may be required prior to service where, in the opinion of the Utility, special circumstances warrant special consideration.
- (5) **NEW SERVICES.** Upon payment of the connection fee, the Contractor shall install a service from the main to the point of delivery, including curb stop, meter and meter box, with lockable shut-off. It shall be the duty of the Utility to maintain said service line. The customer, at his own expense, shall install the customer service line including a shut-off valve, flow devices, check valves where required, and pipe from the point of delivery as desired on his own premises, subject to the conditions of this Ordinance, and to Building, Plumbing and Sanitary Codes.
- (6) A separate service shall be required to each house or residence being individual and separate unto itself, whether abutting a street, easement, alley or otherwise; and being not part of a motel, trailer court, apartment house, or other multiple occupancy installation.

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- (7) A separate service shall be required to each unit of separate ownership, and in no event shall one service serve properties under separate ownership.
- (8) Service to Multiple Units. Separate houses, buildings, living or business quarters on the same premises or on adjoining premises, under a single control or management, may be served at the option of the applicant by either of the following methods:
 - A. Through separate service connections to each or any unit if that pipeline system for each service is independent of the others and is not interconnected.
 - B. Through a single service connection to the entire premises on which only one minimum charge will be applied. The Liability for payment of charges for all water furnished to combined units, supplied through a single service connection, of approved capacity, is that of the owner of the property.
- (9) It shall be unlawful for anyone to cause or permit the extension of water service from one dwelling unit, building or parcel of land to another without authority from the Utility. When such connections or extensions are made without proper applications and permits, such premises may be charged at double rate for the time they are in use and service may be disconnected by the Utility. The cost of disconnections shall be established in the Schedule of Water Service Charges, and service shall not be restored to said premises until these charges have been paid in full.
- (10) Service Deposit. At the discretion of the Utility, the customer may be required to make a deposit as a guarantee of payment for service. This deposit will be kept in a separate account known as the "Customer Security" Account, and a record shall be kept of the name of the customer and the amount of the deposit. Refunds of deposits before termination of the service may be made at the discretion of the Utility. Deposits are automatically refunded or applied to the account at the time service is terminated. In the event of discontinuation of service because of delinquent payment of water bills, the Utility may require that all delinquent bills be paid and the deposit restored before service is restored.

7.050 Water Main Extensions

Water systems, including mains and all appurtenances, may be extended as provided by the ordinances and policies of the City of Village.

It is also the policy of the City of Village to accept for ownership and maintenance, as part of the Water Utility Distribution System, new water system extensions to serve existing unserved properties or new extensions to the system to serve new subdivisions, when such extensions are applied for, planned, constructed and paid for in accordance with the Procedure and Standards herein set forth, and as approved by the utility.

Water main extensions and water system extension applications are accepted upon approval of the utility. The Utility reserves the right to reject such applications or to enter into contract with the

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applicants. The Utility requires water main extensions to be eight-inch diameter or larger to allow for installation of fire hydrants.

- (2) **APPLICANT’S RESPONSIBILITY.** It shall be the responsibility of the applicant to install and pay for an approved extension before it can be accepted by the Utility.

Where partial installation of lines and appurtenances is approved, the applicant shall post bond to cover completion of the extension.

When plans are not acceptable because of excessive street grades or other physical site problems, the construction of the extension may be approved by the utility provided the applicant posts a surety bond to cover the cost of water line relocation at a later date. The bond, in this case, will no longer be required at the time the County Road Department accepts the street or road for county maintenance.

PROCEDURE:

- A. **INITIAL DISCUSSION WITH THE UTILITY.** When any person contemplates a water line extension or a subdivision of land within the service area, it is advisable that he discuss the matter of water service with a member of the utility, and secure a copy of this Ordinance and the Standard Specifications for construction before any Plans are drawn.
- B. **APPLICATION FOR WATER SYSTEM EXTENSION.** The applicant shall complete and execute an Application for Water System Extension at the City Water Department Office. Upon execution of the application and payment of the Plan Checking and Inspection Fee, the Utility will check Preliminary Maps, Final Maps and Detailed Construction Plans.
- C. **PLAN CHECKING AND INSPECTION FEE.** As part of the Application for Water System Extension, the applicant shall make payment to the Utility as per the rate schedule. When the Construction Permit is issued, and a more accurate Engineer’s Estimate of the construction cost is available, the final amount of the Plan Checking and Inspection Fee will be determined. In locating water lines, the Engineer shall consider the location of future sewer mains and service lines.
- D. Missing
- E. Missing
- F. Missing
- G. **CONSTRUCTION PERMIT.** After final approval of the Detailed Construction Plans by the utility, the Plans shall be submitted to the State Health Division for approval. After approval of the Plans by the State Health. Division upon payment of any Plan Checking and Inspection Fee yet due, and upon furnishing all required surety bonds,

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the utility will issue to the Applicant a Construction Permit for Water System Extension, after which construction can begin.

- H. ENGINEER'S CERTIFICATION. Construction of all water lines and appurtenances shall be done under the supervision of a Registered Professional Engineer, who will certify in writing to the Utility and to the State Health Division that all work was inspected under his direct supervision and that all work was completed, sterilized and tested in accordance with the Plans and Standard Specifications.
 - I. CONSTRUCTION INSPECTION BY THE UTILITY. The Utility shall have the right, but will in no way be obligated, to make its own inspection of the work from time to time as construction progresses. The applicant shall reimburse the Utility for the City inspection time at the standard hourly rate.
 - J. Any errors, omissions, discrepancies, or deviations from the contract documents discovered during these inspections will be reported without delay to the Contractor and to the Engineer for immediate correction or compliance. Failure to correct the work to the satisfaction of the Utility may be grounds for rejection of the new system.
 - K. SURETY BOND TO GUARANTEE MATERIALS AND WORKMANSHIP. Prior to the Utility's acceptance of the new water system extension for ownership and maintenance, the Applicant shall furnish the Utility a surety bond, satisfactory to the Utility, which will guarantee all materials and workmanship for a period of at least one year following the date of acceptance of the new water system extension by the Utility.
 - L. WATER SYSTEM CONNECTIONS. Water system extensions in subdivisions shall include the installation of the Water Service Connection, including the service line (corporation stop, water service pipe and curb stop) and the meter box. The Applicant shall furnish the meter and tail piece and deliver same to the Utility.' When the customer applies for water service the Utility will allow the customer a credit of not to exceed \$50.00 toward payment of the Service Connection Fee as shown in the Utility's Water Services Charges.
 - M. AS-BUILT PLANS. After construction of the Water System extension has been completed, and as a condition to final acceptance by the utility, the Applicant shall submit two sets of "As-Built" Plans, together with one set of 'As-Built" Sepia reproducibles and evidence of compliance with all requirements of the State Board of Health shall be submitted to the Utility. After formal acceptance by the utility, the new Water System Extension will be connected to the Utility water system and will henceforth become a part of the utility's water system.
- (4) CONNECTION TO THE UTILITY'S WATER SYSTEM. All connections to the utility's water system shall be made by the utility, and the cost of such connection will be paid by the Applicant. It shall be unlawful for anyone to operate any valve or make any such

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connection without authority from the Utility.

7.060 Standard Specifications

The standard specifications for Construction of Water Lines and Appurtenances for the City of Village Water Department, including the Standard Details, are hereby referred to and by reference made a part of this Ordinance, as fully and completely as if the same were fully set forth herein, and are mutually cooperative herewith.

7.070 Service Outside City Limits

- (1) **DISCONTINUATION OF SERVICE.** All water delivered outside the City limits shall be considered as a special service and not provided by the City as a common utility service. The quantity of water supplied by this service may be reduced or the service entirely discontinued at any time at the discretion of the Utility and for any reason.
- (2) **GUARANTEE OF SUPPLY.** Pressure and other conditions are to be at the risk of the customer without guarantee by the Utility, and the Utility shall have no liability in any way to customers for failure to provide service or for any failure of system.
- (3) **APPLICATIONS AND RATES.** The utility reserves the right to act on each applicant for outside-the-city service on its merits without regard to any other past or present application or service. If service is approved, the cost of service connections and meters will be listed in the Schedule of Water Service Charges. Water rates will be those in the applicable portion of the rate schedule.
- (4) **RULES AND REGULATIONS.**
 - A. All customers outside the City receiving water from the Utility shall comply with and be bound by the rules and regulations of the Utility.
 - B. Individuals shall cooperate to a reasonable and practicable extent with other customers in the extension or enlargement of common facilities.

7.070 Service Connections and Meters

- (1) The Utility may furnish and install a service of such size and at such locations as the applicant requests; provided, such requests are reasonable. The service will be installed from its water distribution main to the curb line or property line of the premises which may abut on the street, on other thoroughfares, or on the utility right-of-way easement. All meters shall be sealed by the utility at the time of installation, and no seal shall be altered or broken except by one of its authorized employees or agents.
- (2) **CHANGE IN LOCATION OF METERS OR SERVICES.** Meters or services moved for the convenience of the customer will be relocated only at the expense.

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- (3) CHANGE IN SIZE OF METER. If for any reason a change in size of a meter and service is required or requested by the customer, the installation will be accomplished on the basis of new construction.
- (4) OWNERSHIP. The service connection, whether located on public or private property, is the property of the Utility; and the Utility reserves the right to repair, replace and maintain it, as well as to remove it upon discontinuance of service.
- (5) CHARGES FOR SERVICE PIPES CONNECTED WITHOUT PERMIT. If premises are connected without the application prescribed in preceding sections, such premises shall be immediately disconnected. Before a new connection is made, the applicant shall pay double the rate for the estimated quantity of water consumed. A new connection shall only be made upon compliance with provisions of this ordinance.
- (6) Should the water service to any premises served by the utility be turned on or off by the user or any other person without authority from the City, the service may be discontinued at the main or the meter may be removed. The cost thereof shall be charged to the Customer as set forth in the Rate Schedule, and service shall not be restored until all charges are paid.
- (7) Whenever a water meter is found to be inoperative because of fraudulent causes, an amount equal to the average billing of three (3) preceding months shall be billed for to the customer for that month.
- (8) The Utility may, when feasible, make such changes in the location of a water service and meter as the property owner shall request, however, no service shall be placed on private property without specific action of the Utility and written consent from the Property Owner. The cost of moving such service shall be charged to the Property Owner. The Utility, at its own cost, may move a service and meter when deemed in its best interest, whether desired by the Property Owner or not.
- (9) If a meter is damaged by tampering or by hot water from the customer's line, the customer shall be required to pay the cost of repairing the meter and the estimated loss of revenue resulting from the damage.
- (10) ABANDONED AND NONREVENUE-PRODUCING SERVICES. Where a service connection to any premises has been abandoned or not used for a period of one year or longer, the Utility may remove such service connection. New service shall be placed only upon the owner's making an application and paying for a new connection in the regular manner.
- (11) LEAKING OR UNUSED SERVICES. Where there is a leak between the main and the meter, the Utility shall make all repairs free of charge. When a service pipe at the proper grade is damaged or destroyed by contractors or others, or where service pipes are destroyed by electrolysis, the person, contractor or company responsible for such damage or destruction shall pay the Utility for the cost of repairing or replacing such pipes on the

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basis of the cost to the City in Labor and in Material, plus 15 percent for overhead expenses.

7.080 Rate Schedule

The Schedule of Water Service Charges will be established and reviewed periodically by the City Council. The rate for water service delivered through detector meters for fire protection service shall be the rates as determined from time to time by motion of the City Council, and are covered by a separate item in the Schedule of Water Service Charges.

7.083 Bills and Payment

(1) RENDERING OF BILLS

- a. METER READINGS. Meters will be read at regular intervals for the preparation of monthly bills and as required for the preparation of opening, closing and special bills. It may not always be possible to read meters on the same day of each period. Should a monthly billing period contain less than 27 or more than 33 days, a pro rata correction will be made.
- b. Bills for water service will be rendered monthly unless otherwise provided in the rate schedule.
- c. All opening and closing (final) rendered on the basis of a full month if been supplied for a period of more than the case of opening bills if the service has been supplied for 15 days or less, the gallonage consumed bills will be added to the consumption of succeeding month. Closing bills for service will be pro-rated.

(2) PAYMENT OF BILLS

- A. All bills are due and payable on the 15th day of the month. Payment may be made at the office.
- B. When bills are delinquent, the Utility will follow the procedures as outlined in Section 7.085.

- (3) BILLINGS OF SEPARATE METERS NOT COMBINED. Each meter on premises will be considered separately, and the readings of two or more meters will not be combined unless specifically provided for in the rate of schedule, or unless the utility's operating convenience requires the use of more than one meter or a battery of meters. The minimum monthly charge for such combined meters will be based on the diameter of the total combined discharge areas of the meters.

7.085 Delinquent Accounts

- (1) A water account is delinquent if it is not paid on or before the 15th day following the date of billing of said account.

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- (2) A delinquent notice will be mailed to each delinquent account and property owner 30 days after the original billing date; said notice will state that water service will be discontinued after the fifth day following the date of the delinquent notice. This notice will also specify the service charges imposed if a disconnect for nonpayment is performed.
- (3) On the turnoff date, the meter reader or other agent of the Utility will advise any occupant on the premises that water is to be disconnected unless all delinquent amounts are paid immediately. If full payment is not made, the agent of the City will immediately thereafter turn off the service. If no one responds to the agent's knock, he will leave a notice on the door that water has been turned off until all delinquent accounts and current amounts, plus penalties, are paid in full and then proceed to turn off the service.
- (4) It shall be the duty of the property owner of each premises served to pay all rates and charges for water service imposed by this Ordinance which are not otherwise paid by the occupant of said premises. No duty shall be imposed upon the Utility to determine the true owner of such premises shall be assumed to be in lawful possession, with the right to contract with the Utility for water service, and such person in possession is deemed to be the agent of the owner for such purpose.
- (5) In all instances where water has been turned off because of a delinquent account, service charges will be collected if, water service is to be restored as presented in the rate of schedule. These service charges will be paid in addition to all delinquent accounts, other current amounts, and any penalties owing before service is restored.
- (6) The City, in cases of extreme hardship, shall have the discretion of renewing service to a delinquent account upon acceptance of a valid plan for the payment of past-due amounts in installments.

7.087 Notices

- (1) NOTICES TO CUSTOMERS. Notices required to be given by the Utility to a customer will normally be given in writing, and may be either delivered or mailed to him personally or delivered or mailed to him at the address to which his service is rendered.
- (2) NOTICES FROM CUSTOMERS. Notice from the customer to the utility shall be given by him or his authorized representative orally or in writing at the City's office.

7.089 Meter Error

- (1) ADJUSTMENT OF BILLS FOR METER ERROR.
 - A. NONREGISTERING METERS. The Utility may bill the customer for water consumed while the meter was not registering. The bill will be at the minimum monthly meter

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rate, or will be computed upon an estimate of consumption based either upon the customer's prior use during the same season of the year or upon a reasonable comparison with the use of other customers receiving the same class of service during the same period and under similar circumstances and conditions.

- B. ADJUSTMENTS ON ACCOUNT OF UNDERGROUND LEAKS. Where a leak exists underground between the meter and the building and the same is repaired within 10 days after the owner, agent or occupant of the premises has been notified of such leakage, the utility may allow an adjustment of 50 per cent of the estimated excess consumption.

7.090 Discontinuance of Service

- (1) NONPAYMENT OF BILLS. A customer's water service may be discontinued if the water bill is not paid in accordance with the procedures as listed in Section 7.083 of this Ordinance.
- (2) UNSAFE APPARATUS.
 - A. The utility may refuse to furnish water and discontinue service to any premises where apparatus, appliances or equipment using water is dangerous, unsafe or is being used in violation of laws, ordinances or legal regulations.
 - B. The Utility does not assume liability for inspection apparatus on the customer's property. The Utility does reserve the right of inspection, however, if there is reason to believe that unsafe or illegal apparatus is in use.
- (3) WATER SERVICE DETRIMENTAL TO OTHERS. The Utility may refuse to furnish water and may discontinue service to any premises where excessive demands by customer will result in inadequate service to others.
- (4) FRAUD AND ABUSE. The utility shall have the right to refuse or to discontinue water service to any premises to protect itself against fraud or abuse.
- (5) NONCOMPLIANCE. The Utility may, unless otherwise provided, discontinue water service to a customer for noncompliance with any of these regulations if the customer fails to comply with said regulations within five days after receiving written notice of the Utility's intention to discontinue service. If such noncompliance affects matters of health or safety or other conditions that warrant such action, the utility may discontinue water service immediately.
- (6) CUSTOMER REQUEST FOR SERVICE DISCONTINUANCE.
 - A. Any customer desiring discontinuance of water service must first give the utility and where applicable, the owner, written notice, which will terminate standard charges and rates on the service as of the date received and approved by the Utility. Thereafter, the utility shall turn off the water supply at the valve. If such written

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notice is not given, the customer will be required to pay for the water service until the date the utility has learned that the customer has vacated the premises. The customer is responsible for any damages or injuries sustained through failure to properly exclude water from his premises.

- B. TEMPORARY SERVICE DISCONTINUANCE. When requested by the customer, the Utility shall turn off the water at the meter to allow for repair or revision of the system, and water will be turned on by the utility, providing the customer has installed a Water shut-off valve and a check valve in his system, and the cost of this service shall be charged to the account as established in the Rate Schedule.
- (7) RESTORATION, RECONNECTION CHARGE. The Utility shall charge as designated in Section 7.070 of this Ordinance for restoring water service which has been discontinued because of noncompliance with these rules.
- (8) PENALTY FOR TURNING ON WATER WITHOUT AUTHORITY. Should the water be turned on by any water consumer or other person without authority from the Utility, the water may then be shut off at the main or the meter removed. The charge from shutting water off at the main shall be the actual cost plus 15 per cent overhead. The charge for removing and replacing the meter shall be set forth in the Rate Schedule. All such charges shall be chargeable to the offending customer where the water is supplied, and water shall not again be furnished to such premises until said charges are paid.

7.100 Fire Protection Service

Fire protection connections will be allowed inside and outside of buildings under the following conditions.

- (1) The Utility shall require a service meter of approved pattern to be furnished and maintained by the owner of any service system or combination hose and sprinkler system. The connection with the City main and the setting of the meter and the construction of a suitable meter chamber shall be made by the utility upon the payment of the charges prescribed in Section 7.080 of this code.
- (2) When the owner of a building desires, or when the building code calls for a certain size pipe to supply water to a wet or dry sprinkler system without hose connection, such pipe or pipes may be covered by an approved proportional meter or a detector check. The owner or agent of such building shall agree in writing that water supplied through this service will not be used for any purpose except for extinguishing a fire. If at any time it is found that those connections have been added to the system or that registration is recorded on the meter or detector check, the immediate installation of an approved meter, as mentioned in Section 7.070, or the removal of the service, may be required by the Utility. Such water registered shall be charged for at double the regular meter rates.
- (3) No charge shall be made for water used in the extinguishing of fires if the owner or agent reports such use to the utility in writing within 10 days of such usage.

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- (4) Standby charges for automatic fire service are as set forth in the Rate Schedule. Automatic fire service charges are based on wet or dry sprinkling systems without hose or other connections. systems will pay the regular service meter minimums and the regular meter rates.
- (5) WATER FOR FIRE STORAGE TANKS. Water may be obtained from a fire service for filling a tank connected with the fire service, but only if written permission is secured from the Utility in advance and an approved means of measurement is available. The rates for general use will apply.
- (6) Ownership of service connection and all equipment appurtenance thereto, excluding the meter, shall be the sole property of the utility, and no part of the cost thereof will be refunded to the applicant.
- (7) PRESSURE SUPPLY. The Utility assumes no responsibility for loss or damage because lack of water or pressure, and merely agrees to furnish such quantities and pressures as are available in its general distribution system. The service is subject to shutdowns and variations required by the operation of the system.

7.110 Temporary Service

- (1) TIME LIMIT. Temporary service connections shall be disconnected and terminated within six months after installation unless an extension of time is granted in writing by the Utility.
- (2) CHARGE FOR WATER SERVED. Charges for water furnished through a temporary service connection shall be at the established rates for other customers.
- (3) INSTALLATION CHARGE AND DEPOSITS. The applicant for temporary service will be required:
 - A. To pay the Utility, in advance, the estimated cost of installing and removing all facilities necessary to furnish such service; or, at the option, if service is supplied through a fire hydrant, the applicant will be charged in accordance with the rates as stated in the Rate Schedule.
 - B. To deposit an amount sufficient to cover bills for water during the entire period such temporary service may be used, or to establish credit approved by the Utility.
 - C. To deposit with the utility an amount equal to the value of any equipment loaned by the Utility to such applicant for use on temporary service. This deposit refundable under terms of Section 7.110(4) below.
- (4) RESPONSIBILITY FOR METERS AND INSTALLATION. The customer shall use all possible care to prevent damage to the meter or to any loaned facilities of the Utility which are involved in furnishing the temporary service from the time they are installed until they are removed; or until 48 notice in writing has been given to the utility that the contractor or other person is through with the meter or meters and the installation. If

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the meter or other facilities are damaged, the cost of making repairs shall be paid by the customer.

7.120 Pools and Tanks

When an abnormally large quantity of water is desired for filling a swimming pool, log pond, or for other purposes, arrangements must be made with the Utility prior to taking such water. Permission to take water in unusual quantities will be given only if it can be safely delivered throughout the utility's facilities and if other customers are not inconvenienced.

7.130 Fire Hydrants

- (1) **USE OF AND DAMAGE TO FIRE HYDRANTS.** No person or persons, other than those designated and authorized by the proper authority, or by the Utility, shall open any fire hydrant, attempt to draw water from it or in any manner damage or tamper with it. Any violation of this regulation will be prosecuted.
- (2) **MOVING OF FIRE HYDRANTS.** When a fire hydrant has been installed in the location specified by the proper authority, the Utility has fulfilled its obligation. If a property owner or other party desires a change in size, type or location of the hydrant, he shall bear all costs of such changes. Any change in the location of a fire hydrant must be approved by the Utility.
- (3) **Charge for installation and annual maintenance for rural hydrants.**
 - A. All rural fire hydrants will be installed for a flat charge per hydrant specified in the Rate Schedule, providing a city water main of sufficient size is located in the desired hydrant location. For other conditions, the charge will be the flat charge plus the cost of the necessary main extension to the desired location.
 - B. An annual maintenance charge per hydrant shall be made and pro-rated among the participating property owners. The annual maintenance charge is presented in the Rate Schedule.
 - C. In the event of nonpayment of the maintenance charge, the utility may refuse service from the fire hydrant.

7.140 A Customer's Responsibility for Equipment

- (1) The customer shall, at his own risk and expense, furnish, install and keep in good and safe condition all equipment that may be required for receiving, controlling, applying and utilizing water. The Utility shall not be responsible for any loss or damage caused by the improper installation of such water equipment, or the negligence, want of proper care or wrongful act of the customer or any of his tenants or agents in installing, maintaining, using, operating or interfering with such equipment. The Utility shall not be responsible for damage to property caused by spigots, faucets, valves and other

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equipment that are open when water is turned on at the meter, either when the water is turned on originally or when turned on after a temporary shutdown.

- (2) The customer shall install, own and maintain all piping, valves, fittings, pressure-reducer, if necessary, and equipment beyond the point of delivery. The customer's installation shall conform to the "Standard Details -Connection", and "Standard Details - Customer's Plumbing", included herewith, and with all Local, County and State Codes and Ordinances.
- (3) All meters, piping or other facilities furnished and installed by the Utility within or on the customer's premises shall be and remain the property of the Utility and may be removed by the Utility upon discontinuance of service. The customer shall provide space for and exercise proper care to protect the Utility's property on his premises; and in the event of loss or damage to the utility's property on his premises arising from neglect, carelessness, or misuse by the customer, the cost of necessary repairs or replacement will be billed to the customer.
- (4) The customer shall be required to install suitable protective and/or control devices whenever the Utility deems such an installation necessary to protect the Utility's property or that of its other customers. The Utility reserves the right to refuse service to any customer when delivery of water will adversely affect the service to others.
- (5) Customers may install special equipment necessary to meet individual requirements; provided it does not adversely affect service to other customers or to their property. The customer is advised to consider installing a Pressure Reducer on his service line in areas where the pressure is high, or where the pressure could become high if a low-level area was placed in the high-level area for a short time because of a break or malfunction in the main line.

7.150 Cross Connections

- (1) **HEALTH REGULATIONS.** Unprotected cross connections between the public water supply and any unapproved source of water are prohibited.
- (2) **DEFINITION.** A cross connection is defined as an interconnection between the Utility water supply and any unapproved water supply, or a connection between a water distribution pipe and any fixture installed in such manner that unsafe water, waste or sewage may be drawn into the utility water system. Cross connections may be divided into two classifications, as follows:
 - A. Connections in which pure and impure water are separated by gate valves, check valves, or both.
 - B. Connections which permit pollution to enter when the pressure in the Utility water system falls below atmospheric pressure, thus creating a vacuum. This process of water pollution is known as back siphonage.

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- (3) USE OF PRIVATE WATER AND CITY WATER. Customers desiring to use both a Utility water supply and a supply of water other than that furnished by the Utility may obtain water at meter rates upon the following conditions and not otherwise. Under no circumstances shall a physical connection, direct or indirect, exist or be made in any manner, even temporarily, between the Utility water supply and that of a private water supply. Where such connection is found to exist, or where provision is made to connect the two systems by means of a spacer or otherwise, the utility water supply shall be shut off from the premises without notice. In case of such discontinuance, service shall not be re-established until satisfactory proof is furnished that the cross connection has been completely and permanently severed.

7.160 Water Waste

Where water is wastefully or negligently used on a customer's premises, seriously affecting the general service, the Utility may discontinue the service if such conditions are not corrected within five days after giving the customer written notice.

7.170 Access to Premises

- (1) The Utility or its duly authorized agents shall at all reasonable times have the right to enter or leave the customer's premises for any purpose of inspection, repair, or enforcement of any of the provisions of this Ordinance.
- (2) Any inspection or recommendations made by the Utility or its agents on plumbing or appliances or use of water on the customer's premises, either as the result of a complaint or otherwise, will be made or offered without charge.

7.180 Inspection

- (1) Inspection of piping and/or equipment for compliance with codes or regulations other than those of the utility is the responsibility of the appropriate governmental body having jurisdiction. Appropriate approvals and certificates must be obtained by the customer prior to connection to the utility's service lines.
- (2) The Utility shall have the right, but shall not be obligated to inspect the customer's piping or equipment before the service is supplied and at any future time as determined by the City Council, however nothing in this provision shall be construed as placing upon the Utility and responsibility for the inspection of, the condition of, or the maintenance of the plumbing, piping, water-using devices or other equipment.
- (3) The Utility shall not be liable for any leaks, loss or damage to persons or property resulting from defects in the customer's installation or equipment or the ^delivery of water thereto. The liability of the utility for personal or property damage shall not extend beyond the point of delivery to the customer.

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- (4) No customer or water user shall cause or suffer water from the system to run, drain, or flow from the property having water service onto any other property on into any street or way.

7.190 Interruptions in Service

- (1) The Utility shall not be liable for damage resulting from an interruption in service. Temporary shutdowns may be restored to by the Utility for improvements and repairs. Whenever possible, and as time permits, all customers affected will be notified prior to such shutdowns. The Utility will not be liable for interruption, shortage or insufficiency of supply, or for any loss or damage occasioned thereby, if caused by accident, act of God, fire, strikes, riots, war or any other cause not within its control. Water pressures will vary because of difference in elevations and water demands.
- (2) Whenever necessary for the purpose of making repairs or improvements to its system, the utility shall have the right to temporarily suspend the delivery of water, and in such cases, will give reasonable notice if circumstance permit. Whenever an interruption of service can be foreseen, the Utility will attempt to schedule its activities with its customers' needs. Any interruptions will be of as short a duration as practicable under safe operating conditions.
- (3) The Utility shall not be liable for interruption, shortage of supply, high- or low-pressure conditions, chemical or physical conditions, or any loss or damage occasioned thereby.

7.200 Resale of Water

Except by special agreement with the Utility, no customer shall resell any of the water received by him from the Utility, nor shall water be delivered to premises other than those specified in his application for service.

7.210 Water Shortage

In the event a water shortage should occur, and it becomes necessary for water to be conserved, or water use restricted, the City Council, by resolution, may place such restrictions and promulgate such regulations in connection therewith as may be necessary until said water shortage is over.

7.220 Penalty

Any person violating any of the provisions of this, code shall, upon conviction thereof, be punished by a fine not exceeding \$500.00.

7.230 Validity of this Ordinance

If any clause, sentence, paragraph, section, article or portion of this code for any reason shall be adjudged invalid by a court or competent jurisdiction, such judgment shall not affect, impair or invalidate the remainder of this code, but shall be confined in its operation to the clause, sentence, paragraph, section or portion of this code directly involved in the controversy in which judgment is rendered.

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CHAPTER 20 POLICE DEPARTMENT

TITLE, SCOPE, AND AUTHORITY

30.005 Title

This Chapter may be cited as the Police Department Ordinance of the Departments, Commissions, Boards, and Committees Section of the City of Adair Village City Code.

30.010 Purpose and Scope

The City of Adair Village shall maintain a Police Department, as defined in ORS 181.610 (12)(a), for the purpose of preventing crime, detecting crime, and apprehending offenders, enforcing the criminal laws of the State of Oregon and the laws and ordinances of the City of Adair Village, preserving the peace, protecting lives and property, and performing community caretaking functions as defined in ORS 133.033.

30.020 General Authority

The Chief of Police, upon consent and direction of the City Council, is responsible for the administration, enforcement, and oversight of this Chapter of the City of Adair Village City Code, and to apply these provisions consistent with the general laws of the State of Oregon.

ORGANIZATION

30.110 Organization

- (1) The Police Department shall consist of such members, sworn and unsworn, paid and volunteer, as the Police Chief determines to be necessary to achieve its purpose under this Ordinance within the fiscal parameters and operating approval of the City Council.
- (2) Sworn members of the Department shall have all of the authority granted to them and defined by law, pursuant to ORS 181.610 (12)(a) and ORS 133.03. In every instance, sworn members of the Department, including paid members and volunteers, shall subscribe to an oath administered by the Chief of Police.

30.120 City/County Insurance Service “Best Practices.”

All policies and procedures developed, recommended, and implemented for the Adair Village Police Department shall be consistent with appropriate ORS and the “Best Practices” recommended by the City/County Insurance Service.

POLICE CHIEF

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30.210 Police Chief Position Created

There is created the position of Chief of Police, and such Chief of Police shall be appointed by the Mayor with the consent of at least two council persons, pursuant to Section 12 of the City of Adair Village Charter.

30.220 Powers and Duties Generally

The powers and duties of the Chief of Police shall generally be as follows:

- (1) Establish departmental objectives in line with City Council goals. Plan and develop law enforcement policies, procedures, standards, and programs based on an analysis of city growth, crime patterns, workload, staffing levels and related economic, legislative, and judicial influences to provide appropriate and effective law enforcement services to the community.
- (2) Have authority and responsibility for the fiscal management of the Department, including developing justification for and presentation of department budget requests. Manage and monitor approved department budgets. Prepare and/or review department requests for proposals. Review and approve department expenditures.
- (3) Assign, supervise, and evaluate the work of subordinates, whether paid or volunteer. Hear grievances from and administer disciplinary action to department personnel. Interview and effectively recommend department hiring and termination actions. Ensure provision of adequate training within the Department.
- (4) Supervise and assist in major departmental problems, crimes, or accidents and perform such additional duties as may be assigned by the City Council.
- (5) Prepare reports and advise the City Administrator and City Attorney in regard to resolutions and ordinances pertaining to public safety matters for City Council information or action.

30.230 Attendance at City Council Meetings

The Chief of Police, or such member of the Police Department as the Chief of Police designates, shall be sergeant at arms at Municipal Court and at all City Council meetings and other City commission or committee meetings as necessary. Such sergeant at arms shall carry out all lawful orders and instructions given by the presiding officer of the City Council for the purpose of maintaining order and decorum at said meetings.

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CHAPTER 40 PUBLIC NUISANCES AND ABATEMENT

[Enacted as Ord. 2012-001]
[Replacing Ordinance 2008-02]
[Amended by Ordinances 2010-006; 2013-02; 2014-04; 2017-01]

TITLE, SCOPE, AND AUTHORITY

40.005 Title

This Chapter may be cited as the Public Nuisance and Abatement Ordinance of the Public Protection section of the City of Adair Village City Code.

40.010 Purpose and Scope

(1) It is the purpose of this Chapter to define conditions which exist that may endanger the life, limb, health, safety, or welfare of the general public or negatively affect the livability or property values of the residents or property owners of Adair Village and to provide a just, equitable, and practicable method to prohibit and abate these conditions.

40.020 General Authority

(1) The City Administrator, upon consent and direction of the City Council, is responsible for the administration, enforcement, and oversight of this Chapter of the City of Adair Village City Code, and to apply these provisions consistent with the general laws of the State of Oregon.

(2) The City Administrator may designate enforcement officers to assist in enforcing this Chapter.

DEFINITIONS

40.110 Definitions

As used in Sections 44.110 to 44.865, the singular includes the plural and the masculine includes the feminine. Except where the context indicates otherwise, the following shall mean:

- (1) Person in charge of property. Any agent, occupant, lessee, tenant, contract purchaser, apartment manager or other person not an owner having the possession or control of property or supervision of a construction site.
- (2) City. The City of Adair Village.
- (3) Council. The governing body of the City.

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- (4) Enforcement Officer. Any authorized agent of the City, including law enforcement officers, code enforcement officers, or City Administrator or his designee, of the City of Adair Village.
- (5) Person. Every natural person, firm, partnership, association or corporation.
- (6) Person responsible. The person responsible for a nuisance is:
 - (a) The owner of the property on which the nuisance exists; and/or
 - (b) The person in charge of the property on which the nuisance exists; and/or
 - (c) The person who created or caused the nuisance to come into or continue in existence.
- (7) Public place. Any building, place or accommodation, whether publicly or privately owned, open and available to the public.
- (8) Public transportation facility. As defined in ORS 164.365.
- (9) Public way. Includes, but is not limited to the full width of the public right-of-way for roads, streets, alleys, lanes, bicycle and pedestrian paths, trails, sidewalks, beaches, parks, and all recreational facilities operated by the state, a county, or the City for use by the general public.
- (10) Waters of the State. As defined in ORS 468.700.

NUISANCES AFFECTING PUBLIC HEALTH OR LIVABILITY

40.210 Nuisances Affecting the Public Health

The following are hereby declared to be nuisances affecting the public health, and may be abated in the manner prescribed by Sections 44.710 to 44.760. No resident, tenant, property owner, or property manager shall knowingly cause or permit any such activity to occur on property owned or managed by such person.

- (1) Privies. Any open vault or privy, except those privies used in connection with construction projects and constructed in accordance with the Oregon State Board of Health regulations.
- (2) Debris on private property. Accumulations of debris, rubbish, manure and other refuse which have not been removed within a reasonable time and which affect the health, safety or welfare of the city.
- (3) Stagnant water. Any pool of water which is without a proper inlet or outlet and which, if not controlled, will be a breeding place for mosquitoes and other

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similar insects.

- (4) Water pollution. The pollution of any body of water, stream or river by sewage, industrial wastes or other substances placed in or near such water in a manner that will cause harmful material to pollute the water.
- (5) Food. All decayed or unwholesome food offered for human consumption.
- (6) Odor. Any premises which are in such state or condition as to cause noisome or offensive odor or which are in an unsanitary condition.
- (7) Junk.
 - (a) No person shall keep any junk outdoors on or in any street, vehicle, lot, porch, or premises or in a building or other structure that is not wholly or entirely enclosed, except doors used for ingress and egress.
 - (b) The term "junk" as used in this section includes, but is not limited to, motor vehicle parts, abandoned automobiles, inoperable machinery or parts, operable or inoperable appliances or parts thereof, old iron or other metal, glass, paper, lumber, wood, brush piles or other accumulated yard wastes, broken tables, chairs, or other waste or discarded material.
- (8) Unusable firewood. Any firewood that does not meet the following definition of "Useable Firewood." "Usable Firewood" has more wood than rot and is cut to lengths that will fit an approved fireplace or wood stove on the property. "Usable Firewood" must be neatly stacked. Any firewood not meeting this description is "Unusable Firewood."

40.220 Accumulation of Solid Waste

- (1) Except as provided by county or state law, no person shall store, collect, maintain, or display on private property, waste or solid waste that is offensive or hazardous to the health and safety of the public, or which creates and offensive odor or a condition of unsightliness. Storage, collection, maintenance, or display of waste or solid waste in violation of this section shall be considered to be a public nuisance.
- (2) It shall be unlawful for any person to cause dirt, rock, debris, building materials, landscaping materials, dumpsters, or any other objects to be placed upon a public way, public place, public park, or right-of-way.

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- (a) Accumulations of such objects in such places which remain after 5:00 p.m. on the day of accumulation or any accumulation which creates a hazard by obstructing vehicular or pedestrian traffic may be immediately removed by the City and the cost of removal may be charged to the person causing the accumulation at a rate set by Resolution of the City Council.

- (b) The City shall refuse to issue an occupancy permit for a building to any person who has failed to pay charges incurred under subsection (a) of this ordinance incidental to the construction of the building for which the occupancy permit is sought.

40.225 Littering

As provided in ORS 164.805, a person commits the violation of offensive littering if the person creates an objectionable stench or degrades from the natural cleanliness or safety of property by intentionally:

- (1) Discarding or depositing any rubbish, trash, garbage, debris, or other refuse or solid waste upon the land of another without permission of the owner, or upon any public way or place, or in or upon any public transportation facility.

- (2) Draining or causing or permitting to be drained, garbage, debris, or other refuse or solid waste upon any public way or place or in or upon any public transportation facility.

- (3) Permitting any rubbish, trash, garbage, debris, or other refuse or solid waste to be thrown from a vehicle which the person is operating. However, this paragraph does not apply to a person operating a vehicle transporting passengers for hire subject to the regulation by the Interstate Commerce Commission or the Public Utility Commission of Oregon, or to a person operating a school bus, described under ORS 801.460.

40.230 Dumping

Except at landfills, transfer sites, or recycling depots approved by the City Council, no person shall allow the accumulation or temporary storage of the following materials on any property:

- (1) Bulky, unsightly materials including, but not limited to: operable or inoperable appliances, inoperable or abandoned vehicles or parts, building demolition wastes, industrial wood wastes, land clearing debris, discarded furniture and bedding, or scrap metals for more than seven (7) days.

- (2) Household rubbish, debris, or garbage for more than seven (7) days.

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40.235 Dumping in Waters

As provided in ORS 164.775, it is unlawful for any person to discard any glass, cans, or other similar refuse in any waters of the state, or within 100 yards of any waters of the state, other than in receptacles provided for the purpose of holding trash, debris, or other refuse.

40.240 Livestock Animals and Fowl

- (1) No person shall keep or maintain any slaughterhouse or tannery in the City.
- (2) No person shall keep or maintain any cattle, horses, hogs, goats, sheep, rabbits, poultry or other livestock or fowl in the City of Adair Village, except as permitted by Adair Village Land Use Development Code (AVLUDC) Section 6.401. This section shall not prohibit the keeping of domesticated animals, such as dogs, cats, birds and other animals that can be claimed as household pets where such pets can be kept safely in residential quarters. (Amended Adair Village Ordinance 2010-06)
- (3) Livestock animals or fowl kept or maintained contrary to provision of this ordinance are hereby declared to be a public nuisance and may be abated as provided in the Adair Village Land Use Development Code Section 6.401 (8). (Amended Adair Village Ordinance 2010-06)

40.245 Animal Carcasses

No person shall permit any animal carcass owned by him or under his control to remain upon the public streets or places or exposed on private property, for a period of time longer than is reasonably necessary to dispose of such carcass.

40.250 Inadequate Sewage Disposal

No person shall allow:

- (1) The discharge of raw or partially treated sewage onto the ground surface or into the waters of the state.
- (2) Placing into use an existing on-site sewage disposal system.
- (3) Installation, replacement, or repair of an on-site sewage disposal system.

40.260 Unauthorized Disposal of Offensive Substances

As provided in ORS 164.785:

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- (1) It is unlawful for any person, including a person in the possession or control of any land, to discard any dead animal carcass or part thereof, excrement, putrid, nauseous, noisome, decaying, deleterious, or offensive substance into, or in any other manner befoul, pollute, or impair the quality of any spring, river, brook, creek, branch, well, irrigation drainage ditch, irrigation ditch, cistern, or pond of water.
- (2) It is unlawful for any person to place or cause to be placed any polluting substance listed in subsection (1) of section onto any road, street, alley, lane, railroad right of way, lot field, meadow, or common. It is unlawful for any owner thereof knowingly to permit any polluting substances to remain in any of the places described in this subsection to the injury of the health or to the annoyance of any citizen of this state.
- (3) Nothing in this section applies to the storage or spreading of manure or like substance for agricultural or horticultural purposes, except that no sewage sludge, septic tank, or cesspool pumpings, or fish remains shall be used for these purposes, unless treated and applied in a manner approved by the Department of Environmental Quality, and upon application to and specific approval from the City.

40.270 Open Burning

- (1) Prohibited Fires. No person shall conduct any outside open burning including kindling, maintaining or burning any bonfire, outdoor rubbish or waste fire or use any trash burners, incinerators or burn barrels nor authorize any such fires or use of such devices on private land, unless as authorized by the City as provided herein.
- (2) Fires Allowed with Permits. Notwithstanding the prohibition in sub-section 1, the Council may authorize otherwise prohibited fires for special events or occasions subject to the payment of the cost of the permit for inspection by the Fire Chief or City Administrator or their designee.
- (3) Exempt Fires. The following fires are exempt from the prohibition of this ordinance:
 - (a) Fires for religious purposes;
 - (b) Fires initiated by the Fire District for training purposes;
 - (c) Fires associated with the operation of a business with a valid permit;
 - (d) Barbecue pits;
 - (e) Gas or charcoal barbecues;

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- (f) Outdoor fireplaces;
 - (g) Backyard burning of vegetative debris from gardening or pruning.
- (4) Requirements for Allowed and Exempt Fires. All outdoor fires allowed under this chapter shall comply with the following requirements:
- (a) All fires shall conform with Section 307 of the Oregon Fire Code.
 - (b) All fires shall comply with the regulations established by the Fire District.
 - (c) All fires shall occur only after checking with appropriate authority-Adair Fire District or Corvallis Fire Department-to determine that fires are permitted on that specific day.
 - (d) All fires shall occur only in the presence of an adult who shall be present at all times the fire is burning and shall constantly monitor the fire.
 - (e) Approved on-site fire extinguishing equipment shall be located at the fire (see Oregon Fire Code, Sec. 307.5).

40.280 State Fireworks Regulations Adopted

The following sections of the Oregon Fireworks Law, together with all acts and amendments applicable to cities which are now or hereafter enacted, are adopted by reference and made a part of this section: ORS 480.110, 480.120, 480.130, 480.140(1) and 480.150. (Section 40.285 Amended Adair Village Ordinance 2008-11 and 2009-03).

40.290 Penalties

Penalties for violation of Section 40.200 Nuisances Affecting Public Health will be established by Resolution by the Adair Village City Council.

ATTRACTIVE NUISANCES

40.310 Attractive Nuisances

- (1) No owner or person in charge of any premises shall permit:
 - (a) Any machinery, equipment or other devices on such premises which are attractive and dangerous;
 - (b) The piling of any lumber, logs or piling in such manner as to be attractive and dangerous;
 - (c) Any excavation to remain open* without erecting proper safeguards or barriers to prevent such excavation from being accessible.
- (2) The provisions of this section shall not apply to authorized construction projects provided that during the course of construction reasonable safeguards are maintained to prevent injury or death.

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40.320 Abandoned Containers

No person shall leave in any place accessible to children any abandoned, unattended or discarded ice box, refrigerator or similar container which has an air-tight door with a snap lock or lock or other mechanism which may not be released for opening from the inside without first removing such lock or door from such ice box, refrigerator or similar container.

40.390 Penalties

Penalties for violation of Section 40.300 Attractive Nuisances will be established by Resolution by the Adair Village City Council.

DUTY TO PREVENT NUISANCES

40.410 Clean Sidewalks

Each owner or person in charge of any premises, improved or unimproved, abutting upon any public sidewalk shall make a reasonable effort to remove:

- (1) Leaves, rubbish, dirt and other litter or obstructions on such sidewalk. The provisions of this subsection shall not apply to authorized construction projects provided that during the course of construction reasonable safeguards are maintained to prevent injury or death to persons.
- (2) Snow within a period no longer than twelve (12) hours after the snow has fallen.
- (3) Ice from sidewalk covered with ice within twelve (12) hours after the ice has formed. Any ice accumulating on such sidewalk shall be removed or properly covered with sand, ashes, or other suitable material to assure safe travel.

40.420 Weeds, Grass and Other Vegetation

- (1) No owner or person, in charge of any residentially-zoned property, shall permit upon such property, improved or unimproved, or upon any parkway or sidewalk area abutting such property, any excessive growth of weeds, grass or other vegetation. Such excessive growth shall be deemed noxious vegetation, and it shall be the duty of every owner or person in charge of such property to cut down or otherwise destroy any noxious growth on such property or parkway or sidewalk area abutting thereon as often as necessary, to prevent such growth from being unsightly or a fire hazard, or maturing and going to seed.
- (2) This section shall not apply to real property zoned and used exclusively for agricultural purposes.
- (3) The term "noxious vegetation" applies to and describes the conditions listed

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below:

- (a) grass and weeds more than ten inches in length between April 1 and November 1 [Amended Ordinance 2014-04]
 - (b) poison oak;
 - (c) poison ivy;
 - (d) blackberry bushes that extend into a public thoroughfare or across a property line;
 - (e) vegetation that is:
 - (i) a health hazard;
 - (ii) a fire hazard that is near other combustibles;
 - (iii) a traffic hazard because it impairs the view of a public thoroughfare or otherwise makes use of the thoroughfare hazardous.
 - (f) noxious vegetation shall include trees and shrubs as well as other types of vegetation.
- (4) Nothing in this section shall be construed to prohibit lawns, bushes, trees and other shrubbery grown or maintained for purposes of landscaping, nor shall it prohibit the growth or maintenance of any vegetation designed for food or fuel purposes, except that the owner or person in charge of any real property shall not permit the limbs of any shrub or tree projecting into or extending over the street to interfere with the use of the sidewalk or roadway, or to obstruct a driver's view of an intersection or traffic upon streets approaching an intersection or otherwise to constitute a hazard to the public. Trees shall be trimmed so that the minimum clearance of any overhanging portion thereof is eight (8) feet above the sidewalk and ten (10) feet above the roadway. Hedges and other shrubbery shall be trimmed so that they do not overhang the sidewalk or roadway. Trees, hedges and other shrubbery on corner lots shall be trimmed and maintained so as to permit the minimum clearance prescribed by the Zoning Ordinance.

40.430 Trees, Bushes, and Vision Clearance

No person in charge of property shall allow:

- (1) Upon property that abuts a street or public sidewalk, any trees or bushes on their property to interfere with street or sidewalk traffic. It shall be the duty of the person in charge of such property to keep all trees and bushes on the premises, including the adjoining parking strip, trimmed to a height of not less than eight feet above the sidewalk and not less than ten (10) feet above the roadway.
- (2) A standing or dead tree that is a hazard to the public or to persons or property

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on or near their property.

- (3) On their property at the intersection of two streets, any corner that does not provide a clear vision area at the corner of the intersection of two streets, a street and a railroad, a street and an alley, and driveways of parking lots open to the public.
 - (a) A clear vision area is a triangular area, two sides of which are:
 - i) Twenty (20) feet along the lot lines, measured from the intersection of two streets or a street and a railroad and the third side of which is a line across the corner of the lot, joining the two lines. Where a lot has a rounded corner, the lot lines shall be extended in a straight line to a point of intersection and measured from that point;
 - ii) Ten (10) feet along the lot lines measured from the intersection of a street and an alley, and the third side of which is a line across the corner of the lot, joining the two lines. Where a lot has a rounded corner, the lot lines shall be extended in a straight line to a point of intersection and measured from that point.
 - (b) A clear vision area shall contain no planting, fences, walls, structures, or temporary or permanent obstruction exceeding two and one-half 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 located in this area, provided all branches or foliage are removed to a height of eight feet above grade.

40.440 Fences

- (1) No owner or person in charge of property shall construct or maintain any barbed-wire fence or allow barbed wire to remain a part of any fence which borders on any sidewalk or public pathway.
- (2) No person shall install, maintain or operate an electric fence in any residential or commercial area within the City or adjacent to any sidewalk or public pathways.
- (3) All fences must meet the standards set in the Adair Village Land Use Development Code Section 5.134 (3) Fencing.

40.450 Surface Waters, Drainage

No owner or person in charge of any building or structure shall permit rain water, ice, or snow to fall from any such building or structure onto a sidewalk or to flow across a sidewalk, and every such owner or person in charge of property shall at all times keep and maintain a proper state of repair adequate drain pipes or a drainage system so that any overflow water accumulating on the roof or about such building will not be carried across or upon any

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sidewalk.

40.460 Zoning and Non-permitted Land Uses

The following acts are classified as public nuisances:

- (1) Creating a use which is prohibited;
- (2) Creating or changing a use which requires a permit;
- (3) Expanding a use which is non-conforming;
- (4) Changing a use which is not permitted;
- (5) Failing to comply with conditions of a permit.

40.465 Certain Buildings

The following are classified as public nuisances:

- (1) All buildings or structures, or portions thereof, which are determined by the county building official to be dangerous;
- (2) Constructing a building without a permit as required by the Building Code;
- (3) Placing a manufactured home without a permit;
- (4) Occupying or changing the use of a building or structure without an occupancy permit;
- (5) Selling or renting a dwelling which has been used as a clandestine drug lab without providing a written notice to the new owner or renter;
- (6) Making an electrical installation, water installation, sewer installation, or storm drain installation without a permit.

40.470 Garbage and Recycling Containers

- (1) **Street Placement.** Containers (garbage, recycling, yard debris, etc.) may not be placed on or along the street prior to 5:00 PM, on the day prior to the scheduled pickup day and must be removed by 8:00 AM the day after the scheduled pickup day.

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- (2) Placement of Property. Except as provided in subsection 1 above, containers (garbage, recycling, yard debris, etc.) must be placed/stored upon the property of the customer/user in such a manner as to not be visible from the street adjacent to the subject property, except that containers may be stored adjacent to the garage.

40.474 Personal Property Not Specifically Designed for Outdoor Use

No person shall keep any personal property outdoors on or in any street, vehicle, lot, porch, or premises or in a building or other structure that is not wholly or entirely enclosed, except doors used for ingress and egress, unless that personal property was originally designed and manufactured for outdoor use.

40.476 Tools, Equipment, and Construction Materials

All tools, equipment, and construction materials must be stored behind the plane of the front of the house. Tools and equipment as used here includes but is not limited to ladders, saws, wheelbarrows, tarps, hand tools, power tools, sprayers, and other equipment traditionally used in building construction and maintenance.

40.480 Storing Property on Public Ways

- (1) No person shall use any portion of the traveled roadway, sidewalk, or other portion of the public way or road right-of-way to store or keep recreational sports equipment or personal property of any kind, except vehicles and trailers, as defined in Chapter 43 Parking and Standing Vehicles. Such personal property must be kept fully within the owner's private property boundary in compliance with all relevant Adair Village Land Use Codes and City Ordinances. [Amended Ordinance 2013-02]
- (2) Nothing in this section is intended to prohibit the loading or unloading of vehicles for a reasonable time, or the parking of vehicles in permitted parking areas as incidental to the use of the vehicle for travel.

40.490 Penalties. Penalties for violation of Section 40.400 Duty to Prevent Nuisances will be established by Resolution by the Adair Village City Council.

NUISANCES AFFECTING PUBLIC PEACE

40.510 Radio and Television Interference

No person shall operate or use an electrical, mechanical or other device, apparatus, instrument or machine that causes interference with radio or television reception. This section shall not apply to electrical and radio devices licensed, approved and operated under the rules and regulations of the Federal Communications Commission.

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40.520 Unnecessary Noise

No person shall make or assist in making any loud, disturbing or unnecessary noise which either annoys, disturbs, injures or endangers the comfort, repose, health, safety or peace of others.

- (1) The following acts are declared to be loud, disturbing and unnecessary noises in violation of this section but the enumeration shall not be construed to be exclusive:
 - (a) The keeping of any bird or animal which by causing frequent or long continued noise may disturb the comfort and repose of any person in the vicinity;
 - (b) The attaching of any bell to any animal or allowing a bell to remain on any animal which is disturbing to any person in the immediate vicinity;
 - (c) The use of any vehicle or engine, either stationary or moving, so out of repair, loaded or operated as to create any loud or unnecessary grating, grinding, rattling or other noise;
 - (d) The sounding of any horn or signaling device on any vehicle on any street or public or private place, except as a necessary warning of danger;
 - (e) The use of any mechanical device operated by compressed air, steam or otherwise, unless the noise thereby created is effectively muffled;
 - (f) The erection, including excavation, demolition, alteration or repair of any building in residential districts, other than between the hours of 7:00 a.m. and 10:00 p.m. daily, except Saturdays, Sundays and holidays when the hours shall be 10:00 a.m. to 8:00 p.m. In case of urgent necessity in the interest of the public welfare and safety, a permit may be granted by the City Administrator for a period not to exceed ten days. Such permit may be renewed for periods of five days while such emergency continues to exist. If the Administrator shall determine that loss or inconvenience would result to any person unless such work were permitted within those hours, the Administrator may grant permission for such work to be done between the hours of 10:00 p.m. to 7:00 a.m. upon application being made at the time the permit for the work is awarded or during the progress of the work;
 - (g) The use of any gong or siren other than by public officers for authorized purposes or on a police, fire or other emergency vehicle;

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- (h) The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court of justice while the same are in use, or adjacent to any hospital or institution for the care of the sick or infirm, which unreasonably interferes with the operation of such institution, or which disturbs or unduly annoys patients;
- (i) The discharge in the open air of the exhaust of any steam engine, internal combustion engine, motor boat or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises and the emission of annoying smoke;
- (j) The use or operation of any automatic or electric piano, phonograph, gramophone, Victrola, radio, television, loudspeaker or any instrument for sound producing or any sound amplifying device so loudly as to disturb persons in the vicinity thereof or in such a manner as renders the use thereof a nuisance; provided, however, that upon application to the City Council permits may be granted for the broadcast or amplification of commercial or entertainment programs, or to any organization for the broadcast of programs of music, speeches, or general entertainment as a part of a national, state or City event, public festivals or outstanding events of a noncommercial nature, provided that such broadcast or amplification shall not exceed a decibel limit of 75 dB at the boundary of the property, whether from the instrument, speaker or amplifier. A permit may be granted for a parade as a part of a national, state or City event, public festivals or outstanding events of a noncommercial nature, even if it may cause short-term obstruction to the free and uninterrupted traffic, both vehicular and pedestrian;
- (k) The making of any noise by crying, calling or shouting, or by means of any whistle, rattle, bell, gong, clapper, horn, hammer, drum, musical instrument or other device for the purpose of advertising goods, wares or merchandise or of attracting attention or of inviting patronage of any person to any business whatsoever. Exemption from this paragraph may be requested upon application to the City for a solicitor's license (Ordinance 84/85 #1);
- (l) The conducting, operating or maintaining of any garage or the repairing of motor vehicles at any residence within 100 feet of any other private residence, apartment, rooming house or hotel in such manner as to cause loud or offensive noises to be emitted therefrom between the hours of 10:00 p.m. and 7:00 a.m.

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40.530 Notices and Advertisements

- (1) No person shall affix or post or cause to be affixed or posted any placard, bill, advertisement or poster upon any real or personal property, public or private, without first securing permission from the owner or person in control of private property. This section shall not be construed as an amendment to or a repeal of any regulation now or hereafter adopted by the City regulating the use of and the location of signs and advertising, or the posting of public notices.
- (2) Except as otherwise provided by law, no person shall either as principal or agent scatter, deposit or distribute on the streets, sidewalks or other public places or upon any private property any placards or advertisements whatsoever.
- (3) This section shall not be construed to prohibit the distribution of advertising material to persons during any parade or approved public gathering.

40.540 Curfew for Minors

- (1) Prohibition of Minors in Public. No minor shall be in or upon any street, highway, park, alley, or other public place or way between the hours specified in subsection (2) of this section unless:
 - (a) The minor is accompanied by a parent, guardian or other person 21 years of age or over and authorized by the parent or by law to have custody of the minor.
 - (b) The minor is engaged in a lawful pursuit or activity which requires the minor's presence upon the street, highway, park, alley or other public place, and the minor has written authorization from a parent or guardian to be in a public place at that time.
 - (c) The minor is emancipated under ORS 419B.550 to 419B.558.
- (2) Applicable Hours. For the purposes of this section, the applicable hours of curfew are between 11 p.m. and 4 a.m. of the following morning except on Friday and Saturday night the curfew hours are between 11:59 p.m. and 4 a.m. of the following morning.

40.545 Parental Duties

No parent, guardian, or other person having legal custody of a minor under the age of 18 years shall permit the minor to be in violation of this Ordinance.

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- (1) The parent(s), guardian(s), or person(s) having the care and custody of a minor under the age of 18 years shall be deemed to have allowed the minor to violate this ordinance despite not having prior actual knowledge, if in the exercise of reasonable diligence, the parent, guardian, or person should have known that a violation would occur.

40.550 Open Container

No person, regardless of age, shall possess an open container of any beverage that contains any amount of intoxicating liquor upon any City owned or controlled property or on any public street or sidewalk. (Amended Adair Village Ordinance 2008-11)

40.560 Park Regulations

No person shall cause destruction to City park property, act in or with prohibited behavior within a City park, be within a city park after park hours, and can be excluded from a City park for their behaviors, criminal activity or violations of City ordinances.

(1) Destruction of Park Property.

- (a) No person shall remove, destroy, break, injure, mutilate or deface in any way or other property, including but not limited to any structure, monument, statue, vase, fountain, wall, fence, railing, vehicle, bench, tree, shrub, fern, plant, or flower, in any City park.
- (b) No person shall use towels in any improper manner or waste soap or toilet paper, or deface, mar, destroy, break, write on, or scratch a wall, floor, ceiling, partition, fixture, or furniture or the facilities provided in a public convenience station located in any City park.

(2) Prohibited Behavior.

- (a) No person shall sleep on the seats or benches, or use loud, boisterous, threatening, abusive, indecent language, or behave in a disorderly manner, while in any City park.
- (b) No person shall blow, spread or place any nasal or other bodily discharge, or spit, urinate or defecate in any City park, except directly into the particular fixture provided for that purpose.
- (c) No person shall place a bottle, can, cloth, rag, or metal, wood or stone substance in the plumbing fixtures in such station.
- (d) No person shall enter or remain in any City park while in a visibly intoxicated condition.

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- (e) No person shall use tobacco products while in the skateboard park.
- (3) Park Hours. No person shall be or remain inside of any City park during hours that the park is closed, said hours to be set forth at each entrance to a park, unless passing through the park to an adjoining street.
- (4) Violations.
 - (a) In addition to any other penalty which may be provide by this City Code, a peace officer may exclude from all City parks for a period of not more than 30 days, any person who violates any sections of 40.550 or who violates any Oregon Revised Statues dealing with public peace, destruction or vandalism to property, injury of any degree to a person, controlled substances, weapons, or any inappropriate prohibited conduct sanction under City Code or the Oregon Revised Statues, while in a City park.
 - (b) Written notice shall be given to a person excluded from the parks. The notice shall specify the dates of exclusion and shall be signed by the issuing officer. Warning of consequences for failure to comply shall be prominently displayed on the notice.
 - (c) A person receiving a notice may, within ten days, appeal in writing to the City Administrator to have the written notice rescinded or the period shortened.
 - (d) At any time within the 30 days, a person receiving a notice may apply in writing to the City Administrator for a temporary waiver from the effects of the notice for good reason. (Section 40.560 Amended Adair Village Ordinance 2010-01)

40.590 Penalties

Penalties for violation of Section 40.500 Nuisances Affecting Public Peace will be established by Resolution by the Adair Village City Council.

JUNKED, ABANDONED, AND INOPERABLE MOTOR VEHICLES

40.610 Definitions

As used in this ordinance, unless the context requires otherwise:

- (1) Discarded or Inoperable Vehicle. Any and all of the following:

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- (a) Any vehicle or motor vehicle which cannot be legally or physically operated on City streets or public highways by virtue of three or more violations of equipment required by the laws of the state of Oregon. [Amended Ordinance 2013-02]
 - (b) Any vehicle or motor vehicle which is dismantled, in whole or in part, or which is not mechanically operable as a result of a defect, malfunction, or state of disrepair.
 - (c) Discarded or inoperable vehicles include major parts of vehicles, including but not limited to, bodies, engines, transmission or rear ends.
 - (d) For the purposes of this section, a showing that a vehicle, if operated on a public highway of this state, would be in a violation regarding required equipment for motor vehicles, creates a rebuttable presumption that the vehicle is a discarded or inoperable vehicle. [Amended Ordinance 2013-02]
- (2) Vehicle Owner. Any individual, firm, corporation, or unincorporated association with a claim, either individually or jointly, of ownership or any interest, legal or equitable, in a vehicle.
 - (3) Motor Vehicle. Any self-propelled vehicle which as originally built contained an engine, regardless of whether it contains an engine at any other time, including, without limitation, automobiles, trucks, buses, motor homes, motorized campers, motorcycles, motor scooters, tractors, snowmobiles, dune buggies and other off-the-road vehicles.
 - (4) Property. The owner's lot or tract of land, whether improved or vacant, all easements of record, and the sidewalk, curb, gutter and parking area of any street abutting such lot or tract of land.
 - (5) Abandoned vehicles.
 - (a) No person shall place or permit to be placed on a public right-of-way without permission of the City, an operable motor vehicle, for a period in excess of 15 days. Failure to move the vehicle at least one mile in the 15 days allowed will be considered a violation. [Amended Ordinance 2013-02]
 - (b) If a vehicle has out-of-date registration or is otherwise an inoperable vehicle and is on the public right-of-way, it will automatically be considered abandoned.

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40.615 Declaration of Public Nuisance

The open accumulation and storage of an inoperable or discarded vehicle is hereby found to create a condition tending to reduce the value of private property, to promote blight, deterioration, and unsightliness, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for disease vectors such as, rodents and insects and to be injurious to the health, safety and general welfare. Therefore, the presence of an inoperable vehicle or discarded vehicle on private or public property is hereby declared to constitute a public nuisance which may be abated in accordance with the provisions of this ordinance.

40.620 Prohibited Action

- (1) It shall be unlawful to store or permit the storing of an inoperable or discarded motor vehicle for fifteen (15) days or more upon any private property within the City unless the vehicle is completely enclosed within a building or unless it is in connection with a business enterprise dealing in junk vehicles lawfully conducted within the City.

- (2) At no time shall a person leave a vehicle unattended in any unsafe condition on private property. An unsafe condition includes but is not limited to anytime the vehicle is left unattended with the engine running and the doors unlocked for more than 15 minutes; anytime any wheel or wheels have been removed from the vehicle, regardless of whether or not the vehicle is supported by a jack, jack stand, wood or concrete blocks; anytime the vehicle is elevated by any means other than having all wheels on the ground; leaving the keys in the ignition; or any other unsafe condition likely create an attractive nuisance for children or the general public, except to warm up the vehicle for no longer than 15 minutes.
[Amended Ordinance 2013-02]

40.630 Towing of Vehicles

- (1) The City may contract the services of one or more competent towing service firms for the removal and storage of a vehicle deemed to be a nuisance. Said contract shall provide a schedule of charges for towing and storage of such vehicles. The owner of any vehicle towed as a result of abandonment or other enforcement action under this ordinance shall be solely responsible for any towing and storage fees incurred.

- (2) Any vehicle towed will be towed pursuant to Oregon Revised Statutes (ORS) Chapter 819 [Amended Ordinance 2013-02].

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40.640 Separate Violations

- (1) The owner and the occupant of the private property on which a violation any provision of this section is occurring and the owner of the inoperable motor vehicle in question are jointly and severally responsible to abate the nuisance. Every person who fails, neglects, or refuses to abate the nuisance commits a civil infraction.
- (2) The abatement of a nuisance as herein provided shall not constitute a penalty for a violation of this ordinance, but shall be in addition to any penalty imposed for a violation of the ordinance.
- (3) A separate offense may be deemed committed on each day during or on which a violation occurs or continues. The payment of any penalty does not exempt the offender from compliance with the requirements of this section. (4) No person, after abatement notification has been given, shall move the inoperable motor vehicle in question to any other private property upon which storage of such vehicle is not permitted or onto any public property or right-of-way.

40.690 Penalties

Penalties for violation of Section 40.600 Junked and Abandoned Cars will be established by Resolution by the Adair Village City Council.

CHRONIC NUISANCES

40.710 Chronic Nuisances

If the person fails to correct a violation after a thirty (30) day period, that violation will be considered a chronic nuisance and cited as such. This section is applicable to Sections 40.200, 40.300, 40.400, 40.500, and 40.600.

Alternate 40.710 Chronic Nuisances

Any person in charge of property who fails to correct a violation after a thirty (30) day period, or who is cited for three or more violations of the same specific violation of this Code within a 90-day period will be considered to have committed a chronic nuisance and may be cited as such. This section is applicable to Sections 40.200, 40.300, 40.400, 40.500, and 40.600.

40.790 Penalties

Penalties for violation of Section 40.700 Chronic Nuisances will be established by Resolution by the Adair Village City Council.

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ABATEMENT AND APPEAL

40.810 General Nuisances

In addition to those nuisances specifically enumerated within this ordinance, every other thing, substance, or act, which is determined by the City Council or City Administrator to be injurious or detrimental to the public health, safety, welfare, or peace of the City is hereby declared to be a nuisance and may be abated as provided in Sections 40.810 to 40.860.

40.820 Declaration of Nuisance and Abatement Notice

Upon determination by the City Council or the City Administrator that a nuisance as defined herein exists, the City Administrator shall cause a notice to abate to be mailed to the person(s) responsible at their last known address. The notice to abate shall contain:

- (1) The name of the person(s) responsible for abating the nuisance and a description of the nuisance.
- (2) A description of the property, by street address or otherwise, where the nuisance exists.
- (3) A direction to abate the nuisance within ten (10) days for non-vegetation related nuisance from the date the notice was mailed.
- (4) A direction to abate the nuisance within five (5) days for vegetation related nuisance from the date the notice was mailed.
- (5) A statement that unless the nuisance is abated during the applicable abatement period referenced above, the City will abate the nuisance and the cost of the abatement will be charged to the person(s) responsible and will become a lien against the property.
- (6) A statement that the person(s) responsible may appeal the notice to abate to the City Council by filing a notice of appeal, which sets forth the basis for the appeal with the City Administrator within ten (10) days of the date the notice to abate was mailed for non-vegetation related nuisance issues and five (5) days for vegetation related nuisance issues.

40.830 Appeal

- (1) If a notice of appeal is filed the Council shall hear the appeal at its first meeting after the filing of the notice of appeal. The City Administrator shall notify the person(s) responsible of the hearing date.
- (2) If, after conducting the hearing, the City Council determines that a nuisance does exist it shall order the person(s) responsible to abate the nuisance and shall

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specify the time in which the abatement must occur.

40.840 Abatement by the City

If, within the time fixed as provided by this ordinance, the nuisance has not been abated by the owner or person in charge of the property, the City Administrator may cause the nuisance to be abated and assess the cost thereof against the property, whether said assessment is for work done on said property, abutting thereon or adjacent thereto.

40.850 Assessment of Costs

- (1) The City Administrator, by registered or certified mail, postage prepaid, shall forward to the owner or person in charge of the property, a notice stating:
 - (a) The total cost of abatement including the administrative overhead.
 - (b) That the cost as indicated will be assessed to and become a lien against the property unless paid within 60 days from the date of the notice.
 - (c) That if the owner or person in charge of the property objects to the cost of the abatement as indicated, he may file a notice of objection with the City Administrator not more than 30 days from the date of the notice.
- (2) After the expiration of 30 days from the date of the notice, the City Council, in the regular course of business, shall hear and determine the objections to the costs to be assessed.
- (3) If the costs of the abatement are not paid within 60 days from the date of the notice, an assessment of the costs as stated or as determined by the City Council shall be made by resolution and shall thereupon be entered in the Docket of City Liens; and upon such entry being made, shall constitute a lien upon the property from which the nuisance was abated.
- (4) The lien shall be collected in the manner provided by the general laws of the State of Oregon for foreclosing liens and collecting assessments, and such lien shall bear interest at the highest rate of interest allowed by the laws of the State of Oregon per annum. Such interest shall commence to run 30 days after the entry of the lien in the docket.
- (5) An error in the name of the owner or person in charge of the property shall not void the assessment nor will a failure to receive the notice of the assessment render the assessment void, but it shall remain a valid lien against the property.

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40.860 Summary Abatement.

Upon determination by the Mayor, the City Administrator or the City Administrator's designee that a nuisance as defined by this ordinance exists and that unless the nuisance be summarily abated the public health, safety or welfare will be endangered, such officer may act as follows:

- (1) He shall give or cause to be given notice to remove or abate such nuisance within 24 hours.
- (2) If the nuisance is not removed or abated within 24 hours he is authorized to remove or abate the nuisance and the cost shall be charged against the property and collected as provided in Sections 44.840 and 44.850.

40.870 Right of Lien

Upon a final determination of violation of any section of this ordinance, the City shall have the right, upon notice to the consumer, to record a lien against real property of the consumer which is located within the City limits of Adair Village, provided that the consumer has not timely satisfied any financial sanction imposed.

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CHAPTER 41 ANIMAL CONTROL

[Enacted, Ord. 2008-04]
[Amended, Ord. 2014-05]

TITLE, SCOPE, AND AUTHORITY

41.005 Title

This Chapter may be cited as the Animal Control Ordinance of the Public Protection section of the City of Adair Village City Code.

41.010 Purpose and Scope

It is the purpose of this Chapter to define conditions which exist that may endanger the life, limb, health, safety, or welfare of the general public and to provide a just, equitable, and practicable method to prohibit and abate these conditions.

41.020 General Authority

- (1) The City Administrator, upon consent and direction of the City Council, is responsible for the administration, enforcement, and oversight of this Chapter of the City of Adair Village City Code, and to apply these provisions consistent with the general laws of the State of Oregon.
- (2) The City Council may, by order, designate enforcement officers to assist the City Administrator in enforcing this Chapter.
- (3) Provisions of ORS 609 shall apply when not in conflict with or superseded by this ordinance.

41.030 Severability

- (1) If any part or parts of this ordinance are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

DEFINITIONS

40.110 Definitions

As used in Sections 41.110 to 41.990, the singular includes the plural and the masculine includes the feminine. Except where the context indicates otherwise, the following shall mean:

Dog. A male or female dog including a dog which has been spayed or neutered.

Owner. Any person or persons, firm, association or corporation owning, keeping or

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harboring a dog.

Running at large. Any dog when it is off leash or outside the premises belonging to the owner of such dog, and not in the company of and under the control of the owner, except in the case of a dangerous dog, in which case the term shall also include a dog unconfined in accordance with the requirement set forth in Section 41.600 below.

Leash. Any leash, cord, chain, rope or other such physical restraint.

Muzzle. A device constructed of strong, soft material or a metal muzzle such as that used commercially with greyhounds. The muzzle must be made in a manner which will not cause injury to the dog or interfere with its vision or respiration, but must prevent it from biting any person or animal.

Unconfined. As the term is used in this section relates to a dangerous dog, if such dog is not securely confined indoors, or leashed and muzzled, or confined in a securely enclosed and locked pen or structure upon the premises of the person who owns the dog. Such pen or structure must have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot.

Livestock. Animals kept for husbandry. Livestock includes but is not limited to cattle, sheep, horses, mules, asses, burros, goats, swine and other hoofed, domesticated animals, poultry, pigeons and fur-bearing animals bred and maintained commercially or otherwise kept within pens, cages or hutches.

Dangerous Dog is defined in Section 41.600.

Code Enforcement Officer. Any individual authorized by the City Council to enforce City ordinances.

REQUIREMENTS OF DOG OWNERSHIP

41.210 License and Rabies Vaccination Required

Any person within the city limits of Adair Village must obtain and display upon their dog a current Benton County license, as required by ORS 609.100 and a current certification of rabies vaccination.

41.220 Leash Law

No person shall keep within the city limits of Adair

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- (1) A dog must be restrained on a leash, not exceeding six feet in length, when on any street, alley, or sidewalk.
- (2) A dog must be restrained on a leash when upon any premises other than the owners or such person's premises who have given permission.

41.230 Loud Animals

No person shall keep within the city limits of Adair Village any animal, which without provocation causes frequent or prolonged loud noise, such as dogs barking, which disturbs others. On a first offense, a warning will be issued to the owner of the loud animal. If there is a second complaint within one week a fine will be assessed. If there are three or more complaints within a period of a week, a second fine may be assessed. If more than five complaints are received over the period of a month, the same animal, the animal may be declared a public nuisance, as per section 41.420 (1)(f). If one harbors a loud animal, they may be subject to a citation in accordance to section 41.990 of this ordinance.

41.240 Scoop Law

No person who owns or is in charge of a dog within the city limits shall permit a dog to defecate on City property or the property of others without picking up the feces. If a person who owns or is in charge of a dog within the city limits allows a dog to defecate on City property or the property of others without picking it up will be given a citation in accordance with Section 41.990 of this ordinance.

41.250 Unattended Animals

No person shall leave an animal unattended within the city limits, or attach any animal by use of any device to:

- (1) Any building, tree, pole, sign, vehicle, or other object on a public street, alley, parking lot, or sidewalk.
- (2) Any object on premises other than his own without permission of the owner of such premises.
- (3) Any object on private premises in a manner which would allow the animal to have access to any public sidewalk or street.
- (4) A fire hydrant under any circumstances.

41.260 Dangerous Dogs to Be Penned and/or Muzzled

- (1) No person owning or harboring or having the care of a dangerous dog shall

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suffer or permit such animal to go unconfined on the premises of such person.

- (2) No person owning or harboring or having the care of a dangerous dog shall suffer or permit such dog to go beyond the premises of such person unless such dog is securely leashed and muzzled.

41.270 Failure to Comply with Dangerous Animal Declaration
[Amended Ord. 2008-10]

- (1) Any person, household or business that has been served a Dangerous Dog Declaration (41.620), shall take all precautions and comply immediately with the standards set by the ordinance.
- (2) If the animal has been classified as level 1 or 2 the offense described in this section, Failure to Comply with Dangerous Animal Declaration, shall be subject to fine as described in subsection 41.990.
- (3) Notwithstanding from section (2), if the animal has been classified as a level 3 or 4 the offense described in this section, Failure to Comply with Dangerous Animal Declaration, shall be subject to fine as described in subsection 41.990.
- (4) Notwithstanding from section (2) and (3), if the animal has been classified as level 5, the offense described in this section, Failure to Comply with Dangerous Animal Declaration, shall be subject to fine as described in subsection 41.990.

IMPOUNDING

41.310 Impounding of Strays

Any animal found running at large within the city limits of Adair Village, Oregon, shall be taken up and impounded by the City.

41.320 Impounding Certain Dogs

- (1) When any dog is found running at large in the City, or when a dog is a public nuisance described in Section 41.420, the Code Enforcement Officer shall impound the dog or cite the owner to court or both.
- (2) When a dog is impounded under section 41.300, the Code Enforcement Officer shall post at City Hall a notice giving the description of the dog, and the time, the date, and location where the dog was running at large. Said notice shall be posted for five business days. Reasonable effort shall be made to notify the owner that their dog has been impounded before disposing of the animal, as per

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section (3) below.

- (3) If the dog has been impounded for any reason other than being a dangerous animal and the owner of the dog does not claim it within the time frames set forth in subsection (2) above, the dog may be sold to another person for the sum of the charges mentioned in section 41.920. If no owner appears to redeem a dog within the allotted time, or if the dog has been impounded as a public nuisance for killing or injuring a person, it shall be given to the humane society for disposition.
- (4) Any dog impounded for biting or killing a person or other animal shall be held no less than 10 days before destruction to determine if the dog is rabid.
- (5) Any dog running at large, which because of its disposition or diseased condition is to hazardous to apprehend, may be destroyed by a peace officer, dog control officer, code enforcement officer, or by a person acting in defense of himself, his family or another person.

41.330 *Redemption*. Should the owner of a dog impounded for any reason desire its release, the owner shall pay an impound fee as set forth in Section 41.920. Any owner redeeming an impounded dog shall pay, in addition to the impound fee, the total of the daily care expenses accrued during the impound period, plus any other expenses incurred in the keeping of the dog.

PROHIBITIONS

41.410 Sale of Dangerous Dogs Prohibited

It shall be unlawful for any person to sell to any other person a dangerous dog within the city limits of Adair Village.

41.420 Dog as a Public Nuisance Prohibited

- (1) A dog is considered a public nuisance if it:
 - (a) Bites, injures, or causes injury to a person.
 - (b) Chases or threatens vehicles or persons.
 - (c) Damages or destroys property of persons other than the owner of the dog.
 - (d) Scatters garbage.
 - (e) Trespasses on private property of persons other than the owner of the dog.
 - (f) Disturbs any person by frequent or prolonged noise.
 - (g) Is a female in heat and running at large.
- (2) The owner or keeper of a dog in the City shall not allow his or her dog to be a public nuisance under subsection (1) of this ordinance.

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- (3) Any person who has cause to believe that a dog is being maintained as a public nuisance may complain, either orally or in writing, to the code enforcement officer. The complaint shall be considered sufficient cause for the City to investigate the matter and determine if the owner or keeper of the dog is in violation of this ordinance.
- (4) A dog shall not be in violation of this ordinance if he bites a person wrongfully assaulting the dog or the dog's owner or if he bites a person trespassing upon premises occupied by the dog's owner after being provoked by that person.

41.430 Cruelty to Animals.

- (1) No person shall torture, abandon, mutilate or needlessly kill any animal, nor shall any person transport or authorize to be transported any animal in a cruel or inhumane manner.
- (2) No person shall fail to provide any animal in their custody with food, drink, satisfactory sanitary conditions and protection from the elements nor shall any person tether or restrain any animal in an inhumane manner.
- (3) In the event any part of this section is violated, the code enforcement officer has the authority to impound the animal and may dispose of the animal under the provisions of section 41.300.
- (4) No person shall place or distribute any poison or other substance with the intent to harm any animal, except those animals commonly recognized as pests or rodents. Commercial exterminators, government agencies and any individual using such substances in an open area are required to post notice prior to application of any pest controlling agents or devices.

OTHER ANIMALS

41.510 Cats

- (1) Cats are declared to be personal property.
- (2) Any person within the city limits of Adair Village must maintain current verification of vaccination against rabies for their cats and present such verification to the Code Enforcement Officer upon request.
- (3) All sexually mature cats that are allowed by their owners to be outside their house must be spayed or neutered.

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41.520 Harboring Animals Without Documentation

Any person or persons within the city limits of Adair Village must obtain and keep documentation on all the animals in their possession or care, pertaining to rabies or alteration of the animal. If the owner of the animals in question is unable to provide proof of rabies shots or alterations, they are subject to a citation in accordance to section 41.990 of this ordinance.

41.530 Livestock and Poultry

No animals, livestock of any kind, or poultry shall be raised or kept on any property within the city limits of Adair Village, except as permitted by Adair Village Land Use Development Code (AVLUDC) Section 6.401. Dogs, cats or other traditionally domesticated animals may be kept, provided that they are not kept, bred or maintained for any commercial purposes. Harboring these animals on one's property even if the animals are not being used for commercial use will result in a citation in accordance to section 41.990 of this ordinance.

41.540 Horses, Ponies or Equines

No person shall ride or lead any horses or ponies or other equines in any park, public street, private property or sidewalk, except upon a designated bridle path without obtaining a special permit. A permit will be issued by the City Recorder upon approval of the City Council.

DANGEROUS ANIMALS

41.610 Dangerous Animals

- (1) Any animal or domestic animal which attempts to attack or attacks or harms any person or other animal is hereby declared a dangerous animal and a public nuisance. For purposes of this section, "animal" refers to both animals and domestic animals. It is the intent of the City to promote a safe coexistence between pet owners and citizens and to apply sanctions only in those instances where there is a need to protect public safety.

41.620 Classification of Levels of Dangerousness

An animal shall be classified as dangerous based upon specific behaviors exhibited by the animal. Behaviors establishing various levels of dangerousness are as follows:

- (1) Level 1 behavior is established if an animal at large is found to menace, chase, display threatening or aggressive behavior, or otherwise threaten or endanger the safety of any animal.
- (2) Level 2 behavior is established if an animal at large is found to menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of any person.

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- (3) Level 3 behavior is established if an animal, while confined, aggressively bites any person.
- (4) Level 4 behavior is established if an animal, while at large, aggressively bites or causes physical injury to any person or animal.
- (5) Level 5 behavior is established if:
 - (a) An animal, confined or not, causes the serious injury or death of any person;
 - (b) An animal, while at large, kills any animal;
 - (c) An animal engages in or is found to have been trained to engage in exhibitions of fighting; or
 - (d) An animal that has been classified as a Level 4 dangerous animal repeats the behavior described in subsection 41.620(4) of this section after the owner receives notice of Level 4 classification.
- (6) Notwithstanding subsections (1) through (4) of this section, the City Administrator or the City Administrator's designee shall have discretionary authority to refrain from classifying an animal as potentially dangerous, even if the animal has engaged in the behaviors specified in subsections 41.620(1) through 41.620(5) of this section, if the City Administrator or the designee determines that the behavior was the result of abusing or tormenting the animal or other extenuating circumstances. In any case, no animal shall be classified as dangerous if the behavior in question was directed against a trespasser inside any fully enclosed building on private property if all exterior doors of the building were locked at the time the trespassing occurred.

41.630 Identification of Dangerous Animals – Appeals – Restrictions Pending Appeal

- (1) City Administrator or the City Administrator's designee shall have authority to determine whether any animal has engaged in the behaviors specified in subsection 41.620 of this section. This determination shall be based upon an investigation that includes observation of and testimony about the animal's behavior. These observations and testimony can be provided by the animal control officer or by other witnesses who personally observed the behavior. They shall sign a written statement attesting to the observed behavior and agree to provide testimony regarding the animal's behavior if necessary.
- (2) The City Administrator or the City Administrator's designee shall give the animal's owner written notice by certified mail or personal service of the animal's classification as a dangerous animal and of the additional restrictions applicable to that animal by reason of its classification. If the owner denies that

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the behavior in question occurred, the owner may appeal the decision to the municipal judge by filing a written request for a hearing with the City Administrator within 10 days of the date the notice was mailed to the owner by certified mail or the owner was personally served.

- (3) The municipal judge shall hold a public hearing on any appeal from the City Administrator's decision to classify an animal as potentially dangerous. The owner and any other persons having relevant evidence concerning the animal's behavior as specified in subsection (B) of this section shall be allowed to present testimony. The municipal judge shall determine whether the animal exhibited the behavior, specified in subsection 41.620 of this section, in question. The municipal judge shall issue an order containing his or her determination, which shall be final.
- (4) Once the owner has received notice of the animal's classification as a Level 1, 2, 3, or 4 dangerous animal pursuant to subsection 41.620 of this section, the owner shall comply with the restrictions specified in the notice until such time as the chief of police or the chief's designee's decision may be reversed on appeal. Failure to comply with the specified restrictions pending the completion of all appeals shall be a violation of this chapter for which a fine can be imposed. Additionally, the chief of police or the designee shall have authority to impound the animal pending completion of all appeals.
- (5) If the city Administrator or the designee finds that an animal has engaged in Level 5 behavior, the animal shall be impounded pending the completion of an appeal. If the City Administrator or the designee's decision is upheld on appeal, the animal's owner shall be liable for the cost of the animal's impoundment.

[41.640 Regulation of Dangerous Animals](#)

The owner of a dangerous animal shall comply with the following regulations:

- (1) If the animal has been classified as a Level 1 dangerous animal, the animal shall be restrained by a physical device or structure that prevents the animal from reaching any public sidewalk or adjoining property whenever that animal is outside the owner's home and not on a leash.
- (2) If the animal has been classified as a Level 2 dangerous animal, the owner shall confine the animal within a secure enclosure whenever the animal is not on a leash or inside the home of the owner.

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- (3) If the animal has been classified as a Level 3 dangerous animal, the owner shall meet the requirements of subsection (2) of this section, and shall also post warning signs on the property where the animal is kept.
- (4) If the animal has been classified as a Level 4 dangerous animal, the owner shall meet the requirements of subsections (1), (2), and (3) of this section and shall, additionally, not permit the animal to be off the owner's property unless the animal is muzzled and restrained by an adequate leash and under the control of a capable person.
- (5) Any animal that has been classified as a Level 5 dangerous animal may be euthanized. In addition, the municipal court judge may suspend, for a period of up to five years, that animal owner's right to be the owner of any animal within the city limits, including animals currently owned by that person.

41.650 Banning of Dangerous Animals.

- (1) At the discretion of the City Administrator, an animal that has been classified as a Level 3 or 4 dangerous animal may be prohibited from entering or residing within the city limits except to be transported in a secure vehicle while passing through the City.
- (2) In addition, the City Administrator is empowered to ban a Level 3 or 4 animal from the city limits for a specified period of time or permanently; however, the animal's owner shall have the right of appeal, specified in section 41.630 (2), of any decision under this section.

41.660 Selling of Dangerous Animals

No person shall sell or otherwise transfer to another ownership of a dangerous animal within the city limits. No person shall secrete or harbor a dangerous animal for another while the owner of that animal exercises the right of appeal.

PENALTIES, CITATIONS, AND FEES

41.910 Penalties

Any owner or person in violation of this ordinance shall be given a citation, as described in Section 41.990.

41.920 Impound Fees

As designated by City Council Resolution.

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41.930 City Council Appeal

Any dog owner, believing him or herself aggrieved by the seizure and impounding of his or her dog, may apply to the City Administrator for the release of their dog, provided such appeal is filed within five days of the date the dog was impounded, and the City Administrator shall thereupon set a time and place for the hearing of such application and notify the Code Enforcement Officer and City Council of such meeting. The City Council shall have full power to determine whether the dog has been wrongfully impounded and whether it shall be released to its owner and upon what terms.

41.990 Citation Amounts

As designated by City Council Resolution, citations will be set for the following offenses.

- (1) Permitting a Dangerous Animal to be at large within the city limits.
- (2) Permitting a dog to be at large within the city limits.
- (3) Keeping a loud animal within the city limits.
- (4) Scoop Law.
- (5) Harboring animals without proof of spaying, neutering or rabies shots.
- (6) Harboring Livestock or Poultry.
- (7) Failure to Comply with Dangerous Animal Declaration. [Amended Ord. 2008-10]

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CHAPTER 42 CRIMINAL MISDEMEANORS AND VIOLATIONS

[Enacted 2008-09]

TITLE, SCOPE, AND AUTHORITY

42.005 Title

This chapter may be cited as the Criminal Misdemeanors and Violations Ordinance of the Public Protection section of the City of Adair Village City Code.

42.010 Purpose and Scope

- (1) It is the purpose of this Chapter to It is the intention of this chapter to make the prosecution of and the applicable penalty for all criminal misdemeanors and violations match as closely as possible those provided under state law.

42.020 General Authority

- (1) The City Administrator, upon consent and direction of the City Council, is responsible for the administration, enforcement, and oversight of this Chapter of the City of Adair Village City Code, and to apply these provisions consistent with the general laws of the State of Oregon.
- (2) The City Council may, by order, designate enforcement officers to assist the City Administrator in enforcing this Chapter.
- (3) Provisions of ORS 609 shall apply when not in conflict with or superseded by this ordinance.

42.030 Severability

- (1) If any part or parts of this ordinance are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

DEFINITIONS

42.110 Definitions

In addition to those definitions contained in the Oregon Criminal Code of 2006, adopted by reference and made a part of this chapter, the following words or phrases, except where the context clearly indicates a different meaning, shall mean:

Hinder. Any attempt to delay, impede, or prevent action. "Hinder" means any attempt to delay, impede, or prevent action.

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Interfere. Any means to interpose in a way that hinders or impedes.

Obstruct. Any means to hinder from passage, action, or operation

PROCEDURES

42.210 Procedures

The criminal procedures applicable to the prosecution of misdemeanors and violations contained in the Oregon Revised Statutes as constituted on January 2, 2006, are adopted by reference and made a part of this chapter, and all references therein to “district attorney” shall include the City Attorney. This shall include those provisions relating to defenses and burden of proof, general principles or criminal liability, parties, and general principles of justification.

ADOPTION OF THE OREGON CRIMINAL CODE OF 2006

42.310 Adoption of State Criminal Misdemeanor Offenses and Violations

Each and every misdemeanor and violation made an offense against the State of Oregon under the provisions in Oregon Revised Statutes Chapters 161 through 169; 419(A), (B), and (C); 471; and 475; as constituted on January 2, 2006, are adopted by reference and made a part of this chapter, and designated an offense against the City of Adair Village. A person who violates any one of those provisions within the jurisdiction of the City of Adair Village is in violation of this chapter and may be charged with the offense of violating this section and reference shall be made in the charging instrument to that particular section of the Oregon Revised Statutes, as incorporated by reference, which has been violated. In the event that any other section of this chapter or any other ordinance creates a specific misdemeanor or violation offense in conflict with a misdemeanor or violation offense herein incorporated by reference, the provisions of the specific ordinance misdemeanor or ordinance violation offense shall govern.

PENALTIES, CITATIONS, AND FEES

42.910 Penalties

Any owner or person in violation of this ordinance shall be given a citation, as designated by City Council Resolution.

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CHAPTER 43 PARKING AND STANDING VEHICLES

[Enacted, Ord. 2013-01]
[Replacing, Ord. 2009-01]
[Amended, Ord. 2015-01]

TITLE, SCOPE, AND AUTHORITY

43.005 Title

This chapter may be cited as the Parking and Standing Vehicles section of the City of Adair Village City Code.

43.010 Purpose and Scope

(1) It is the purpose of this chapter to define conditions which exist that may prevent the free and easy flow of traffic and to provide a just, equitable, and practicable method to prohibit and abate these conditions within the boundaries of the City of Adair Village, Benton County, and State of Oregon.

(2) The open accumulation and apparent storage of an inoperable or discarded vehicles, trailers, and recreational vehicles is hereby found to create a condition tending to reduce the value of private property, to promote blight, deterioration, and unsightliness, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors citizens, to create a harborage for disease vectors such as, rodents and insects, and to be injurious to the health, safety and general welfare. Therefore, the presence of vehicles, trailers, and recreational vehicles, as described in the provisions below an inoperable vehicle or discarded vehicle on private or public property is hereby declared to constitute a public nuisance which may be abated in accordance with the provisions of this ordinance.

43.020 General Authority

- (1) The Chief of Police City Administrator, upon consent and direction of the City Council, is responsible for the administration, enforcement, and oversight of this Chapter of the City of Adair Village City Code, and to apply these provisions consistent with the general laws of the State of Oregon.
- (2) The City Council may designate enforcement officers to assist the Chief of Police City Administrator in enforcing this Chapter.

43.030 Severability

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- (1) If any part or parts of this ordinance are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

DEFINITIONS

43.110 Definitions

- (1) Alley. As defined herein, a street through the middle of a block.
- (2) Bus stand. A fixed area in the roadway adjacent to the curb to be occupied exclusively by buses for layover in operating schedules or waiting for passengers.
- (3) Curb. The extreme edge of the improved portion of the roadway.
- (4) Loading zone. A space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials or freight.
- (5) Park or parking. The standing of a vehicle, whether occupied or not, except when a vehicle is temporarily standing for the purpose of and while actually engaged in loading or unloading.
- (6) Pedestrian. Any person afoot.
- (7) Person. Every natural person, firm, partnership, association or corporation.
- (8) Skates. Includes roller skates, in-line roller skates, blades, skateboards, scooters, coasters, roller skis or any similar device that is used as a means of transportation.
- (9) Skate operation. The act of propelling skates by means other than carrying them.
- (10) Traffic lane or roadway. That portion of the roadway used for the movement of a single line of vehicles. That portion of a highway that is improved, designed, or ordinarily used for vehicular travel, exclusive of the shoulder. (as per ORS 801.450)
- (11) Truck trailer. Any trailer designed and used primarily for carrying loads other than passengers whether designed as a balance trailer, pole trailer, semitrailer or self-supporting trailer, as this term is defined in the Oregon Vehicle Code.
- (12) Emergency Vehicle. Any vehicle that is operated during the course of duty by a Police Officer, Reserve Police Officer, Code Enforcement Officer, Firefighter or Emergency Medical Technician.

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- (13) Highway. Any surface that is designed as a lane for travel for vehicles that is open to the public. Every public way, road, street, thoroughfare, and place, including bridges, viaducts, and other structures within the boundaries of this City, used or intended for use of the general public for vehicles or vehicular traffic. (as per ORS 801.305)
- (14) Bike Lane. A lane of travel designed specifically for bicycles to travel upon.
- (15) Park or Parking. The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

43.115 Emergency Vehicle Exemption.

- (1) Emergency Vehicles are hereby exempt from the rules established from this chapter when responding to an emergency.
- (2) Notwithstanding from subsection (1), when an emergency vehicle is standing at an emergency scene and is parked in a manner that may be potentially hazardous to pedestrians or other drivers, the operator of an emergency vehicle shall activate a visual warning device.

PARKING AND TRAFFIC OFFENSES

43.210 Adoption of State Laws

Parking and Traffic offenses as defined by the Oregon Vehicle Code are hereby adopted and are punishable in accordance to provisions set in the City Code.

This sub-section establishes places where stopping, standing and parking a vehicle are prohibited for purposes of the penalties under ORS 811.555 (Illegal stopping, standing or parking). Except as provided under an exemption in ORS 811.560 (Exemptions from prohibitions on stopping, standing or parking), a person is in violation of ORS 811.555 (Illegal stopping, standing or parking) if a person parks, stops or leaves standing a vehicle in any of the following places:

- (1) Upon a roadway outside a business district or residence district, whether attended or unattended, when it is practicable to stop, park or leave the vehicle standing off the roadway. Exemptions under ORS 811.560 (Exemptions from prohibitions on stopping, standing or parking) (1), (7) and (9) are applicable to this subsection.
- (2) On a shoulder, whether attended or unattended, unless a clear and unobstructed width of the roadway opposite the standing vehicle is left for the passage of other vehicles and the standing vehicle is visible from a distance of 200 feet in each direction upon the roadway or the person, at least 200 feet in each direction upon

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the roadway, warns approaching motorists of the standing vehicle by use of flaggers, flags, signs or other signals. Exemptions under ORS 811.560 (Exemptions from prohibitions on stopping, standing or parking) (9) are applicable to this subsection.

- (3) On the roadway side of a vehicle stopped or parked at the edge or curb of a highway. Exemptions under ORS 811.560 (Exemptions from prohibitions on stopping, standing or parking) (7) are applicable to this subsection.
- (4) On a sidewalk. Exemptions under ORS 811.560 (Exemptions from prohibitions on stopping, standing or parking) (4) to (7) are applicable to this subsection.
- (5) Within an intersection. Exemptions under ORS 811.560 (Exemptions from prohibitions on stopping, standing or parking) (4) to (7) are applicable to this subsection.
- (6) On a crosswalk. Exemptions under ORS 811.560 (Exemptions from prohibitions on stopping, standing or parking) (4) to (7) are applicable to this subsection.
- (7) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs and markings. For purposes of this subsection the safety zone must be an area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone. Exemptions under ORS 811.560 (Exemptions from prohibitions on stopping, standing or parking) (4) to (7) are applicable to this subsection.
- (8) Alongside or opposite a street excavation or obstruction when stopping, standing or parking would obstruct traffic. Exemptions under ORS 811.560 (Exemptions from prohibitions on stopping, standing or parking) (4) to (7) are applicable to this subsection.
- (9) Upon a bridge or other elevated structure upon a highway. Exemptions under ORS 811.560 (Exemptions from prohibitions on stopping, standing or parking) (4) to (8) are applicable to this subsection.
- (10) On any railroad or rail fixed guide way system tracks or within seven and one-half feet of the nearest rail at a time when the parking of vehicles would conflict with operations or repair of the tracks. Exemptions under ORS 811.560 (Exemptions from prohibitions on stopping, standing or parking) (4) to (7) are applicable to this subsection.
- (11) At any place where traffic control devices prohibit stopping. Exemptions under ORS 811.560 (Exemptions from prohibitions on stopping, standing or parking) (4) to (7) are applicable to this subsection.

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- (12) In front of a public or private driveway. Exemptions under ORS 811.560 (Exemptions from prohibitions on stopping, standing or parking) (2) and (4) to (7) are applicable to this subsection.
- (13) Within 10 feet of a fire hydrant. Exemptions under ORS 811.560 (Exemptions from prohibitions on stopping, standing or parking) (2) and (4) to (7) are applicable to this subsection.
- (14) Within 20 feet of a crosswalk at an intersection. Exemptions under ORS 811.560 (Exemptions from prohibitions on stopping, standing or parking) (2) and (4) to (7) are applicable to this subsection.
- (15) Within 50 feet upon the approach to an official flashing signal, stop sign, yield sign or traffic control device located at the side of the roadway if the standing or parking of a vehicle will obstruct the view of any traffic control device located at the side of the roadway. Exemptions under ORS 811.560 (Exemptions from prohibitions on stopping, standing or parking) (2) and (4) to (7) are applicable to this subsection.
- (16) Within 15 feet of the driveway entrance to a fire station and on the side of a street opposite the entrance to a fire station, within 75 feet of the entrance. Exemptions under ORS 811.560 (Exemptions from prohibitions on stopping, standing or parking) (2) and (4) to (7) are applicable to this subsection.
- (17) At any place where traffic control devices prohibit standing. Exemptions under ORS 811.560 (Exemptions from prohibitions on stopping, standing or parking) (2) and (4) to (7) are applicable to this subsection
- (18) Improper positioning of vehicle upon a two-way road or highway, the vehicle shall be positioned so that the right-hand wheels are parallel to and within 12 inches of the right curb or, if none, as close as possible to the right edge of the right shoulder
- (19) On a bicycle lane. Exemptions under ORS 811.560 (Exemptions from prohibitions on stopping, standing or parking) are applicable to this subsection.
- (20) On a bicycle path. Exemptions under ORS 811.560 (Exemptions from prohibitions on stopping, standing or parking) are applicable to this subsection. [1983 c.338 §669; 1985 c.21 §1; 1985 c.334 §1; 1989 c.433 §2; 1997 c.249 §234; 2001 c.522 §9]

43.220 Prohibited Parking

- (1) In addition to provisions of the motor vehicle laws of Oregon prohibiting parking, no person shall park a vehicle:

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- (a) In any alley exceeding 5 consecutive minutes in any one-hour period or the actual time necessary to complete the act of loading or unloading, whichever is less.
- (b) Upon any street for the purpose of:
 - (1) Displaying such vehicle for sale;
 - (2) Greasing or repairing such vehicle except repairs necessitated by an emergency;
 - (3) Displaying advertising from such vehicle;
- (c) Upon any private property in the City without the consent of the owner or person in lawful possession or control of the property in excess of 48 hours. [Such as parking in the parking lot of Santiam Christian School];
- (d) Upon any roadway except where specifically authorized by signage or order of a Police Officer; Designee of the Chief of Police, or Chief of Police;
- (e) Upon any surface that is not improved or designed specifically for vehicle parking on private property;
- (f) Upon any street where the curb is painted Yellow or Red by the City;
- (g) Upon any street or highway facing any direction other than with the flow of traffic.

- (2) The offense described in this section, Prohibited Parking, is a traffic violation

43.230 Parking Oversized Vehicles Prohibited

- (1) No oversized vehicles shall be parked on any residential streets, street, alleys, or public rights-of-way within the city limits of Adair Village for more than seven (7) days four (4) consecutive days, without a valid permit issued by the City.
- (2) For the purposes of this section, the repositioning of any such vehicle or combination thereof from one parked position on City streets, alleys, or public rights-of-way within the city limits of Adair Village within 72 hours after it is moved shall not be treated as interrupting the continuity of the time it has been parked.
- (3) "Oversized vehicle" shall mean any truck other than a pickup truck, any bus, any motor home, or any vehicle to which a camper is attached. For the purposes of this section, any combination of vehicles with an overall length of 23 or exceeding seven (7) feet in width shall be a violation.

43.235 Prohibited Trailer and Recreational Vehicle Parking

- (1) No person shall park a motor home, travel trailer, recreational vehicle, utility trailer, boat trailer, truck with camper, camper, livestock trailer, or any other

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type of trailer designed to be pulled by a vehicle, or any other type of vehicle or trailer used for recreational purpose or sleeping, upon City streets, any street, parking strips, alleys, public parks, or public right of ways within the city limits of Adair Village for more than four (4) consecutive days, without a valid permit issued by the City.

- (2) For the purposes of this section, the repositioning of any such vehicle or combination thereof from one parked position on City streets, alleys, or public rights-of-way within the city limits of Adair Village within 72 hours after it is moved shall not be treated as interrupting the continuity of the time it has been parked.
- (3) No person shall be allowed to sleep, cook, or otherwise use any of the trailers or recreational vehicles as outlined in Section 1 as a means for housing, while parked upon any street, parking strip, alley, public park, or public right of way without first receiving a permit from the City.

43.240 Commercial Vehicle Parking on Residential Streets

- (1) No person shall park a commercial vehicle, which includes Truck Trailer, semi, or full trailer, trailer designed to be towed by a truck trailer or tractor, or any part thereof upon a residential street.
- (2) Commercial Vehicle. A general definition for a commercial vehicle is a vehicle that is used to transport people or property for profit. A commercial motor vehicle is defined by the Oregon Vehicle Code as a vehicle that will be operating at a gross vehicle weight rating or combination weight over 26,000 pounds. The definition also includes vehicles designed to transport 16 or more persons and vehicles designed to transport hazardous materials regardless of weight. This definition excludes fire trucks, emergency vehicles, motor homes and recreational vehicles operated solely for personal use.
- (3) It shall be a defense to any complaint alleging violation of this Section that the purpose of such parking was to load or unload goods, materials, or equipment at premises abutting the residential street for which there is no other access.

43.250 Parking Vehicle on City Street for Vending Purposes

- (1) No person shall park or leave standing a vehicle on a City street for the purpose of advertising, selling, or offering for sale any merchandise.

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REMOVAL, ARREST, AND IMPOUNDMENT

43.310 Removal of Dangerously or Illegally Parked Vehicle

The Chief of Police, or the Chief of Police's designee City, when finding a motor vehicle parked in violation Sections 43.210-43.250 of this ordinance may cause said vehicle to be removed from the street to a place of storage, and shall not release said vehicle to its owner or person in charge thereof, unless bail first is posted for the offense and the actual charges for towing, storage, and impoundment are first paid.

43.320 Lien Upon Vehicle

The City shall have a lien on all vehicles impounded under Sections 43.220-43.240 for all bail and other lawful charges against said motor vehicle, and said vehicle shall not be released to its owner without prior payment of any bail or other charges against said vehicle, plus actual expenses incurred by the City in impounding and storing said vehicle.

43.330 Requirement of Complain

Notice meeting the requirements of ORS 221.340 .333 shall be sufficient to act as a complaint for violation of Sections 43.210-.237, and any such notice placed in a conspicuous place on a motor vehicle in violation of Sections 43.210-.237 shall be presumptive notice thereof to the owner and operator of such vehicle.

43.340 Arrest of Vehicle

Upon the failure of the owner or person in charge of any vehicle to post bail *prior to or at the first scheduled court proceeding concerning the cited* violation of any ordinance governing the parking of motor vehicles upon the streets or public properties within the City, the court may issue a warrant for the arrest of the motor vehicle. Any officer of this City may service the warrant by impounding the vehicle, if found within the corporate limits of this City, and he may go upon private property to so impound such vehicle. Any vehicle so impounded shall not be released to its owner without payment of all bail or other charges against said vehicle, plus actual expenses incurred by the City in impounding and storing said vehicle.

43.350 Notice of Impoundment

After any motor vehicle has been impounded as hereinbefore provided, the Chief of Police City Administrator, or the Chief's his/her designee, shall, within three days of such impoundment, cause a registered letter to be sent, return receipt requested, to the registered owner and legal owner, if any, of the motor vehicle, as provided in ORS 483.384 (2).

43.360 Immobilizing Vehicle

As an alternative to impoundment of a vehicle as provided by Section 43.255, any officer of this City may upon finding such vehicle within the corporate limits of this City, temporarily immobilize the same by installing on or attaching to such vehicle, a device designed to restrict

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the normal movement of such vehicle. If such vehicle is so immobilized, the officer so installing or attaching such device shall conspicuously affix to such vehicle a notice in writing on a form provided advising the owner, driver, or person in charge of such vehicle the such vehicle has been immobilized by the City of Adair Village for violation of Sections 43.210-.237 and that release of such immobilization may be obtained at a designated place, that unless arrangements are made for release of such vehicle before 10:00 AM of the following day, the vehicle will be removed from the street at the direction of the Chief of Police City Administrator, or his/her designee, of the City, and that removing or attempting to remove the device before a release is obtained is unlawful and containing such further information as the City shall deem necessary.

43.362 Impounding Immobilized Vehicle

Any vehicle immobilized under provisions of Section 43. 265 360, which is not lawfully released from immobilization by 10:00 AM of the following day shall be impounded and placed in storage.

43.364 Removal of Immobilization Device

Any person who attempts without proper authority to remove any device installed or attached to a motor vehicle under Section 43.265 360 before a release is obtained or who attempts to move such vehicle without first obtaining a release shall may be punished by a fine of not more than \$500 or imprisonment not more than 100 days, or both.

43.366 Taking of Impounded Vehicle

Any person who attempts to take or drive away any motor vehicle impounded and stored by the City in any place, public or private, may be punished by a fine of not more than \$500 or imprisonment not more than 100 days, or both.

43.370 Removing Notice of Violation

Any person other than the owner or person lawfully in possession of such motor vehicle who shall removes a written notice of violations of Sections 43.110 210-.250 from the place where posted upon such vehicle, or who shall destroys or obstructs such notice shall may be punished by a fine of not more than \$500 or imprisonment not more than 100 days, or both.

43.380 Violations - Forfeitures

Violations of Sections 43.110-.275 .210 to 43.250 may be punishable by a fine in an amount set by resolution of the City Council. Such fine shall be recoverable from the owner, or person in possession of the vehicle, or from said vehicle in the nature of an in rem proceeding. The Municipal Court of the City shall have authority to levy such penalty against such a vehicle in an in rem proceeding.

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PENALTIES

43.990 Penalties

Bail schedules will be established by the City Council of Adair Village by resolution.

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**CHAPTER 44 SEIZURE AND IMPOUNDMENT OF MOTOR VEHICLES FOR
TRAFFIC OFFENSES**

[Enacted Ord. 2009-04]

TITLE, SCOPE, AND AUTHORITY

44.005 Title

This chapter may be cited as the Seizure and Impoundment of Motor Vehicles for Traffic Offenses of the Public Protection section of the City of Adair Village City Code.

44.010 Purpose and Scope

- (1) It is the purpose of this chapter to define conditions which exist and allow for a police officer to seize and impound a vehicle that was being operated by a subject in violation of certain traffic offenses.

44.020 General Authority

- (1) ORS (Oregon Revised Statutes) 809.720 grants the same privileges to police officers as this ordinance grants.
- (2) The Chief of Police, upon consent and direction of the City Council, is responsible for the administration, enforcement, and oversight of this Chapter of the City of Adair Village City Code, and to apply these provisions consistent with the general laws of the State of Oregon.
- (3) The City Administrator, upon consent and direction of the City Council, is responsible to act as the Hearings Officer for this Chapter of the City of Adair Village City Code, in which a hearing is requested by this code regarding the seizure and impoundment of a vehicle.

44.030 Severability

- (1) If any part or parts of this ordinance are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.
- (2) Reference in this Ordinance to any provision or section of ORS is specific to the subject ORS provision or section effective as of the date of the citation or City action.

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VEHICLE IMPOUNDMENT, TOWING, AND RELEASE

44.110 Vehicle Impoundment

- (1) A vehicle may be seized and impounded without prior notice when a police officer reasonable believes the operator of the vehicle has committed any one of the following traffic offenses:
 - a. Driving uninsured in violation of ORS 806.010;
 - b. Driving without driving privileges or in violation of license restrictions in violation of ORS 807.010;
 - c. Driving while suspended or revoked in violation of ORS 811.175 or ORS 811.182; and/or
 - d. Driving while under the influence of intoxicants in violation of ORS 813.010.

44.120 Towing; Storage; Lien Procedures

The City may contract the services of one or more competent towing service firms for the removal, storage and, if necessary, lien foreclosure proceedings on vehicles seized and impounded under the provisions of this ordinance. Such towing service firms shall have a lien on the vehicle for just and reasonable towing and storage charges and may retain possession of the vehicle until the charges are paid and may have the vehicle sold at public auction to satisfy the lien. The lien that attaches to the vehicle shall be a possessory chattel lien in accordance with ORS 87.142 and shall be foreclosed in the manner provided in ORS 87.152 to 87.212, except if the appraised value of the vehicle is \$1,000.00 or less, the vehicle shall be disposed of in the manner provided for in ORS 819.220 through 819.250.

44.130 Notice; Hearing; Order

Upon seizure and impoundment of a vehicle under the authority of this ordinance, notice that the vehicle has been impounded shall be given to the same parties, in the same manner and within the same time limits as provided in ORS 819.180. If a hearing to contest the seizure and impoundment is requested, it shall be provided in accordance with the provisions of ORS 809.716. For the purpose of applying ORS 809.716, the City Administrator shall be the Hearings Officer. If the person requesting the hearing does not appear at the scheduled hearing, the Hearings Officer may enter an order supporting the seizure and impound. The decision of the Hearings Officer is final.

44.140 Release to Registered Owner

A vehicle which has been seized and impounded under the provisions of this ordinance may be released to the registered owner, or the owner's authorized agent, if so ordered by the Hearings Officer and otherwise upon furnishing proof of payment of the towing bill and all accrued storage fees to the Adair Village Police Department and upon payment of an impound fee, established by resolution of the City Council, to the Adair Village Police Department.

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Unless the vehicle is to be removed from storage without being driving, the person to which the vehicle is to be released must also furnish proof to the Adair Village Police Department that the person has a valid operator's license and of compliance with financial responsibility requirements for the vehicle.

[44.150 Inventory Procedure](#)

All impounded vehicles shall be inventoried by a police officer prior to towing from the scene, or as soon thereafter as reasonable possible. The officer conducting the inventory shall make a written record of the condition of the vehicle and of any personal property located therein, including all self-contained items. Locked containers shall be inventoried as a singular item and shall not be forced open unless special circumstances exist which justify the opening of the container under the policy reasons set forth above. The glove box, the trunk, and all other closed compartments of the vehicle shall be inspected, provided they are unlocked. Objects found within the vehicle shall be scrutinized only to the extent necessary to identify them. Once the inventory is completed the vehicle shall be secured in a safe place.

[Exhibit A-ORS References](#)

[809.716 Hearing on Impoundment](#)

- (1) A person entitled to lawful possession of a vehicle impounded under ORS 809.720 may request a hearing to contest the validity of the impoundment. A request must be made within five calendar days after the date that notice of the impoundment is mailed, as evidenced by the postmark, not including Saturdays, Sundays or holidays. The request shall be made to a person designated by the impounding police agency to receive such requests.
- (2) When a timely request for a hearing is made, a hearing shall be held before a hearings officer designated by the impounding police agency. The hearing shall be set for four calendar days after the request is received, excluding Saturdays, Sundays and holidays, but may be postponed at the request of the person asking for the hearing.
- (3) The impounding police agency shall have the burden of proving by a preponderance of the evidence that there were reasonable grounds to believe that the vehicle was being operated in violation of ORS 806.010, 807.010, 811.175, 811.182 or 813.010. The police officer who ordered the vehicle impounded may submit an affidavit to the hearings officer in lieu of making a personal appearance at the hearing.
- (4) If the hearings officer finds that the impoundment of the vehicle was proper, the hearings officer shall enter an order supporting the removal and shall find that the owner or person entitled to possession of the vehicle is liable for usual and customary towing and storage costs. The hearings officer may also find the

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owner or person entitled to possession of the vehicle liable for costs of the hearing.

- (5) If the hearings officer finds that impoundment of the vehicle was improper, the hearings officer shall order the vehicle released to the person entitled to possession and shall enter a finding that the owner or person entitled to possession of the vehicle is not liable for any towing or storage costs resulting from the impoundment. If there is a lien on the vehicle for towing and storage charges, the hearings officer shall order it paid by the impounding police agency.
- (6) A police agency may contract with another agency or entity to conduct hearings under this section. [Formerly 806.016; 1997 c.514 §4; 1999 c.1051 §284a; 2001 c.748 §3]

809.720 Impoundment for Specified Offenses; Grounds; Notice; Release

- (1) A police officer who has probable cause to believe that a person, at or just prior to the time the police officer stops the person, has committed an offense described in this subsection may, without prior notice, order the vehicle impounded until a person with right to possession of the vehicle complies with the conditions for release or the vehicle is ordered released by a hearings officer. This subsection applies to the following offenses:
- (a) Driving while suspended or revoked in violation of ORS 811.175 or 811.182.
 - (b) Driving while under the influence of intoxicants in violation of ORS 813.010.
 - (c) Operating without driving privileges or in violation of license restrictions in violation of ORS 807.010.
 - (d) Driving uninsured in violation of ORS 806.010.
- (2) Notice that the vehicle has been impounded shall be given to the same parties, in the same manner and within the same time limits as provided in ORS 819.180 for notice after removal of a vehicle.
- (3) A vehicle impounded under subsection (1) of this section shall be released to a person entitled to lawful possession upon compliance with the following:
- (a) Submission of proof that a person with valid driving privileges will be operating the vehicle;
 - (b) Submission of proof of compliance with financial responsibility requirements for the vehicle; and
 - (c) Payment to the police agency of an administrative fee determined by the agency to be sufficient to recover its actual administrative costs for the impoundment.

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- (4) Notwithstanding subsection (3) of this section, a person who holds a security interest in the impounded vehicle may obtain release of the vehicle by paying the administrative fee.
- (5) When a person entitled to possession of the impounded vehicle has complied with the requirements of subsection (3) or (4) of this section, the impounding police agency shall authorize the person storing the vehicle to release it upon payment of any towing and storage costs.
- (6) Notwithstanding subsection (3) of this section, the holder of a towing business certificate issued under ORS 822.205 may foreclose a lien created by ORS 87.152 for the towing and storage charges incurred in the impoundment of the vehicle, without payment of the administrative fee under subsection (3)(c) of this section.
- (7) Nothing in this section or ORS 809.716 limits either the authority of a city or county to adopt ordinances dealing with impounding of uninsured vehicles or the contents of such ordinances except that cities and counties shall comply with the notice requirements of subsection (2) of this section and ORS 809.725.
(8) A police agency may not collect its fee under subsection (3)(c) of this section from a holder of a towing business certificate issued under ORS 822.205 unless the holder has first collected payment of any towing and storage charges associated with the impoundment. [1997 c.514 §2; 2001 c.748 §1]

819.180 Notice After Removal; Method; Contents

- (1) If an authority takes custody of a vehicle under ORS 819.120, the authority shall provide, by certified mail within 48 hours of the removal, written notice with an explanation of procedures available for obtaining a hearing under ORS 819.190 to the owners of the vehicle and any lessors or security interest holders as shown in the records of the Department of Transportation. The notice shall state that the vehicle has been taken into custody and shall give the location of the vehicle and describe procedures for the release of the vehicle and for obtaining a hearing under ORS 819.190. The 48-hour period under this subsection does not include holidays, Saturdays or Sundays.
- (2) Any notice given under this section after a vehicle is taken into custody and removed shall state all of the following:
 - (a) That the vehicle has been taken into custody and removed, the identity of the appropriate authority that took the vehicle into custody and removed the vehicle and the statute, ordinance or rule under which the vehicle has been taken into custody and removed.

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- (b) The location of the vehicle or the telephone number and address of the appropriate authority that will provide the information.
- (c) That the vehicle is subject to towing and storage charges, the amount of charges that have accrued to the date of the notice and the daily storage charges.
- (d) That the vehicle and its contents are subject to a lien for payment of the towing and storage charges and that the vehicle and its contents will be sold to cover the charges if the charges are not paid by a date specified by the appropriate authority.
- (e) That the owner, possessor or person having an interest in the vehicle and its contents is entitled to a prompt hearing to contest the validity of taking the vehicle into custody and removing it and to contest the reasonableness of the charges for towing and storage if a hearing is timely requested.
- (f) The time within which a hearing must be requested and the method for requesting a hearing.
- (g) That the vehicle and its contents may be immediately reclaimed by presentation to the appropriate authority of satisfactory proof of ownership or right to possession and either payment of the towing and storage charges or the deposit of cash security or a bond equal to the charges with the appropriate authority. [1983 c.338 §424; 1985 c.316 §4; 1993 c.385 §8; 1995 c.758 §14]

819.220 Disposal of Vehicle Without Notice and Public Auction

- (1) If a vehicle taken into custody under ORS 819.110 or 819.120 is appraised at a value of \$1,000 or less, or if it is an abandoned vehicle appraised at a value of \$1,000 or less but more than \$500, the authority with custody of the vehicle may dispose of the vehicle without notice and public auction if any of the following occur:
 - (a) The owner of the vehicle and any lessor or security interest holder shown in the records of the Department of Transportation sign a release, under oath, disclaiming any future interest in the vehicle.
 - (b) The owner and any lessor or security interest holder shown in the records of the department have been sent notification of the location of the vehicle and, within 15 days after the date the notification is mailed, the persons notified have not signed releases or the vehicle has not been reclaimed. Failure to sign a release or to reclaim the vehicle shall constitute a waiver of interest in the vehicle.
- (2) Upon completion of the requirements under this section, the authority may sell the vehicle without notice and public auction to any of the persons described in this subsection. The authority shall issue to the person purchasing the vehicle a

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certificate of sale described under ORS 819.240 and shall notify the person that the person might be required by the provisions of ORS 819.016 to apply for a salvage title. The authority may sell a vehicle under this subsection to any of the following:

- (a) A dismantler with a certificate issued under ORS 822.110.
 - (b) Any other person who complies with the provisions of ORS 819.010.
- (3) Upon disposition of a vehicle under this section the vehicle shall cease to be a vehicle for purposes of the vehicle code, except as provided in the following:
- (a) The person purchasing the vehicle is subject to the provisions of ORS 819.010 and 819.040 relating to salvage procedures and requirements for destruction of vehicles.
 - (b) The provisions of ORS 819.030 apply to the procedures of the department relating to the vehicle, as appropriate.
- (4) The authority to sell or dispose of a vehicle under this section is in addition to any authority under ORS 819.210. [1983 c.338 §428; 1985 c.16 §225; 1985 c.316 §6; 1991 c.873 §40; 1993 c.326 §7; 1993 c.751 §76; 1995 c.758 §17; 2005 c.654 §30]

819.230 Renumbered

[1983 c.338 §810; 2007 c.630 §4; renumbered 819.480 in 2007]

819.240 Certificate of Sale; Issuing Title and Registration Card for Vehicle

- (1) When any vehicle is sold under ORS 819.210 or 819.220, the authority selling the vehicle under that section, at the time of the payment of the purchase price, shall execute a certificate of sale in duplicate. The original certificate of sale shall be delivered to the purchaser and the copy shall be retained by the authority. The certificate of sale shall contain the name and address of the purchaser, the date of sale, the consideration paid, a description of the vehicle and a stipulation that no warranty is made as to the condition or title of the vehicle.
- (2) The purchaser, upon presentation of the certificate of sale to the Department of Transportation and payment of the fees required by law, is entitled to be issued title and a registration card for the vehicle or to be issued a salvage title, as appropriate. [1983 c.338 §429; 1991 c.873 §41; 1993 c.233 §65]

819.250 Return of Sale; Proceeds

- (1) When any vehicle is sold under ORS 819.210 or 819.220, the authority selling the

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vehicle shall transmit to the Department of Transportation, and to the treasurer of that authority, a return of sale setting forth:

- (a) A description of the vehicle;
 - (b) The purchase price;
 - (c) The name and address of the purchaser;
 - (d) The costs incurred in the sale; and
 - (e) The costs and expenses incurred in the removal, preservation and custody of the vehicle.
- (2) The authority selling the vehicle under ORS 819.210 or 819.220 shall transmit to the treasurer of that authority, with the return of sale, the balance of the proceeds of the sale. The authority may deduct from the proceeds the costs incurred in the sale and the costs and expenses incurred in the removal, preservation and custody of the vehicle. Upon receipt of the return of sale and such proceeds, the treasurer of the authority shall deposit such proceeds in the general fund of the authority and file in the treasurer's office the return of sale. [1983 c.338 §430; 1985 c.16 §226; 1985 c.94 §1]

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CHAPTER 45 EMERGENCY POWERS

[Enacted, Ord. 2009-05]
[Amended, Ord. 2017-02]

45.16.010 Purposes

The declared purposes of this chapter are to: (1) provide for the preparation and carrying out of plans for the protection of persons and property within this City in the event of an emergency; the direction of the emergency management organization; and the coordination of the emergency functions of this City with all other public agencies, corporations, organizations and affected private persons; and (2) implement the provisions of ORS Chapter 401.

45.16.020 Emergency Defined

As used in this chapter, “emergency” means any man made or natural event or circumstance causing or threatening, loss of life, injury to person or property, human suffering or financial loss, and includes but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material as defined in ORS 466, civil disturbance riot, sabotage or war.

45.16.030 Emergency Program Manager

The City Administrator is hereby designated as the City of Adair Village Emergency Program Manager. (1) The Emergency Program Manager may appoint an Emergency Management Coordinator to serve as his/her deputy and to coordinate the preparation of the Emergency Management Plan and operation of the City Emergency Operations Center. (2) The City Emergency Program Manager shall be responsible for the development of the City Emergency Plan which shall provide for the effective mobilization of all of the resources, both public and private, to meet any condition constituting a local emergency, and shall provide for the organization, powers and duties, services and staff of the emergency organization. Such plan shall take effect upon adoption by resolution of the City Council.

45.16.040 Powers and Duties of the Emergency Program Manager

The Emergency Program Manager is empowered to:

- (1) Request the City Council to proclaim the existence or threatened existence of a “local emergency” or to issue such proclamation if the City Council is not reasonably available - whenever a local emergency is proclaimed by the Emergency Program Manager, the City Council shall take action to ratify the proclamation within seven (7) days thereafter or the proclamation shall have no further force or effect.
- (2) Request the Governor, in accordance with the County, to proclaim a “state of emergency” when, in the opinion of the Emergency Manager, the locally available resources are inadequate to cope with the emergency.
- (3) Control and direct the effort of the emergency organization of the City for the accomplishment of the purposes of this Act.

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- (4) Direct cooperation between and coordination of services and staff of the emergency organization or this City, and resolve questions of authority and responsibility that may arise between them.
- (5) Represent this City in all dealings with the public or private agencies on matters pertaining to emergencies as defined in this Act.
- (6) In the event of the proclamation of a “local emergency” as provided in this section, the proclamation of a “state of emergency” by the Governor or the existence of a “state of war emergency,” the Emergency Program Manager is empowered, to the extent lawfully permissible:
 - (a) To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency. Provided, however, such rules and regulations must be confirmed at the earliest practicable time by the City Council.
 - (b) To obtain vital supplies, equipment, and such other properties found lacking and needed for the protection of life and property and to bind the City for the fair value thereof and, if required immediately, to commandeer the same for public use;
 - (c) To require emergency services of any city officer or employee and, in the event of the proclamation of a “state of emergency” in Benton County or the existence of a “state of war emergency,” to command the aid of as many citizens of this community as he/she deems necessary in the execution of his/her duties; such persons shall be entitled to all privileges, benefits and immunities as are provided by state law for registered emergency service workers;
 - (d) To requisition necessary personnel or material of any City department or agency; and
 - (e) To execute all of his/her ordinary power as City Administrator, all of the special powers conferred upon him/her by this Act or by resolution or emergency plan pursuant hereto adopted by the City Council, all powers conferred upon him/her by ORS Chapter 401, by any agreement approved by the City Council, and by any other lawful authority.

45.16.045 Powers of Mayor

The mayor shall have the same powers defined in 45.16.040 as the Emergency Program Manager including, but not limited to declaring an emergency.

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45.16.050 Emergency Operations Planning Team

The Emergency Operations Planning Team may be created and shall consist of at least five representatives as designated by the City Emergency Program Manager.

45.16.060 Powers and Duties of the Emergency Operations Planning Team

The Emergency Operations Planning Team shall, under the supervision of the Emergency Program Manager, develop emergency plans and manage the emergency programs of this City, and shall have such other powers and duties as may be assigned by the Emergency Program Manager.

45.16.070 Emergency Organization - Composition

All officers and employees of this City together with those volunteer forces enrolled to aid them during an emergency, and all groups, organizations and persons who may, by agreement or operation of law charged with duties incident to the protection of life and property in this City during such emergency, shall constitute the emergency organization of the City.

45.16.080 Expenditures

Any expenditures made in connection with emergency activities, including mutual-aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the City.

45.16.090 Violations - Penalties

It shall be a misdemeanor, for any person during an emergency to:

- (1) Willfully obstruct, hinder or delay any member of an emergency organization in the enforcement of any lawful rule or regulation issues pursuant to this Act, or in the performance of any duty imposed upon him/her by virtue of this Act.
- (2) Do any act forbidden by any lawful rule or regulation issued pursuant to this Act, if the act is of such nature as to give, or be likely to give, assistance to the enemy, or to imperil the lives and property of inhabitants of this City, or to prevent, hinder or delay the defense or protection thereof.

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CHAPTER 60 MOTOR VEHICLE FUEL DEALER TAX

[Enacted Ord. 2009-08]

TITLE, SCOPE, AND AUTHORITY

60.005 Title

This chapter may be cited as Motor Vehicle Fuel Dealer Tax as outlined in the Business Section, Chapter 60 of the City of Adair Village City Code.

60.010 Purpose and Scope

(1) It is the purpose of this chapter to define the City of Adair Village's right to impose a tax on fuel dealers. It provides licensing, billing, collection, examinations, and exemptions connected with said tax.

60.020 General Authority

(1) The City Administrator is responsible for the administration, implement, and oversight of this Chapter of the City of Adair Village City Code, and to apply these provisions consistent with the general laws of the State of Oregon.

60.030 Severability

(1) If any part or parts of this ordinance are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

DEFINITIONS

60.110 Definitions

As used in this chapter, unless the context requires otherwise, the following words and phrases shall mean:

- (1) "City" means the city of Adair Village.
- (2) "Dealer" means any person who:
 - (a) Imports or causes to be imported motor vehicle fuel for sale, use or distribution in the city, but "dealer" does not include any person who imports into the city motor vehicle fuel in quantities of 500 gallons or less purchased from a supplier who is licensed as a dealer hereunder if that dealer assumes liability for the payment of the applicable license tax to the city; or
 - (b) Produces, refines, manufactures or compounds motor vehicle fuels in the city for export or for use, distribution or sale in the city; or
 - (c) Acquires in the city for sale, use or distribution in the city motor vehicle fuels with respect to which there has been no license tax previously incurred.
- (3) "Distribution" means, in addition to its ordinary meaning, the delivery of motor vehicle fuel by a dealer to any service station or into any tank, storage facility or series of tanks or storage facilities connected by pipelines, from which motor vehicle fuel is withdrawn directly for sale or for delivery into the fuel tanks of motor vehicles whether or not the service station, tank or storage facility is owned, operated or controlled by the dealer.

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- (4) "Highway" means every street, road, way, thoroughfare and place of whatever nature, open for use of the public for the purpose of vehicular travel.
- (5) "Motor vehicle" means all vehicles, engines or machines, movable or immovable, operated or propelled by the use of motor vehicle fuel.
- (6) "Motor vehicle fuel" includes gasoline, diesel, mogas, methanol and any other flammable or combustible gaseous, liquid, or solid substance, by whatever name such substance is known or sold, usable as fuel for the operation of motor vehicles except a substance, the chief use of which, as determined by the tax administrator, is for purposes other than the propulsion of motor vehicles upon the highways.
- (7) "Person" includes every natural person, association, firm, partnership, corporation, joint venture or other business entity.
- (8) "Service station" means any place operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.
- (9) "Tax administrator" means the city administrator, the city administrator's designee, or any person or entity with whom the city administrator contracts to perform those duties.

TAX IMPOSED

60.210 Tax Imposed

A business license tax is hereby imposed on every dealer. This tax is in addition to any other business license fee imposed by city. The tax imposed shall be paid monthly to the tax administrator. The tax administrator is authorized to exercise all supervisory and administrative powers with regard to the enforcement, collection and administration of the business license tax, including all powers specified in ORS 319.010 to 319.430.

60.220 Amount and Payment

In addition to any fees or taxes otherwise provided for by law, every dealer in the city engaging in the sale, use or distribution of motor vehicle fuel shall:

- (1) Not later than the twenty-fifth day of each calendar month, render a statement to the tax administrator on forms prescribed, prepared and furnished by the tax administrator of all motor vehicle fuel sold, used or distributed by him/her in the city as well as all such fuel sold, used or distributed in the city by a purchaser thereof upon which sale, use or distribution the dealer has assumed liability for the applicable license tax during the preceding calendar month.
- (2) Pay a license tax computed on the basis a charge per gallon of such motor vehicle fuel so sold, used or distributed as shown by such statement in the manner and within the time provided in this code. Tax amount shall be established by City resolution

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LICENSES

60.310 License Requirements

No dealer shall sell, use or distribute any motor vehicle fuel until he/she has secured a dealer's license as required herein.

60.320 License Applications and Issuance

- (1) Every person, before becoming a dealer in motor vehicle fuel in this city, shall make application to the tax administrator for a license authorizing such person to engage in business as a dealer.
- (2) Applications for the license shall be made on forms prescribed, prepared and furnished by the tax administrator.
- (3) Applications shall be accompanied by a duly acknowledged certificate containing:
 - (a) The business name under which the applicant transacts business.
 - (b) The address of applicant's principal place of business and location of distributing stations in and within three miles of the city.
 - (c) The name and address of the managing agent, the names and addresses of the several persons constituting the firm or partnership or, if a corporation, the name under which the corporation is authorized to transact business and the names and addresses of its principal officers and registered agent, as well as primary transport carrier.
- (4) If an application for a motor vehicle fuel dealer's license is complete and accepted for filing, the tax administrator shall issue to the dealer a license in such form as the tax administrator may prescribe to transact business in the city; provided, however, that the tax administrator may refuse to issue such license if it finds that the applicant meets any of the conditions for refusal to issue a license under state law. A license issued hereunder is not assignable and is valid only for the dealer in whose name it is issued.
- (5) The tax administrator shall retain all completed applications with an alphabetical index thereof, together with a record of all licensed dealers.

60.330 Failure to Secure License

- (1) If a dealer sells, distributes or uses any motor vehicle fuel without first filing the certificate and obtaining the license required by Section 60.320:
 - (a) The license tax on all motor vehicle fuel sold, distributed or used by that dealer shall be immediately due and payable.
 - (b) The tax administrator shall proceed forthwith to determine, from as many available sources as the tax administrator determines reasonable, the amount of tax due,

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shall assess the dealer for the tax in the amount found due, together with a penalty of 100 percent of the tax, and shall make its certificate of such assessment and penalty. In any suit or proceeding to collect the tax or penalty or both, the certificate shall be prima facie evidence that the dealer therein named is indebted to the city in the amount of the tax and penalty stated.

- (c) Any tax or penalty assessed pursuant to this section may be collected in the manner prescribed in Section 60.410 with reference to delinquency in payment of the fee or by an action of law.
- (2) In the event any suit or action is instituted to enforce this section, if the city is the prevailing party, the city shall be entitled to recover from the person sued reasonable attorney's fees at trial or upon appeal of such suit or action, in addition to all other sums provided by law.

60.340 Suspension and Revocation of License

The tax administrator may, to the extent permitted by law, suspend, and, upon 10 days' written notice, revoke the license of any dealer who fails to comply with any provision of this chapter. The tax administrator shall mail, by certified mail addressed to the dealer at his/her last known address appearing in the files of the tax administrator, a notice of intent to cancel. The notice of revocation shall include the reason for cancellation.

60.350 Cancellation of License

- (1) The tax administrator may, upon written request of a dealer, cancel a license issued to that dealer. The tax administrator shall, upon approving the dealer's request for cancellation, set a date not later than 30 days after receipt of the written request, after which the license shall no longer be effective.
- (2) The tax administrator may, after 30 days' notice has been mailed to the last known address of the dealer, cancel the license of dealer upon finding that the dealer is no longer engaged in the business of a dealer.

60.360 Remedies Cumulative

Except as otherwise provided in Sections 60.410 and 60.420, the remedies provided in Sections 60.330 through 60.350 are cumulative. No action taken pursuant to those sections shall relieve any person from the penalty provisions of this code.

TAXES AND BILLING

60.410 Payment of Tax and Delinquency

- (1) The license tax imposed by this chapter shall be paid to the tax administrator on or before the twenty-fifth day of each month.
- (2) Except as provided in subsections (3) and (4) of this section, if payment of the license tax is not paid as required by subsection (1) of this section, a penalty of one percent of such license tax shall be assessed and be immediately due and payable.

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- (3) Except as provided in subsection (4) of this section, if the payment of the tax and penalty, if any, is not made on or before the first day of the next month following that month in which payment is due, a further penalty of 10 percent of the tax shall be assessed. Said penalty shall be in addition to the penalty provided for in subsection (2) of this section and shall be immediately due and payable.
- (4) Penalties imposed by this section shall not apply if a penalty has been assessed and paid pursuant to Section 60.330. The tax administrator may for good cause shown waive any penalties assessed under this section.
- (5) If any person fails to pay the license tax or any penalty provided for by this section, the tax and/or penalty shall be collected from that person for the use of the city. The tax administrator shall commence and prosecute to final determination in any court of competent jurisdiction an action at law to collect the same.
- (6) In the event any suit or action is instituted to collect the business license tax or any penalty provided for by this section, if the city is the prevailing party, the city shall be entitled to recover from the person sued reasonable attorney's fees at trial or upon appeal of such suit or action, in addition to all other sums provided by law.

60.420 Monthly Statement of Dealer

Every dealer in motor vehicle fuel shall provide to the tax administrator on or before the twenty-fifth day of each month, on forms prescribed, prepared and furnished by the tax administrator, a statement of the number of gallons of motor vehicle fuel sold, distributed or used by the dealer during the preceding calendar month. The statement shall be signed by the dealer or the dealer's agent.

60.430 Failure to File Monthly Statement

If a dealer fails to file any statement required by Section 60.420, the tax administrator shall proceed forthwith to determine from as many available sources as the tax administrator determines reasonable the amount of motor vehicle fuel sold, distributed or used by such dealer for the period unreported, and such determination shall in any proceeding be prima facie evidence of the amount of fuel sold, distributed or used. The tax administrator shall immediately assess the dealer for the license tax upon the amount determined, adding thereto a penalty of 10 percent of the tax. The penalty shall be cumulative to other penalties provided in this code.

60.440 Billing Purchasers

Dealers in motor vehicle fuel shall render bills to all purchasers of motor vehicle fuel. The bills shall separately state and describe the different products sold or shipped there under and shall be serially numbered except where other sales invoice controls acceptable to the tax administrator are maintained.

60.450 Failure to Provide Invoice or Delivery Tag

No person shall receive and accept motor vehicle fuel from any dealer, or pay for the same, or sell or offer the motor vehicle fuel for sale, unless the motor vehicle fuel is accompanied by an invoice or delivery tag showing the date upon which motor vehicle fuel was delivered, purchased or sold and the name of the dealer in motor vehicle fuel.

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TRANSPORTING FUEL AND EXEMPTIONS

60.510 Transporting Motor Vehicle Fuel in Bulk

Every person operating any conveyance for the purpose of hauling, transporting or delivering motor vehicle fuel in bulk shall, before entering upon the public highways of the city with such conveyance, have and possess during the entire time of the hauling or transporting of such motor vehicle fuel an invoice, bill of sale or other written statement showing the number of gallons, the true name and address of the seller or consignor, and the true name and address of the buyer or consignee, if any, of the same.

The person hauling such motor vehicle fuel shall, at the request of any officer authorized by law to inquire into or investigate such matters, produce and offer for inspection the invoice, bill of sale or other statement.

60.520 Exemption of Export Fuel

- (1) The license tax imposed by Section 60.210 shall not be imposed on motor vehicle fuel:
 - (a) Exported from the city by a dealer; or
 - (b) Sold by a dealer in individual quantities of 500 gallons or less for export by the purchaser to an area or areas outside the city in containers other than the fuel tank of a motor vehicle, but every dealer shall be required to report such exports and sales to the city in such detail as may be required.
- (2) In support of any exemption from license taxes claimed under this section other than in the case of stock transfers or deliveries in the dealer's own equipment, every dealer must execute and file with the tax administrator an export certificate in such form as shall be prescribed, prepared and furnished by the tax administrator, containing a statement, made by some person having actual knowledge of the fact of such exportation, that the motor vehicle fuel has been exported from the city, and giving such details with reference to such shipment as the tax administrator may require. The tax administrator may demand of any dealer such additional data as is deemed necessary in support of any such certificate, and failure to supply such data will constitute a waiver of all right to exemption claimed by virtue of such certificate. The tax administrator may, in a case where the tax administrator believes no useful purpose would be served by filing of an export certificate, waive the filing of the certificate.
- (3) Any motor vehicle fuel carried from the city in the fuel tank of a motor vehicle shall not be considered as exported from the city.
- (4) No person shall, through false statement, trick or device, or otherwise, obtain motor vehicle fuel for export as to which the city tax has not been paid and fail to export the same, or any portion thereof, or cause the motor vehicle fuel or any portion thereof not to be exported, or divert or cause to be diverted the motor vehicle fuel or any portion thereof to be used, distributed or sold in the city and fail to notify the tax administrator and the dealer from whom the motor vehicle fuel was originally purchased of his/her act.

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- (5) No dealer or other person shall conspire with any person to withhold from export, or divert from export or to return motor vehicle fuel to the city for sale or use so as to avoid any of the fees imposed herein.
- (6) In support of any exemption from taxes on account of sales of motor vehicle fuel in individual quantities of 500 gallons or less for export by the purchaser, the dealer shall retain in his/her files for at least three years an export certificate executed by the purchaser in such form and containing such information as is prescribed by the tax administrator. This certificate shall be prima facie evidence of the exportation of the motor vehicle fuel to which it applies only if accepted by the dealer in good faith.

60.530 Sales to Armed Forces Exempted

The license tax imposed by Sections 60.210 and 60.220 shall not be imposed on any motor vehicle fuel sold to the armed forces of the United States for use in ships, aircraft or for export from the city; but every dealer shall be required to report such sales to the tax administrator in such detail as may be required. A certificate by an authorized officer of such armed forces shall be accepted by the dealer as sufficient proof that the sale is for the purpose specified in the certificate.

60.540 Fuel in Vehicles Coming into City Not Taxed

Any person coming into the city in a motor vehicle may transport in the fuel tank of such vehicle, motor vehicle fuel for his/her own use only and for the purpose of operating such motor vehicle without securing a license or paying the tax provided in Sections 60.210 and 60.220 or complying with any of the provisions imposed upon dealers herein, but if the motor vehicle fuel so brought into the city is removed from the fuel tank of the vehicle or used for any purpose other than the propulsion of the vehicle, the person so importing the fuel into the city shall be subject to all the provisions herein applying to dealers.

60.550 Refunds

Refunds will be made pursuant to applicable portions of Chapter 319 of the Oregon Revised laws. Claim forms for refunds may be obtained from the tax administrator's office.

EXAMINATIONS AND KEEPING BOOKS

60.610 Examinations and Investigations

The tax administrator, or duly authorized agents, may make any examination of accounts, records, stocks, facilities and equipment of dealers, service stations and other persons engaged in storing, selling or distributing motor vehicle fuel or other petroleum product or products within this city, and such other investigations as it considers necessary in carrying out the provisions of this chapter. If the examinations or investigations disclose that any reports of dealers or other persons theretofore filed with the tax administrator pursuant to the requirements herein have shown incorrectly the amount of gallonage of motor vehicle fuel distributed or the tax accruing thereon, the tax administrator may make such changes in subsequent reports and payments of such dealers or other persons, or may make such refunds, as may be necessary to correct the errors disclosed by its examinations or investigation. The dealer shall reimburse the city for the reasonable costs of the examination or investigation if the action discloses that the dealer paid 95 percent or less of the tax owing for the period of the examination or investigation. In the event that such an examination or investigation results in an assessment by and an additional payment due to the city, such additional payment shall be subject to interest at the rate of 12 percent per year from the date the original tax payment was due.

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60.620 Limitation on Credit for or Refund of Overpayment and on Assessment of Additional Tax

- (1) Except as otherwise provided in this code, any credit for erroneous overpayment of tax made by a dealer taken on a subsequent return or any claim for refund of tax erroneously overpaid and filed by a dealer must be so taken or filed within three years after the date on which the overpayment was made to the city.
- (2) Except in the case of a fraudulent report or neglect to make a report, every notice of additional tax proposed to be assessed under this code shall be served on dealers within three years from the date upon which such additional taxes become due, and shall be subject to penalty as provided in Section 60.410.

60.630 Examining Books and Accounts of Carrier of Motor Vehicle Fuel

The tax administrator or duly authorized agents of the tax administrator may at any time during normal business hours examine the books and accounts of any carrier of motor vehicle fuel operating within the city for the purpose of enforcing the provisions of this code.

60.640 Records to be Kept by Dealers

- (1) Every dealer in motor vehicle fuel shall keep a record in such form as may be prescribed by the tax administrator of all purchases, receipts, sales and distribution of motor vehicle fuel. The records shall include copies of all invoices or bills of all such sales and shall at all times during the business hours of the day be subject to inspection by the tax administrator or authorized officers or agents of the tax administrator.
- (2) Records to be kept three years. Every dealer shall maintain and keep, for a period of three years, all records of motor vehicle fuel used, sold and distributed within the city by such dealer, together with stock records, invoices, bills of lading and other pertinent papers as may be required by the tax administrator. In the event such records are not kept within the state of Oregon, the dealer shall reimburse the tax administrator for all travel, lodging, and related expenses incurred by the tax administrator in examining such records. The amount of such expenses shall be assessed in addition to the tax imposed by Section 60.210.

USE OF TAX REVENUES

60.710 Use of Tax Revenues

- (1) For the purpose of this section, "net revenue" shall mean the revenue from the tax and penalties imposed by this chapter remaining after providing for the cost of administration and any refunds and credits authorized herein.
- (2) The net revenue shall be used only for the construction, reconstruction, improvement, repair, maintenance, operation, and use of public highways, roads and streets within the city.

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CHAPTER 81 SYSTEM DEVELOPMENT CHARGES

[Enacted Ord. 2008-05]

TITLE, SCOPE, AND AUTHORITY

81.005 Title

This Ordinance may be cited as the System Development Charge Ordinance of the City of Adair Village City Code and may be so pleaded.

81.010 Purpose

- (1) The purpose of the system development charge (“SDC”) is to impose a portion of the cost of capital improvements for water, wastewater, storm drainage, transportation, and parks upon those developments and redevelopments that create the need for, or increase the demands on capital improvements.
- (2) During the 1989 session of the legislative assembly of the State of Oregon, a uniform framework for the imposition of a Systems Development Charge (SDC) by local governments was established by the provisions of ORS 223.297 to 223.314. The 2001 and 2003 legislature enacted certain amendments to the SDC statutory scheme.
- (3) Among other things, the statutory provisions, as amended, define and limit the purpose, use, and method of calculation of and accounting for SDC imposed and collected by a Municipal Corporation.
- (4) In order to analyze and evaluate the method for calculation, imposition, collection and expenditure of SDCs for the City of Adair Village, and to determine compliance with the provisions of ORS 223.297 to 223.314 inclusive, the City retained the services of a consulting engineer, HBH Consulting Engineers, Inc. (hereinafter “HBH”), who completed an SDC methodology report in February 2008. A copy of this methodology is on file at City Hall in the City of Adair Village for examination by the public.
- (5) Based upon this report the City finds that it is appropriate to update their method of calculating, imposing, and administering SDCs for capital improvements within or connected to the City of Adair Village, by providing:
 - (a) That any capital improvement being funded wholly or in part with SDC revenues shall be included in an approved Capital Improvements Plan, Public Facilities Plan, Master Plan, or comparable plan which includes a list of the capital improvements which the City intends to fund, in whole or in part, with improvement fee revenues and the estimated cost, timing and percentage of costs eligible to be funded from the improvement fee for each improvement; and

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- (b) That SDC revenues must be deposited in accounts designated for such moneys. The City shall implement an accounting system that provides an annual accounting of SDC revenue, to be completed by January 1 of each year, showing the total amount of SDC revenues collected and the projects that were funded in the previous fiscal year with the revenue. The City shall include in the annual accounting a list of the amount spent on each project funded, in whole or in part, with SDC revenue, and the amount of revenue collected by the governmental unit from system development charges and attributed to the costs of complying with the provisions of ORS 223.297 to 223.314, as described in ORS 223.307 if any compliance costs are included in the adopted SDC; and
- (c) That the City shall establish by resolution administrative review procedures by which any citizen or other interested person may challenge an expenditure of SDC revenues in accordance with the requirements of ORS 223.302(2) and (3); and
- (d) That the portion of the City's SDC defined as "reimbursement fees" under the provisions of ORS 223.299(3) shall be spent only on capital improvements associated with the systems for which the fees were imposed, including expenditures related to the payment of indebtedness; and
- (e) That the portion of the City's SDC defined as an "improvement fee" under the provisions of ORS 223.229(2) shall be spent only on capacity increasing capital improvements, including expenditures related to the payment of the debt for such improvement; and
- (f) That the SDC be a fee imposed by the City upon the permittee (as defined in this Ordinance) seeking to develop property within the City and/or connect to the City's water or sewer system; and
- (g) The SDC imposed by this Ordinance is based upon the actual cost of providing existing or planned for capital improvements, and is intended to be a financing mechanism for City capital improvements necessitated by new development and for reimbursement for existing facilities. Future growth within the geographic area served by the City should contribute its fair share to the cost of improvements to public facilities. The imposition of an SDC by the City will provide a source of revenue to fund the construction or improvement of City facilities necessitated by growth. The SDC imposed by this ordinance does not impose charges on persons not receiving services from the City; and
- (h) The purpose of the SDC is to promote the objective of future system users contributing no more than an equitable share to the cost of existing facilities and to impose a portion of the cost of capital improvements for City services upon those who create the need for or increase the demands on capital improvements by connection to City public facilities or assets; and

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- (i) That the SDC revenues imposed and collected by the City shall be placed in a separate, restricted fund, and accounted for, and expended in compliance with the provisions of ORS 223.297 to 223.314, inclusive; and

81.020 Scope

- (1) The SDC imposed by this ordinance is separate from and in addition to any applicable tax, assessment, charge or fee otherwise provided by law or imposed as a condition of development or based upon the ownership of property. The SDC imposed by this section is not classified by the City, or intended to be, a tax on property or on a property owner as a direct consequence of ownership of property within the meaning of Article XI Section 11B, of the Oregon Constitution or the legislation implementing that Section. The City intends that the SDC imposed by this ordinance is not subject to the limits of Section 11B, Article XI of the Oregon Constitution. The City Administrator shall publish notice of this classification as required by ORS 305.583(8).

81.030 Severability

- (1) The provisions of this ordinance are severable, and it is the intention to confer the whole or any part of the powers herein provided for. If any clause, section or provision of this ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of this ordinance shall be in full force and effect and be valid as is such invalid portion thereof had not been incorporated herein. It is hereby declared to be the City Council's intent that this ordinance would have been adopted had such an unconstitutional provision not been included herein.

DEFINITIONS

81.110 Definitions

For purposes of this ordinance, the following mean:

- (1) Applicant. The owner or other person who applies for a residential, commercial, industrial, or other connection to the City's water supply system or sanitary sewer system and/or who develops property within the City's Urban Growth Boundary.
- (2) Building. Any structure, either temporary or permanent, built for the support, shelter, or enclosure of persons or property of any kind and for any public, commercial, industrial, or other use. This term shall not include temporary construction sheds or trailers erected to assist in construction and maintenance during the term of a building permit.
- (3) Capital Improvements. Public facilities or assets used for:
 - Wastewater collection, transmission, treatment and disposal, or any combination;

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- Water supply, treatment, distribution, storage, metering, fire protection, or any combination;
 - Drainage and flood control;
 - Transportation facilities including vehicle and pedestrian;
 - Parks and recreation.
- (4) Citizen or other Interested Person. Any person whose legal residence is within the service area of the City, as evidenced by registration as a voter within the City, or by other proof of residency; or a person who owns, occupies, or otherwise has an interest in real property which is located within the City service area; or a person who owns, occupies, or otherwise has an interest in real property which is served by the City's water supply system or sanitary sewer systems; or is otherwise subject to the imposition of systems development charges, as outlined in Section 4 of this Ordinance.
- (5) City. The City of Adair Village.
- (6) Development. All improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, and areas devoted to exterior display, storage or activities. Development includes redevelopment of property, dividing of land into two or more parcels, and creating or termination of a right of access. Development includes improved open areas such as plazas and walkways, but does not include natural geologic forms or unimproved lands. Development also includes making any physical change in the use of a structure or land which increases the usage of any capital improvements or which may contribute to the need for additional or enlarged capital improvements, as determined by City.
- (7) Equivalent Dwelling Unit or "EDU". The base element of the formula by which systems development charge rates are determined for various buildings or developments, based on meter size for water service and based on the contribution of sewage from a residential dwelling unit, for sanitary sewer service.
- (8) Improvement Fee. A fee as defined by ORS 223.299 (2) for costs associated with capital improvements to be constructed after the date the fee is adopted pursuant to Section 4 of this ordinance.
- (9) Land Area. The area of a parcel of land as measured by projection of the parcel boundaries upon a horizontal plane with the exception of a portion of the parcel

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within a recorded right-of-way or easement subject to a servitude for a public street or for a public scenic or preservation purpose.

- (10) Methodology. The system development charge methodology required by ORS 223.304 (1) and (2).
- (11) Owner. The owner or owners of record title or the purchaser(s) under a recorded land sales agreement, and other persons having an interest of record in the described real property.
- (12) Parcel of Land. A lot, parcel, block, or other tract of land that, in accordance with County regulations, is occupied or may be occupied by a structure, or structures, or other use, and that includes the yards and other open spaces required under the zoning, subdivision, and other development ordinances.
- (13) Permittee. The person to whom a building permit, development permit, a permit or plan approval to connect to the sewer system, or right-of-way access permit is issued.
- (14) Qualified public improvement. A capital improvement that is:
 - (a) Required as a condition of development approval.
 - (b) Identified in the plan as adopted pursuant to Section 8 of this ordinance, and;
 - i) Not located on or contiguous to a parcel of land this is the subject of the development approval; or,
 - ii) Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.
 - iii) For the purposes of this definition, “contiguous” includes improvements to, located in, a public way that abuts the parcel.
- (15) Reimbursement fee. A fee defined by ORS 223.299 (3) for costs associated with capital improvements constructed or under construction on the date the fee is established pursuant to Section 4 of this ordinance, and for which the City determines that capacity exists.
- (16) System development charge. A reimbursement fee, an improvement fee or a combination thereof assessed or collected at the time of increased usage of a

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capital improvement, at the time of issuance of a development permit or building permit, or at the time of connection to the capital improvement.

- (a) System development charge includes that portion of a sewer system connection that is greater than the amount necessary to reimburse the City for its average cost of inspecting and installing connections with sewer facilities;
 - (b) A system development charge does not include fees assessed or collected as part of a local improvement district or a charge in lieu of a local improvement district assessment, or the cost of complying with requirements or conditions imposed by a land use decision.
- (17) Trip generation. An accepted methodology that is utilized to determine the number of trips that are created or generated by specific land uses. Commonly, the Institution for Traffic Engineering (ITE) is utilized for trip generation tables.

SDC ESTABLISHED AND METHODOLOGY

81.210 SDC Charges

The amount of system development charges may be set, and may be revised, by resolution of the City Council. The Resolution(s) shall set the amount of the charge, the type of permit to which the charge applies, the methodology used to set the amount of the charge and, if the charge applies to a geographic area smaller than the entire city, the geographic area subject to the charge.

81.220 SDC Imposed Upon All Development

Unless otherwise exempted by the provisions of this ordinance, or other local or state law, SDCs for water, wastewater, storm water, transportation and parks are hereby imposed upon all development within the City, upon connection to the water and/or sewer system, and upon all development outside the boundary of the City that connects to the water and/or sewer facilities of the City, and upon all development which increases the usage of the water and/or sewer system or which contributes to the need for additional or enlarged capital improvements. This shall include new construction and the alteration, expansion or replacement of a building or development if such alteration, expansion or replacement results in an increase in the number of EDUs or fixtures compared to the prior number of EDUs or fixtures in the development. For alterations, expansions and replacements, the amount of the SDC to be paid shall be the difference between the rate for the proposed development and the rate that would be imposed for the development prior to the alteration, expansion or replacement.

81.230 Basis of Methodology

- (1) The methodology used to establish or modify the reimbursement fee shall, where applicable, be based on the cost of then-existing facilities including without limitation, design, financing and construction costs; prior contributions by then-existing users; gifts or grants from federal or state government or private persons; the value of unused capacity available to future system users, rate-making principles employed to finance publicly owned capital improvements; gifts or grants from federal or state government or private persons and other relevant factors identified by the City Council. The

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methodology shall promote the objective that future systems users shall contribute no more than an equitable share of the cost of then-existing facilities.

- (2) The methodology used to establish or modify the improvement fee shall, where applicable, demonstrate consideration of the projected cost of the capital improvements identified in the plan or list adopted pursuant to ORS 233.306 that are needed to increase the capacity of the systems to which the fee is related. The methodology shall be calculated to obtain the cost of capital improvements for the projected need for available system capacity for future users.
- (3) The methodology used to establish or modify improvement fees or reimbursement fees, or both, shall be adopted by ordinance of the City Council.
- (4) The methodology may be amended only as provided in Section 9.
- (5) The methodology shall be available for public inspection.

AUTHORIZED EXPENDITURES AND RESTRICTIONS

81.310 Expenditure of Fees

- (1) Reimbursement fees shall be applied only to capital improvements associated with the system for which the fees are assessed, including expenditures relating to repayment of debt for such improvements. The portion of the improvements funded by reimbursement fees must be related to the need for increased capacity to provide service for future users.
- (2) Improvement fees shall be spent only on capacity increasing capital improvements associated with the system for which the fees are assessed, including expenditures relating to repayment of indebtedness. An increase in system capacity occurs if a capital improvement increases the level of performance or service provided by existing facilities or providing new facilities.
 - (a) The portion of the capital improvements funded by improvement fees must be related to demands created by current or projected development.
 - (b) A capital improvement being funded wholly or in part from revenues derived from the improvement fee shall be included in the plan adopted by the City pursuant to Section 8 of this ordinance.
 - (c) Notwithstanding subsection (1) and (2) of this section, SDC revenues may be expended on the direct costs of complying with the provisions of this ordinance, including the costs of developing SDC methodologies, system planning, providing an annual accounting of SDC expenditures and other costs directly related to or required for the administration and operation of this SDC program.

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81.320 SDC Expenditure Limitations

- (1) SDCs shall not be expended for costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements.
- (2) SDCs shall not be expended for costs of the operation or routine maintenance of capital improvements.
- (3) SDC's shall not be used to oversize, overbuild, or otherwise enhance an improvement beyond what is reasonably required to provide necessary capacity for development.
- (4) SDC's shall not be charged for project costs for which City funds are not or were not used. This shall include urban renewal funds, grant funds, special assessment funds, and others.
- (5) SDC's shall not be assessed based on the number of employees an employer has or that an employer intends to add without regard to new construction, new development, or a change of use of an existing structure by an employer.

IMPROVEMENT PLAN

81.410. Improvement Plan

- (1) Prior to the establishment of an SDC, the City Council shall adopt a capital improvement plan, public facilities plan, master plan or comparable plan that includes a list of:
 - (a) The capital improvements that the City intends to fund in whole or in part with the improvement fee revenues; and
 - (b) The estimated cost of each improvement and the percentage of that cost eligible to be funded with improvement fee revenues.
- (2) In adopting this plan, the City may incorporate by reference all or a portion of any public facilities plan, master plan, capital improvements plan or similar plan that contains the information required by this section.
- (3) The City may modify such plan and list at any time. If an SDC will be increased by a proposed modification to the list to include a capacity increasing public improvement the Council will:
 - (a) Order the methodology to be amended as necessary. Amendments to the methodology shall be made pursuant to Section 9.
 - (b) Provide at least 30 days' notice prior to adopting the modification to those who have requested notice pursuant to Section 15; and
 - (c) Hold a public hearing if a written request for a hearing is received within seven days of the date of the proposed modification.
- (4) A change in the amount of a reimbursement fee or an improvement fee is not a modification of the SDC if the change in amount is based on:
 - (a) A change in the cost of labor, materials, or real property applied to projects or project capacity as set forth in the plan adopted pursuant to this section.

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- (b) A periodic application of the ENR Construction Cost Index.

ADOPTING AND AMENDING THE METHODOLOGY

81.510 Adopting and Amending the Methodology

- (1) Before adopting or amending the methodology, the Council shall:
 - (a) At least 90 days prior to adoption of the proposed methodology, or amendment to the methodology, provide written notice to persons who have requested notice pursuant to Section 15;
 - (b) City Council shall hold a public hearing if the City receives a written request for a hearing on the proposed modification within seven days of the date of the proposed modification is scheduled for adoption.
 - (c) Make the revised methodology available to the public at least 60 days prior to the first public hearing of the adoption or amendment.
 - (d) The failure of a person on the list to receive a notice that was mailed does not invalidate the action of the City.
- (2) Legal action intended to contest the methodology use for calculating a system development charge may not be filed after 60 days following adoption or modification of the SDC ordinance or resolution.
- (3) Notwithstanding other provisions of this section, a public hearing is not required if the City does not receive a written request for a hearing.
 - (a) A change in the amount of a reimbursement fee or an improvement fee is not a modification of the SDC methodology if the change in amount is based on:
 - (b) A relevant measurement of the average change in prices or costs over an identified time period for materials, labor, real property or a combination of the three;
 - (c) Published by a recognized organization or agency that produces the index or data source for reasons that are independent of the SDC methodology; and
 - (d) Incorporated as part of the established methodology or identified and adopted in a separate ordinance, resolution, or order.
- (4) To increase an SDC resulting from a proposed modification of the list to include a capacity increasing capital improvement:
 - (a) The City shall provide, at least 30 days' notice prior to the adoption of the modification, notice of the proposed modification to the persons who have requested written notice under ORS 223.304(6).
 - (b) The City shall hold a public hearing if the City receives a written request for a hearing on the proposed modification within seven days of the date of the proposed modification is scheduled for adoption.
 - (c) Notwithstanding other provisions of this section, a public hearing is not required if the City does not receive a written request for a hearing.

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81.520 Notice

- (1) The City shall maintain a list of persons who have made a written request for notification prior to adoption or modification of a methodology for any SDC. Written notice shall be mailed to persons on the list as provided in Section 9. The failure of a person on the list to receive notice that was mailed does not invalidate the action of the City.
- (2) The City may periodically delete names from the list, but at least 30 days prior to removing a name from the list, the City must notify the person whose name is to be deleted that a new written request for notification is required if the person wishes to remain on the notification list.
- (3) The City shall maintain a list of persons who have made a written request for notification prior to adoption or modification of a methodology for any SDC. Written notice shall be mailed to persons on the list as provided in Section 9. The failure of a person on the list to receive notice that was mailed does not invalidate the action of the City.
- (4) The City may periodically delete names from the list, but at least 30 days prior to removing a name from the list, the City must notify the person whose name is to be deleted that a new written request for notification is required if the person wishes to remain on the notification list.

CHARGES, PAYMENTS, EXEMPTIONS, AND CREDITS

81.610 Collection Charges

- (1) The SDC is payable upon issuance of at least one of the following activities:
 - (a) A building permit;
 - (b) A permit or approval to connect to the water and/or sewer system;
- (2) SDCs shall be assessed on an equivalent dwelling unit basis as developed in the methodology and as adopted by resolution.
- (3) If development is commenced or connection is made to the water and/or sewer system without an appropriate permit, the SDC is immediately payable upon the earliest date that a permit was required.
- (4) If no building, development, or connection permit is required, the SDC is payable at the time the usage of the capital improvement is increased based on changes in the use of the property unrelated to seasonal or ordinary fluctuations in usage.

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- (5) The City Administrator, or his/her designee, shall collect the applicable SDC(s) from the permittee when a permit that allows building or development of a parcel is issued or when application for connection to the water and/or sewer system is made.
- (6) The City Administrator, or his/her designee, shall not issue such permit or allow such connection until the charge has been paid in full, or until provision for installment payments has been made pursuant to Section 12, or unless an exemption is granted pursuant to Section 13 of this ordinance.

81.620 Delinquent Charges and Hearings

- (1) When, for any reason, the SDC has not been paid, the City Administrator shall report to the City Council the amount of the uncollected charge, the description of the real property to which the charge is attributable, the date upon which the charge was due, and the name of the person responsible for the payment of the fee.
- (2) The City shall schedule a public hearing on the matter and direct that notice of the hearing be given to each owner or person responsible for payment of the fee, with a copy of the City Administrator's report concerning the unpaid charge. Notice of the hearing shall be given either personally, or by certified mail, return receipt requested, or by both personal and mailed notice and by posting notice on the parcel at least ten (10) days before the date set for the hearing.
- (3) At the hearing, the Council may accept, reject, or modify the determination of the City Administrator as set forth in the report.

81.630 Installment Plan

- (1) When a SDC of \$25 or more is due and collectable, the owner of the parcel of land subject to the development charge may apply for payment in twenty (20) semi-annual installments, to include interest on the unpaid balance, in accordance with Oregon Revised Statutes 223.208. A shorter payment plan is acceptable if approved by the City.
- (2) The City Administrator shall provide application forms for installment payments which shall include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors.
- (3) An applicant for installment payment shall have the burden of demonstrating the applicant's authority to assent to the imposition of a lien on the parcel and that the property interest of the applicant is adequate to secure payment of the lien.
- (4) The City Administrator shall report to the Council the amount of the SDC, the dates on which payments are due, the name of the owner, and the description of the parcel.
- (5) The City Administrator shall docket the lien in the lien docket. From that time the City shall have a lien upon the described parcel for the amount of the SDC, together with interest on the unpaid balance at the rate established by resolution of the City Council. The lien shall be enforceable in the manner provided in ORS Chapter 223.

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- (6) Upon written notification from the permittee and with written evidence from the County, where new development is not constructed and the building permit is cancelled, the City Administrator is authorized to cancel assessments of SDCs. For property that has been subject to a cancellation of assessment of SDCs, application for any subsequent installment payment contract shall be subject to the code provisions applicable to SDCs and installment payment contracts on file the date the new contract is received by the City.

81.640 Prohibited Connection

- (1) No person may connect to the water or sewer system of the City or obtain a building permit unless the appropriate SDC(s) has been paid, or the installment payment method has been applied for and approved.

81.650 Exemptions

- (1) Additions to single-family dwelling that do not constitute the addition of a dwelling unit, as defined by the State Uniform Building Code, are exempt from all portions of the SDC.
- (2) An alteration, addition, replacement or change in use that does not increase the parcel's or structure's use of the public improvement facility is exempt from all portions of the SDC.
- (3) The issuance of a permit for a manufactured housing unit on which applicable systems development charges have previously been paid.
- (4) Development with vested rights, determined as follows:
 - (a) Any owner of land that was the subject of a building permit or development permit issued prior to the effective date of this ordinance may petition the City for a vested rights determination which would exempt the land owner from the provisions of this ordinance. Such petition shall be evaluated by the City Administrator and a decision made based upon all *three* of the following criteria being met:
- (5) The existence of a valid, unexpired building or development permit authorizing the specific development for which a determination is sought, and;
- (6) Substantial expenditures or obligations made or incurred in reliance upon such permit and;
- (7) Other factors that demonstrate it is inequitable to deny the owner the opportunity to complete the previously approved development under the conditions of approval by requiring the owner to comply with the requirements of this ordinance. For the purposes of this paragraph, the following factors shall be considered in determining whether it is inequitable to deny the owner the opportunity to complete the previously approved development:

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- (a) Whether the injuries suffered by the owner outweighs the public cost of allowing the development to go forward without payment of the systems development charges required by this ordinance; and
 - (b) Whether the expenses or obligations of the development were made or incurred prior to the effective date of this ordinance.
- (8) The City Administrator shall make a written determination as to whether the owner has established a vested right in the development and, if so, whether the development would be exempt from the provisions of this ordinance.

81.660 Credits

- (1) When a development occurs that is subject to an SDC, the SDC for the existing use, if applicable, shall be calculated. If this amount is less than the SDC for the use that will result from the development, the difference between the SDC for the existing use and the SDC for the proposed use shall be the SDC. If a change in use results in the SDC for the proposed use being less than the SDC for the existing use, no SDC shall be required. No refund or credit shall be given.
- (2) A credit of the improvement fee portion of the SDC only shall be given to the permittee against the cost of the SDC charged, for the cost of a qualified public improvement, upon acceptance by the City of the public improvement. The credit shall not exceed the amount of the improvement fee even if the cost of the capital improvement exceeds the improvement fee.
- (3) If a qualified public improvement is located in whole or in part on or contiguous to the property that is the subject of the development approval and is required to be built larger or with greater capacity than is necessary for the particular development project, a credit shall be given for the cost of the portion of the improvement that exceeds the City's minimum standard facility size or capacity needed to serve the particular development project or property. The applicant shall have the burden of demonstrating that a particular improvement qualifies for credit under this subsection. The request shall be filed in writing no later than 60 days after acceptance of the improvement by the City. The City may deny the credit provided for in this section if the City demonstrates that the application does not meet the requirements of this section or if the improvement for which credit is sought was not included in the improvement plan pursuant to Section 8 of this ordinance.
- (4) When construction of a qualified public improvement located in whole or in part or contiguous to the property that is the subject of development approval gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project, the credit in excess of the improvement fee for the original development project may be applied against improvement fees that accrue in subsequent phases of the original development project.
- (5) Credit shall not be transferable from one development to another, except in compliance with standards (if any) adopted by the City Council.

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- (6) Credit shall not be transferable from one type of capital improvement to another.
- (7) Credits shall be used within 10 years from the date the credit was given.

81.670 Refunds

- (1) Refunds may be given by the City upon finding that there was a clerical error in the calculation of the SDC.
- (2) Refunds shall not be allowed for failure to timely claim credit or for failure to timely seek an alternative SDC rate calculation at the time of submission of an application for a building permit.

81.680 Classification

The City Council determines that any fee, rates or charges imposed by this ordinance and/or future enabling ordinances are not a tax subject to the property tax limitations of Article XI, section 11(b) of the Oregon Constitution.

SEGREGATION AND USE OF REVENUE

81.710 Segregation and Use of Revenues

- (1) All funds derived from an SDC are to be segregated by accounting practices from all other funds of the City. That portion of the SDC calculated and collected on account of a specific facility system shall be used for no purpose other than those set forth in Section 6 of this ordinance.
- (2) The City Administrator shall provide the City Council with an annual accounting, based on the City's fiscal year, for SDCs showing the total amount of SDC revenues collected for each type of facility and the projects funded from each account in the previous fiscal year. A list of the amounts spent on each project funded in whole or in part, with SDC revenues shall be included in the annual accounting.
- (3) The moneys deposited into the SDC account shall be used solely as allowed by Section 6, authorized expenditures of this ordinance and as allowed by ORS 223.307, including, but not limited to:
 - (a) Design and construction plan preparation;
 - (b) Permitting and fees;
 - (c) Land and materials acquisition, including any cost of acquisition or condemnation;
 - (d) Construction of capital improvements;
 - (e) Design and construction of new water facilities required by the construction of capital improvements and structures;
 - (f) Relocating utilities required by the construction of improvements;

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- (g) Landscaping;
- (h) Construction management and inspection;
- (i) Surveys, soils, and material testing;
- (k) Acquisition of capital equipment;
- (l) Repayment of moneys transferred or borrowed from any budgetary fund of the City which were used to fund any of the capital improvements as herein provided;
- (m) Payment of principal and interest, necessary reserves and cost of issuance under bonds or other indebtedness issued by the City to fund capital improvements.

APPEAL PROCEDURE

81.810 Appeal Procedure

- (1) A person challenging the propriety of an expenditure of SDC revenues may appeal the decision of the expenditure to the City Council by filing a written request with the City Administrator describing with particularity the decision and the expenditure from which the person appeals. An appeal of the expenditure must be filed within two (2) years of the date of the alleged improper expenditure.
- (2) Appeals of any other decision required or permitted to be made by the City Administrator under this ordinance must be filed in writing with the City Administrator within ten days of the decision.
- (3) After providing notice to the appellant, the City Council shall determine whether the City Administrator's decision or the expenditure is in accordance with this ordinance and the provision of ORS 223.297 to 233.314 and may affirm, modify, or overrule the decision. If the Council determines that there has been an improper expenditure of SDC revenues, the Council shall direct that a sum equal to the misspent amount shall be deposited within one year to the credit of the account or fund from which it was spent. The decision of the Council shall be reviewed only as provided in ORS 34.010 to 34.100, and not otherwise.
- (4) A legal action challenging the methodology adopted by the City Council pursuant to Section 5 shall not be filed later than 60 days after adoption. A person shall contest the methodology used for calculating an SDC only as provided in ORS 34.

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LAND USE DEVELOPMENT CODE

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 and 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.
- (2) Adopted Maps or Development Plans.
- (3) Oregon Revised Statutes, Chapter 227, City Planning and Zoning (ORS 227).
- (4) Oregon Revised Statutes, Chapter 197, Comprehensive Land Use Planning Coordination (ORS 197).
- (5) Oregon Administrative Rule, Chapter 660, Rules on Land Use Planning (OAR 660).
- (6) Oregon Revised Statutes, Chapter 92, Subdivisions and Partitions (ORS 92).
- (7) Oregon Revised Statutes, Chapter 209, County Surveyors (ORS 209).
- (8) Recording requirements of the Benton County Surveyor.
- (9) All other applicable regulations provided by law.

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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,

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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 insure 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.

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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.

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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.

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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.

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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.

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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.

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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.

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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.

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- (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

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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.

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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.

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- (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.

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- (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.

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- (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:

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- (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.

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- (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.

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- (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.

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- (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 bench marks 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 bench mark 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.

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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, mail boxes, 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

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- (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.

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- (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

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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.

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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

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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.

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- (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.

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- (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.

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- (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.

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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

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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

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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.

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- (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.

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- (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 taking action 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.

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- (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 taking action 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.

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- (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.

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- (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

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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.

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- (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 of 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.

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- (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:

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- (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 of 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.

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- (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 would be 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

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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.

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- (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 general 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.

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- (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.

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- (9) DLCD 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.

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- (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.

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- (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

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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:

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- (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 make a decision 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.

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- (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

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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.

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- (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.

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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

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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.

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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 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.

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- (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 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

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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.

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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 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.

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- (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 4.121 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

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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.

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- (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 maintain 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.

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- (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 maintain 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.

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(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.
<p>Notes:</p> <p>Key: c = Building type allowed</p> <p>(1) Allowed with conditional use permit.</p>						

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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.**

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- (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 maintain 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:

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- (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 provided that 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.

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- (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 maintain 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.

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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.

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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.

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- (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 located 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

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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 in order 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.

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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

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USE	SPACE REQUIREMENT
(5) Commercial Amusement (a) Stadium, arena, theater	One space per four seats or eight ft of bench length
(b) Bowling alley	Five spaces per alley plus one space per two employees
(c) Dance hall, skating	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	One space per 300 s/ft. of floor area designated for retail sales
(b) Service or repair shop, retail store exclusively handling bulky merchandise such as automobiles and furniture.	One space per 400 s/ft. of floor area
(c) Bank, office (except medical and dental)	One space per 400 s/ft. of floor area
(d) Medical and dental clinic	One space per 300 s/ft. of floor area plus one space per two employees
(e) Eating or drinking establishment	One space per 100 s/ft. of patron serving area
(f) Mortuary	One space per six seats or eight ft. of bench length
(7) Industrial (a) Storage warehouse, manufacturing establishment, rail or trucking freight terminal	One space per employee
(b) Wholesale establishment	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.

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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 of 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 of 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 drives 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

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the curb, or, where no curb exists, from the established street centerline grade. Trees exceeding this height may be located 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. Streets 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

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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

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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) **Mail Boxes:** 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.

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- (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.

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- (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

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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

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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.

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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

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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 time 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

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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:

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(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.

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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.

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- (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 by definition 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.

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- (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

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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 located 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.

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- (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.

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- (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

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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 of the locations available.

- (4) Protection of Solar Access.
- (a) Airspace easements shall be maintained to establish a window of exposure to the sun so as 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 so as 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.

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- (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 in order 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

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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 in order 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

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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

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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

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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 similar to 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.

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- (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 similar to 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. In order 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

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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 similar to 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 who's 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 general 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 period 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.

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- (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 so as 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 in the event that 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 in the R-2 Residential Zone. The Planned Development procedures are specified in Section 7.200.

The State of Oregon has prepared a state wide 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.

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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 located 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 located 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.

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- (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 live stock sales yard, slaughter house, 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

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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 a large number of 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.

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- (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. 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.

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- (c) Installation of interpretive/educational displays and/or public pedestrian paths, as long as 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

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The continuation and/or maintenance of the following activities is exempted from Riparian Area protection regulations provided that 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

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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, as long as 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.

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- (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 provided that 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, provided that 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).

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- (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 course of 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.

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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

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- (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:

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- (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

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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.**

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- (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 general 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.

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- (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.

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- 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 at a later date 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.

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- (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.

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- (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.

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- (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 or not 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.

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- (5) All required improvements shall be provided and approved by the City prior to approval of a Final Plat. The owner may propose an Agreement and Security in conformance with Section 8.510 and Section 8.520 subject to acceptance by the City if improvements are delayed and the Final Plat is necessary to facilitate the completion of the work.
- (6) Underground utilities, sanitary sewers and storm drains installed in streets shall be constructed prior to the surfacing, or resurfacing, of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be located to prevent the necessity for disturbing the street improvements when service connections are made.
- (7) "As-built" drawings and specifications of the installed public improvements shall be filed with the City upon completion of the improvements.
- (8) Facilities serving a land division or development may require off-site improvements to serve the proposed land division or development. The design and cost of off-site improvements shall be the responsibility of the Applicant unless the City agrees to another arrangement.
- (9) The applicant/property owner is obligated to provide all of the required public improvements. In the event the City determines it is impractical or not currently necessary to provide some of the required improvements, the City may defer the improvements. If deferred the developer/owner shall pay their fair share of the cost of improvements and the funds shall be placed into the City's specified Improvement Fund to pay for the improvements at a later date. Or the improvements may be installed in the area under special assessment financing or other facility extension policies of the City.
- (10) In the event required off-site improvements will serve other areas or developments, the City may authorize the formation of a Limited Improvement District or other assessment means of sharing the cost of improvements. If required off-site improvements will, without further construction, directly serve property outside the land division, the following arrangements may be made to equitably distribute the cost:
 - (a) If the City plans to provide municipal improvements in an area that includes a planned land division, the City Administrator may recommend to the City Council that all of the construction occur as a single assessment project. A specific agreement shall be made with the land divider to assure payment of the land divider's share of construction costs.
 - (b) If the off-site improvements for a land division can also serve areas outside of the land division, the City may determine a proportional share reimbursement but is not obligated to do so.
- (11) The City may deny approval of land divisions or developments where facility deficiencies cannot be corrected or improved to fulfill the proposed need or the Applicant refuses to provide the needed improvements.

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Section 8.200 Specifications for Improvements

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

Section 8.300 Required Improvements

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

- (1) Streets: Public or private streets, adjacent to, or within the development or land division shall be improved. 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) Street Lights: Street lights shall be installed and shall be served from an underground utility.
- (5) Traffic Signals: Where a proposed intersection will result in the need for street signals to serve the increased traffic generated by the proposed development, they shall be provided by the developer or land divider and the costs shall be borne by the developer or land divider unless an equitable means of cost distribution is approved by the City.
- (6) Mail Boxes: Joint mail boxes may be provided in residential developments. Joint mailbox structures shall be placed adjacent to roadway curbs as directed by the Post Office having jurisdiction and shall be noted on the Site Plan. The cost shall be borne by the developer or land divider.

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- (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

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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 area of the subdivision or to aid in securing suitable areas for park and recreation purposes to serve the area containing the subdivision where no parks exist. This fee shall be in addition to the specified Park SDC Fees paid on a residential lot basis.
- (2) If the City or any other public agency has an interest in acquiring a portion of a proposed land division for a public purpose not already dedicated as a condition of approval, or if the City has been advised of such interest by a school district or other public agency, and there is reasonable assurance that steps will be taken to acquire the land, then the Planning Commission may require that those portions of the land division be reserved for public acquisition. The public agency will have sixty (60) days to file Notice of Condemnation.

Section 8.510 Agreement for Improvements

Before City approval of a development, site plan or land division, the developer or land divider shall file with the City an agreement between developer or land divider and the City, specifying the period within which required improvements and repairs shall be completed and providing that, if the work is not completed within the period specified, the City may complete the work and recover the full cost and expense, together with court costs and attorney fees necessary to collect said amounts from the

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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.
 - (c) Demand payment from the developer or land divider or the developer or land divider's surety for the unfulfilled obligation.

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- (d) Enter upon the site and carry out the obligation in accordance with the provisions of the approval and agreement.
 - (e) 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.
 - (f) Void all approvals granted in reliance on the agreement.
- (3) If the bond or other required security is not sufficient to compensate the City for expenses incurred to fulfill the obligation, the amount due to the City for the obligation is a lien in favor of the City upon the entire contiguous real property of the owner of the land subject to the obligation.
 - (4) The lien attaches upon the filing of notice of the claim for the amount due for the fulfillment of the obligation. The notice shall demand the amount due, allege the insufficiency of the bond or other security to compensate the City fully for the expense of the fulfillment of the obligation, and allege the land divider's failure to fulfill the required obligation.
 - (5) The lien may be foreclosed in the manner prescribed by law for foreclosing other liens on real property.
 - (6) The remedies set forth for non-compliance are cumulative. In addition to the remedies set forth above, non-compliance by the developer or his surety with any term of a performance guarantee shall entitle the City to pursue any civil remedy permitted by law.

Section 8.700 Adopted Design and Construction Standards

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

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

Section 8.800 Modifications Permitted

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

- (1) **One-time Modifications:** The City may approve one-time modifications for a particular public improvement upon written request, if in the opinion of the City Engineer, the requested modification is necessary in order to complete the improvement and the modification would not adversely impact safety or the life span and quality of the system, or the maintenance and repair requirements.
- (2) **Permanent Modifications:** Permanent Modifications to the "Public Infrastructure Design Standards Manual" may be recommended at any time. With the

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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.

ARTICLE 9 COMPREHENSIVE PLAN

Enacted Ord. 2015-02

Section 9.100 Planning

The Adair Village Comprehensive Plan (the Plan) is directed towards meeting the applicable Statewide Planning Goals and Guidelines of the Oregon Land Conservation and Development Commission (LCDC).

This introductory element specifically addresses the first two goals. **Goal 1, Citizen Involvement** reads: "To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process".

The Adair Village Plan was developed and adopted with extensive citizen participation over a period of three years. Provisions are also included in this element for continued citizen involvement in the planning process.

LCDC **Goal 2, Land Use Planning** reads in part: "To establish a land use planning process and policy framework as a basis for all decisions and actions related to the use of land and to assure an adequate factual base for such decisions and actions."

The extensive inventories undertaken during preparation of the Comprehensive Plan, in addition to previous studies identified in the bibliography, provide the factual basis for the plan. Utilizing this factual data, the Planning Commission and City Council, with the assistance of citizen involvement, evaluated alternative courses of action and made final policy choices, taking into consideration social, economic, energy and environmental needs. The information, policies and recommendations of the entire Plan are directed towards meeting Goal 2.

This introductory element describes the basic process used for land use planning in the Adair Village area and also describes the location of the City and the planning area that was analyzed during the planning process. Also included is the description of the development and purpose of the Plan; the state

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goals addressed; the citizen and agency programs utilized; a description of the structure and use of the Plan; the general recommendations adopted for Plan implementation.

Other specific planning issues are then addressed in each of the other plan elements.

Section 9.110 City of Adair Village

Location

Adair Village is located on Pacific Highway 99 West, eight miles north of Corvallis, the Benton County seat. It is also only eight miles northwest of Albany, the Linn County seat. The City is situated on the western edge of the Willamette Valley on a foothill ridgeline of the Coast Range Mountains at an elevation of 328 feet above sea level.

The City is part of the former Adair Air Force Station, headquarters of the Portland Air Defense Sector constructed in 1957. The base was abandoned and declared surplus by the federal government in 1969 and was subsequently acquired by various public agencies and private developers. Acquisition of housing parcels by individual property owners provided the basis for incorporation in 1976. For additional information see the Historical Background summary in **Section 9.800, Growth Management**.

Planning Considerations

Adair Village is located within the North Benton Planning Area of Benton County. The North Benton Citizen Advisory Committee and members of the Benton county planning staff provided background data for the area to assist the City in the planning process.

A Planning Area was mutually agreed upon containing approximately 1082 acres surrounding the City and was considered to be an area of influence that could have an impact on the community.

Urban Growth Boundaries (UGB) was established by mutual agreement containing 146 acres outside of the City. Of that total 128 acres of the Southern UGB Area have been annexed to the City leaving only 18 acres in the Northern UGB Area. See Table 9.800 B in the Growth Management Section 9.800 for more detail.

The City has outright planning responsibility for the area within the City Limits. The City, County and the North Benton Citizen's Advisory Committee cooperated in the planning process for the Planning Area outside the City Limits and have agreed to the land use designations and standards for the area. A City/County Agreement that establishes guidelines and procedures for cooperative review and action on planning and development proposals for the Planning Area, the Urban Growth Area and an Area of Concurrence for a portion of the Tampico Road Area was approved.

The Plan will be adopted by the Adair Village City Council after public hearings and will be reviewed and revised as needed on a periodic basis to take into account changing conditions and community attitudes.

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The Plan, supporting documents, and implementing ordinances will be maintained on file in the Adair Village City Hall and are easily accessible to the public.

Section 9.120 Comprehensive Planning

The purpose of the Comprehensive Plan is to provide guidelines for conservation and development of community resources and to promote the public health, safety and general welfare of community residents. It is intended to ensure that the City's livability will be enhanced rather than weakened in the face of growth and change. It should not be considered a detailed development proposal, nor is it intended to offer solutions for problems that will require action at higher governmental levels. Nevertheless, local officials, public agencies, and private citizens are continually confronted by developmental decisions that can be facilitated if a general plan for future growth is established.

ORS Chapter 197, administered by the Land Conservation and Development Commission (LCDC), requires that cities and counties adopt comprehensive plans and ordinances that meet statewide planning goals and guidelines. ORS 197.010 provides the basic policy by stating that comprehensive plans:

1. Must be adopted by the appropriate governing body at local and state levels.
2. Are expressions of public policy in the form of policy statements, generalized maps and standards and guidelines.
3. Shall be the basis for more specific rules, regulations and ordinances that implement the policies expressed through the comprehensive plans.
4. Shall be prepared to assure that all public actions are consistent and coordinated with the policies expressed through the comprehensive plans.
5. Shall be regularly reviewed and, if necessary, revised to keep them consistent with the changing needs and desires of the public they are designed to serve.

ORS 197.175 more specifically outlines local government responsibility when it states, "...each city and county in this state shall:

1. Prepare and adopt comprehensive plans consistent with statewide planning goals and guidelines approved by the commission (LCDC) and
2. Enact zoning, subdivision and other ordinances or regulations to implement their comprehensive plans."

ORS 197.015 (4) provides the official definition of Comprehensive Plan as follows:

"Comprehensive plan" means a generalized, coordinated land use map and policy statement of the governing body of a state agency, city, county or special district that interrelates all functional and

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natural systems and activities relating to the use of lands, including but not limited to sewer and water systems, transportation systems, educational systems, recreational facilities, and natural resources and air and water quality management programs. "Comprehensive" means all-inclusive, both in terms of the geographic area covered and functional and natural activities and systems occurring in the area covered by the plan. "General nature" means a summary to policies and proposals in broad categories and does not necessarily indicate specific locations of any area, activity or use. A plan is "coordinated" when the needs of all levels of governments, semipublic and private agencies and the citizens of Oregon have been considered and accommodated as much as possible. "Land" includes water, both surface and sub-surface, and the air.

The Comprehensive Plan for Adair Village is the City's official policy guide for conservation and development of community resources. It is intended to ensure that the City's livability will be enhanced rather than weakened in the face of growth and change and is designed to promote the public health, safety and general welfare of community residents.

The Comprehensive Plan is the document through which the citizens of Adair Village will implement their choices on how growth and change will occur and how it will be managed. It should not be considered a detailed blueprint for specific development proposals, but a general guideline within which public officials and private citizens can coordinate their individual developmental decisions.

[Section 9.130 Statewide Planning Goals and Guidelines](#)

The City of Adair Village recognizes its responsibility to include consideration of the Statewide Planning Goals and Guidelines as adopted by the land Conservation and Development commission (LCDC). To fulfill this responsibility, the City has included consideration of the following goals:

- Goal 1 Citizen Involvement:** To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

- Goal 2 Land Use Planning:** To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

- Goal 3 Agriculture Lands:** To preserve and maintain agricultural lands.

- Goal 4 Forest Lands:** To conserve forest lands for forest uses.

- Goal 5 Open Spaces, Scenic and Historic Areas, and Natural Resources:** To conserve open space and protect natural and scenic resources.

- Goal 6 Air, Water and Land Resources Quality:** To maintain and improve the quality of the air, water and land resources of the state.

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- Goal 7** **Areas Subject to Natural Disasters and Hazards:** To protect life and property from natural disasters and hazards.
- Goal 8** **Recreational Needs:** To satisfy the recreational needs of the citizens of the state and visitors.
- Goal 9** **Economy of the State:** To diversify and improve the economy of the state.
- Goal 10** **Housing:** to provide for the housing needs of the citizens of the state.
- Goal 11** **Public Facilities and Services:** To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.
- Goal 12** **Transportation:** To provide and encourage a safe, convenient and economic transportation system.
- Goal 13** **Energy Conservation:** To conserve energy.
- Goal 14** **Urbanization:** To provide for an orderly and efficient transition from rural to urban land use.

Applicability of Goal Topics

The following tabulation indicates the applicability of LCDC Goals to the Adair Village Planning Area:

Goal Topic		Goal Topic	
3. Agricultural Lands	<u>Yes</u>	7a. Flooding	<u>No</u>
4. Forest Lands	<u>Yes</u>	7b. Erosion Areas	<u>No</u>
5a. Open Space	<u>Yes</u>	7c. Landslide Areas	<u>No</u>
5b. Mineral Aggregate	<u>No</u>	7d. Weak Foundation Soils	<u>Yes</u>
5c. Energy Sources	<u>No</u>	7e. Other Natural Hazards	<u>Yes</u>
5d. Fish & Wildlife Habitat	<u>Yes</u>	8. Recreation	<u>Yes</u>
5e. Ecological, Scientific Natural Areas	<u>No</u>	9. Economy	<u>Yes</u>
5f. Scenic Views and Sites	<u>No</u>	10. Housing	<u>Yes</u>
5g. Water Areas	<u>Yes</u>	11a. Schools	<u>Yes</u>

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5h. Wetlands	<u>Yes</u>	11b. Water Supply	<u>Yes</u>
5i. Watersheds	<u>Yes</u>	11c. Sewage Disposal	<u>Yes</u>
5j. Groundwater Resources	<u>Yes</u>	11d. Drainage	<u>Yes</u>
5k. Wilderness	<u>No</u>	11e. Solid Waste	<u>Yes</u>
5l. Historic Areas, Structures	<u>Yes</u>	11f. Other Facilities, Services	<u>Yes</u>
5m. Cultural Areas	<u>No</u>	12a. Highways, Roads, Streets	<u>Yes</u>
5n. Recreation Trails	<u>Yes</u>	12b. Bicycle, Pedestrian Transportation	<u>Yes</u>
5o. Wild, Scenic Waterways	<u>No</u>	12c. Transit	<u>Yes</u>
6a. Air Resource Quality	<u>Yes</u>	12d. Rail Transportation	<u>Yes</u>
6b. Water Resource Quality	<u>Yes</u>	13. Energy Conservation	<u>Yes</u>
6c. Land Resource Quality	<u>Yes</u>	14. Urbanization	<u>Yes</u>

Goal topics with a "no" indication are not given detailed consideration in the Plan since these elements do not exist within the Planning Area or the topic does not apply.

Section 9.140 Adair Village Citizen Involvement Program

The City of Adair Village recognizes its responsibilities under the Statewide Planning Goals and Guidelines as adopted by the Land conservation and Development Commission to prepare, adopt and implement a "Citizen Involvement Program." This program is intended to assure that all citizens have an opportunity to be involved in all phases of the planning process.

In order to fulfill this responsibility, the City has adopted the following Citizen Involvement Program:

1. Designation of the Adair Village Planning Commission as the Committee for Citizen Involvement.
2. Open public meetings will be conducted by the Planning Commission at key points during the course of the planning program. Through these meetings, citizens will be given the opportunity to participate in planning activities such as data collection, plan preparation and plan implementation.
3. In order that citizens will have the opportunity to be well informed of Planning Commission and City Council meetings, meeting notices will be mailed and posted in the

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area, and notices of meetings may be publicized in the Corvallis and/or Albany newspapers.

4. Minutes of all Planning Commission and City Council meetings are readily available for public use through the City Recorder.
5. The public will be given the opportunity to review and comment on planning proposals both verbally at public meetings and in writing. The city will make an effort to respond to these comments in an appropriate fashion.
6. Copies of plans and studies related to the City of Adair Village will be made available for public use through the office of the City Recorder.
7. The City will use the following techniques to encourage citizen involvement throughout the course of the planning program:
 - a. Informal neighborhood or community meetings.
 - b. Surveys or questionnaires.
 - c. Neighborhood newsletters.
 - d. Townhall meetings.
 - e. Public hearings.
 - f. Newspaper articles.

Section 9.150 Adair Village Agency Involvement Program

The City of Adair Village Recognizes its responsibility under the Statewide Planning Goals and Guidelines as adopted by the Land Conservation and Development commission, to prepare, adopt and implement a program for "Agency Involvement and Coordination." This program is intended to assure an effective working relationship with those local, state, and federal agencies that may have an interest in the city and its surrounding area. In order to fulfill this responsibility, the city has adopted the following agency involvement program:

1. The city will establish direct contact with the following agencies:
 - A. State Agencies
 1. Department of Environmental Quality
 2. Health Division
 3. Public Utility Commissioner of Oregon

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4. Department of Transportation
5. Department of Water Resources
6. Division of State Lands
7. Department of Fish and Wildlife
8. Department of Land Conservation & Development

B. Federal Agencies

1. US Rural Development
2. Soil & Water Conservation District
3. Environmental Protection Agency
4. Department of Housing and Urban Development

C. Regional and Local Agencies

1. Linn-Benton Housing Authority
2. Linn-Benton Intermediate Education District
3. Cascades West Council of Governments
4. Linn-Benton Community College
5. Corvallis School District 509J
6. Adair Rural Fire & Rescue
7. Benton County
8. City of Albany
9. City of Corvallis
10. Consumers Power
11. Pacific Northwest Bell
12. Corvallis Disposal Company

D. Other Agencies

1. Santiam Christian School

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2. Oregon/Southwest Washington Labor Training School (now for sale)
2. The City will inform the above agencies of the status of current planning efforts, future planning work schedules, and regular meeting dates of the city planning commission and the city council.
3. The City will provide to the various agencies, on request, copies of studies, plans and ordinances that are related to the city's planning program.
4. The City will request each agency to designate a contact person who will be responsible for coordination with the city.
5. The City will inform the various agencies of public hearings and other meetings, when it is determined that it is in the interest of the city, the public, and the particular agency to have notice of and the opportunity to participate in the meeting.
6. The City will encourage each agency to provide the information that is needed by the City to carry out its planning program. This may involve such activities as:
 - a. Provision of plans or studies prepared by the agency that may be useful to the city;
 - b. Participation by the agency in public hearings or other meetings;
 - c. Direct assistance by the agency in the development of a plan or study or in the consideration of a specific planning related problem.
7. The City will seek to facilitate intergovernmental coordination between the City and appropriate agencies and to assist in identifying and resolving conflicts.
8. The City recognizes the value of Oregon Cascades West Council of Governments and the State Intergovernmental Relations Division in enhancing needed intergovernmental coordination.
9. The City understands that the statewide goals of LCDC require that federal, state and other local agencies coordinate their planning efforts with the city, and that plans and actions of these agencies shall be consistent with the City's adopted Comprehensive Plan.

Section 9.160 Structure and Use of The Plan

The Comprehensive Plan is structured into nine elements:

- 9.100 Planning**
- 9.200 Environment**
- 9.300 Population & Economy**

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- 9.400 Housing**
- 9.500 Land Use**
- 9.600 Public Facilities & Services**
- 9.700 Transportation**
- 9.800 Growth Management**
- 9.900 Maps & Diagrams**

At the beginning of each Plan Section, introductory paragraphs identify the particular statewide goals that are addressed in that Section. Each Section then addresses individual topics that present the background information and findings relevant to the problems, needs and goals of the community. Each Section concludes with overall goals, policies and recommendations pertinent to the topics discussed.

Background Data and Findings

The background data and findings presented in each Section is based on previous studies and the land use and environmental surveys specifically conducted during preparation of the Plan. Sources are identified in the bibliographies at the end of each element. Sources are identified once in connection with the major subject; however, some sources are pertinent to more than one subject.

The background data was evaluated relative to the issues, needs and goals of the community during the preparation of the Plan. Findings or conclusions were then made after the evaluation.

The findings contained in each Plan Section, identify the relevant issues, conditions and needs that must be responded to in order to fulfill state and local goals. Findings also include an identification of the opportunities and constraints that could influence plan implementation.

Illustrative maps and diagrams have been prepared to assist in understanding various aspects of the plan. Many are included with the Plan although some are not, due to reproduction constraints. Those not included are referenced in the background data and source section and are on file at the Adair Village City Hall.

Goals

In addition to the applicable statewide goals, the City has adopted additional goals for each plan element.

The goals represent the ideals and results or achievement toward which the Plan is directed. They are statements of purpose and specify, on a general level, what the planning effort is intended to accomplish.

Policies

Mandatory Policies are identified as, "shall" statements (i.e. "The City shall"). The policies are the means by which the City will implement the Plan.

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Policies are official statements of strategy or principle that specify the intent of the City concerning the future growth and development of the community. Adopted by the City council, they represent the official position of the City of Adair Village while also providing:

1. A long-range guide for the evaluation of various proposals for physical change and improvement.
2. A framework for making sound decisions on zoning, subdivisions, capital improvement programs, and other codes and ordinances.
3. A guide for public programs and expenditures.
4. An indicator of more detailed and specific studies that are needed.
5. A source of information and a statement of planning policy that is useful to the local business community, the general public, and other governmental units in making decisions regarding their individual development plans.

Conservation Policies identify those elements or conditions of the community environment the citizens wish to preserve or enhance.

Development Policies identify those elements or conditions that require change or improvement and needed elements or conditions now lacking within the community.

Official City Planning Policies are the foundation of the comprehensive Plan. They are the primary means of achieving the goals and objectives of the Plan and the Statewide Planning Goals and Guidelines of the Oregon Land Conservation and Development Commission.

Recommendations

Recommendations are identified as "should" statements (i.e. "The City should). Recommendations are suggested actions that should be considered to assist in implementing the planning policies of the City.

Implementation

Implementation measures are intended to assist in putting the plan into effect. Generally, Plan implementation included the enactment of regulatory measures pertaining to land development such as Land Use Development Code, but should also include capital improvement programs or other management measures and detailed site-specific development plans.

Plan Amendments

Plan Amendments should be made as needed to maintain the Plan as an up-to-date guideline for urban development in the Adair Village area. **Section 2.700** of the Code provides the procedures for Code or Plan Amendments.

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The City should undertake a general review of the Plan every two years to determine if any changes have occurred that would warrant amendments to the Plan. A complete Plan review should also be performed at least once every five years to determine if major revisions to the Plan or Code are necessary. A public notice should be issued if it is determined that amendments are needed.

Major Revisions

Major revisions include land use changes that have widespread and significant impact within the community.

The plan and implementation measures should be revised when public needs and desires change and when development occurs at a different rate than contemplated by the plan. Major revisions should not be made more frequently than every two years unless changing conditions strongly warrant this significant action.

Minor Changes

Minor changes are those that do not have significant effect beyond an immediate area or are individual aspects of the Plan that do not represent a major policy change relative to the community as a whole. Minor changes should be based on special studies or other information that will serve as the factual basis to support the change. The public need and justification for the particular change should be established. Minor changes should be made as needed to maintain the Plan as an up-to-date guideline for community growth and development.

The citizens in the area and affected governmental units should be given an opportunity to review and comment prior to changes in the plan and implementation ordinances. There should be at least 21 days' notice of the public hearings on the proposed change. In determining the affected persons to receive notice by mail of proposed changes, renters should be considered among those affected. When adopted, the changes should be noted in a prominent place in the document, filed with the recorder, and copies made available to the public.

Section 9.170 Implementation

Implementation measures are intended to assist in putting the Plan into effect. Generally, Plan implementation includes the enactment of regulatory measures pertaining to land development such as zoning and subdivision regulations that are contained in the Adair Village Land Use Development Code, but should also include capital improvement programs or other management measures and detailed site-specific development plans.

The greatest value of the Comprehensive Plan is through its use as a policy guide for decision-making. However, it can only have limited value unless it is supported by the community as well as city government. Possibly the most important factor in such a relationship is simply patient leadership, supported by citizens who feel that community improvement is a worthwhile aim.

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Codes and Ordinances

There are several basic implementation instruments available to help the City achieve planning aims. The most important implementing ordinance is the Adair Village Land Use Development Code (Code). The following implementation instruments are utilized by the City of Adair Village:

Zoning

Zoning is probably the most familiar legal instrument used in plan implementation. While the Comprehensive Plan specifies the principals and policies for conservation and development of community resources, the zoning provisions of the Code actually provide the definite and precise standards and procedures to implement the Plan.

Zoning and the Comprehensive Plan

The Comprehensive Plan, while a guide for zoning actions, is not a zoning regulation. Zoning regulations are detailed pieces of legislation that are intended to implement the proposals of the Comprehensive Plan by providing specific standards for use of land in various districts within the community.

Two cases heard by the Oregon Supreme Court have had a profound impact on the relationship between the Comprehensive Plan and its implementation through zoning. In the case of **Fasano v. Washington County Commissioners**, it was determined that: "the plan embodies policy determinations and guiding principles; the zoning ordinances provide the detailed means of giving effect to these principles," and that "it must be proved that the (zone) change is in conformance with the Comprehensive Plan."

The earlier decision was emphasized to a much greater extent in the 1974 case of **Baker v. City of Milwaukie**. In that case it was concluded, "that a comprehensive plan is the controlling land use planning instrument for a city. Upon passage of a comprehensive plan, a city (or county) assumes a responsibility to effectuate that plan and resolve conflicting zoning ordinances. We further hold that the zoning decision must be in accord with that plan and a zoning ordinance which allows a more intensive use than that prescribed in the plan must fail."

It is important that zone change proposals be considered in relation to the policies and aims of the Comprehensive Plan. Amendments to the Zoning provisions of this Code that are consistent with the Comprehensive Plan can proceed as provided in the Code. However, zoning amendments that are contrary to the intent of the Comprehensive Plan should be reviewed first as a potential Plan change. If the zoning amendment is deemed in the public interest, then the Comprehensive Plan should be so amended before action on the zoning amendment proceeds. This procedure should guarantee essential coordination between the two planning instruments.

The City of Adair Village has prepared a Land Use Development Code in conformance with the City's Comprehensive Plan and has incorporated the Plan therein to facilitate coordinated decision-making.

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To further facilitate coordinated planning efforts, the Zoning Map and the Comprehensive Plan Map have been combined into a single Land Use District Map.

Land Division Regulations

Review of proposed Land Divisions by the City is a useful means of achieving planning goals. Dedications of land to assist in street widening or extensions can be made a condition of approval for new developments. The overall design of Land Divisions, including the installation of required improvements, will have a direct bearing on the quality of new residential districts in Adair Village. The negative effects of an ill-conceived, poorly constructed Land Division are difficult to overcome at a later date.

Land Division regulations provide the City with guidelines for approval of subdivision or partition plats. It specifies procedures for plat approval; contains design standards for streets, lots, and blocks; and lists improvements such as streets and utilities that are to be provided by the Land Divider.

Adair Village has adopted Land Division regulations into the Code in conformance with the Comprehensive Plan.

Building Permits

The City contracts with Benton County to administer the State Building Code and provides construction inspection services. A copy is forwarded to the City and maintained on file at the City Hall/Community Building providing a continuous building and development record.

Outright permitted uses may be issued a building permit without prior approval by the City. Developments requiring review and approval by the City are issued a building permit only after final approval is obtained.

Vigorous code enforcement helps to significantly reduce the number of deteriorating and dilapidated structures, as well as assuring that new buildings meet basic development requirements.

Official Street Map

The Comprehensive Plan is the Official Street Map for the City showing alignments of existing and proposed streets. In this way, the City can greatly facilitate the eventual realization of planning recommendations for streets and thoroughfares by indicating areas in which construction should be avoided, so that purchase and removal of improvements will not be necessary at a later time.

Although the Transportation Element focuses on highways, arterials and collector streets as primary network elements, there is also a need for local street continuity and extensions. Local streets are usually planned by individual developers and in most cases cannot be predetermined by the City in advance. Where needed local streets can be identified, they should be located on the Plan Map. Where they cannot be specifically located, they should be considered as part of the project review procedure.

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Each project should clearly identify street extensions, closures or modifications within and beyond the project boundary as an integral part of the project proposal and review procedures. Approved development plans should be considered a plan amendment to guarantee that recommended street alignments beyond the project boundaries are officially designated.

Capital Improvement Program

It is essential that long range financial planning, based on available and anticipated resources, be maintained by the city.

Capital Improvements Programming is one of the programs available to the community for long range financial planning. The long-range Financial Plan encompasses estimates of the City's expenditures for establishing, operating and maintaining public services and for constructing capital improvements.

A long-range financial plan must be based on the following:

1. An Operating and Maintenance Budget for public services.
2. A Capital Improvements Program based on a Comprehensive Plan.
3. A Comprehensive Revenue Program.

Upon completion of the financial plan, it is carried out with the following programs:

1. A priority list of proposed capital improvements.
2. A four-year capital improvement budget.
3. The annual city budget.

It is essential that additional operating expenses brought about by capital expenditures be included in the annual budget to insure correlation of operating and capital budgets.

In estimating revenue sources, those public agencies not directly controlled by the City, but responsible for the provisions of certain capital expenditures relative to City requirements, must be related to priority scheduling in time and coordinated as to their availability of funds.

Based on detailed programs expressing levels of service, and a definition of facilities to provide this service, cost estimates for capital expenditures may be prepared and individual program priorities assigned. Priority projects for the various program areas can then be selected to prepare an annual capital expenditure budget, based on the anticipated revenues of that year.

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Section 9.180 UGB Growth Management Agreement & Map

Agreement between the City of Adair Village, Oregon and Benton County, Oregon for the management of the Adair Village Comprehensive Plan as it pertains to the Urbanizable Area within the Growth Boundary, and the Tampico Road Area of Concurrence, and the Adair Village Planning Area.

November 12, 1981

The four-page Agreement and Map are located on the following pages

**CITY OF ADAIR VILLAGE
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AGREEMENT BETWEEN THE CITY OF ADAIR VILLAGE,
OREGON AND BENTON COUNTY, OREGON FOR THE MANAGEMENT OF
THE ADAIR VILLAGE COMPREHENSIVE PLAN AS IT PERTAINS TO THE
URBANIZABLE AREA WITHIN THE GROWTH BOUNDARY, AND
THE TAMPICO ROAD AREA OF CONCURRENCE, AND
THE ADAIR VILLAGE PLANNING AREA

1. The City of Adair Village, Oregon and Benton County, Oregon hereby agree to establish a joint management procedure for the implementation of the Adair Village Urban Growth Boundary and plan for the Adair Village Urbanizable Area, both of which form an integral part of the Adair Village Comprehensive Plan. The Adair Village Area Urban Growth Boundary is attached to this agreement as Exhibit "A". The area situated inside the Adair Village Urban Growth Boundary and outside the Adair Village City limits shall be referred to as the urbanizable area.
2. The City and County further agree to utilize the provisions of this agreement, the Adair Village Comprehensive Plan as amended, and the Benton County Land Use Plan as amended as the bases for review and action on comprehensive plan amendments, development proposals and implementing regulations which pertain to the urbanizable area.
3. The City and County recognize a common interest in the amendment of the comprehensive plan text and map, and the zoning ordinance text and map, as it pertains to the urbanizable area and to the Tampico Road Area of concurrence as shown on Exhibit "A". The County will refer to the City, upon receipt thereof, all requests for such amendments within those geographic areas in order to allow for a concurrent City review. The County shall give the City a minimum of 21 days to complete its review. Additional time for review may be provided upon request by the City. If the positions of the two jurisdictions differ, a joint meeting of the Adair Village City Council and Benton County Commissioners will be held to resolve the difference. If concurrence cannot be achieved, then the City and County shall jointly petition the Land Conservation and Development Commission pursuant to ORS 197.300 for mediation of the issue.
4. The City and County further agree to the following process for review and action on development proposals, and implementing programs and projects which pertain to the urbanizable area, including the following:
 - a. The City shall make recommendations on development proposals, and implementing programs which pertain to the urbanizable area, including the following:

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- 1) Conditional use permits
 - 2) Planned unit developments
 - 3) Land divisions
 - (a) Approved land divisions shall require urban conversion plans in conformance with the urban densities specified in the City's Zoning Ordinance.
 - (b) Approved land divisions shall require an agreement covenant assigned to the property from landowners agreeing not to remonstrate against future annexation to the City.
 - (c) Approved land divisions shall require easements, dedications, and agreement covenants assigned to the property agreeing to participate in future street improvements where future streets may be involved.
 - (d) Approved land divisions shall require connection to a potable water supply facility for future development on the property where a public water supply facility is accessible and sufficient to serve the property.
 - 4) Public improvement projects
 - 5) Recommendations for the designation of health hazard areas.
 - 6) Requests for amendment or establishment of special districts
- b. The County shall provide the City with notification of all building permit applications.
- c. The County shall make recommendations on development proposals, and implementing programs which pertain to the urbanizable area, but which are a responsibility of the City, including the following:
- 1) Transportation facility improvements or extensions
 - 2) Public water supply, sanitary sewer, or drainage system improvements or extensions
 - 3) Public facility or utility improvements or extensions
 - 4) Requests for annexation
- d. Whichever jurisdiction, City or County, has authority for making a decision with regard to a specific development proposal, implementing ordinance or program, shall formally request the other jurisdiction to review and recommend action for consistency with its comprehensive plan. This request for review and recommendation shall allow the reviewing jurisdiction 21 days within which to respond. If the positions of the two jurisdictions differ, every effort will be made to arrive at an agreement.

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5. Annexation proposals to the City which are for areas outside the Urban Growth Boundary shall be considered as a request for an amendment to the Urban Growth Boundary and shall be subject to the approval of the City and County as an amendment to the comprehensive plan.
6. The City and County further agree to establish a Planning Area around the Adair Village Urban Growth Boundary. A map of the Adair Village Planning Area is attached to this agreement as Exhibit "A". Benton County agrees to give the City of Adair Village the opportunity to review and submit recommendations to the County with regard to the following:
 - a. The comprehensive plan and amendments thereto
 - b. Rezones
 - c. Conditional use permits
 - c. Planned unit developments
 - e. Land Divisions

- 1) Approved land divisions shall require conversion plans in conformance with the County's minimum permitted densities.
- 2) Approved land divisions shall require easements, dedications, and agreement covenants assigned to the property agreeing to participate in future street improvements where future streets are involved.
- 3) Approved land divisions shall require connection to a potable water supply facility for future development on the property where a public water supply facility is accessible and sufficient to serve the property.

- f. Public improvement projects

Requests for recommendations on the above shall be forwarded to the City with a minimum of twenty-one (21) days to complete its review of the proposal and submittal of recommendations for action. The County shall consider these recommendations in making its decision.

The County shall also provide the City with notification of all building permit applications within the Planning Area.

7. This agreement may be amended at any time by mutual consent of both parties, after public hearing and referral to the City and County Planning Commissions for a recommendation. Any modifications in this agreement shall be consistent with the comprehensive plans of the City of Adair Village and Benton County.

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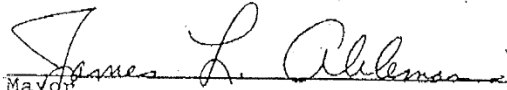
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8. This agreement may be terminated by either party provided that the following procedure is used:
- a. A public hearing shall be called by the party considering termination. That party shall give the other party notice of hearing at least 40 days prior to the scheduled hearing date. This 40-day period shall be used by both parties to seek resolution of any differences.
 - b. Public notice of the hearing shall be in accordance with applicable state and local statutes and goals.
 - c. An established date for termination of the agreement shall be at least 180 days after the public hearing in order to provide ample time for resolution of differences, reconsideration of the decision and the adoption of a replacement Urban Growth Management Agreement which complies with statewide goals, statutes and administrative rules.

Dated this 12th day of November 1988.

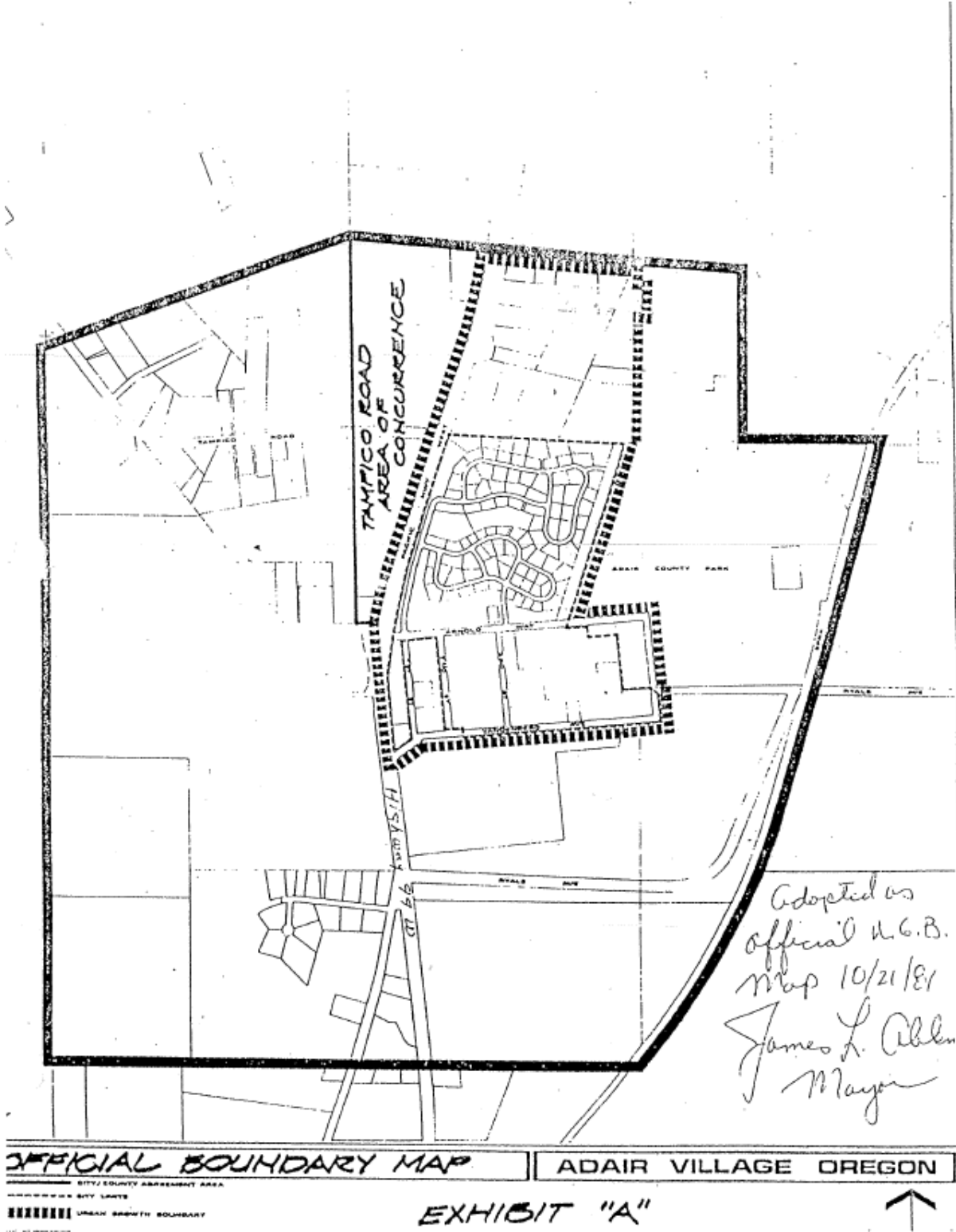
CITY OF ADAIR VILLAGE


Mayor

BENTON COUNTY


Chairman, Board of Commissioners

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Section 9.190 Planning Goals & Policies

GOALS AND OBJECTIVES

There are certain basic aims to which the Comprehensive Plan is broadly committed. These general goals and objectives are:

1. To encourage development in a planned and considered manner consistent with the community's general health, safety and welfare.
2. To achieve an environment that assures each individual the widest possible choices and opportunities for a productive and meaningful life-style within the community.
3. To preserve those features that are special and unique to the community while also being responsive to changing needs and conditions.
4. To preserve and maintain areas of the natural environment that are unique to the community's natural setting.
5. To broaden opportunities for services to meet community needs.
6. To achieve public interest, understanding, and support of the planning process and the goals toward which the process is directed.
7. To broaden employment opportunities to meet community needs.

Specific goals and objectives related to the primary planning elements are:

1. To provide conservation and development policies for the orderly and efficient development of community resources.
2. To provide a land use policy plan that sets forth the suitable kinds, amounts and intensities of use to which land in various parts of the City should be put.
3. To provide a housing policy plan which seeks increasing opportunities for all citizens to enjoy safe, decent and sanitary housing and to assist in creation and maintaining neighborhoods in a manner consistent with the natural environment and the needs of the people.
4. To provide a transportation planning as a guide for development of a systematic network of traffic ways related to the patterns and needs of community activity.
5. To provide public facility policy plan as a guide for the location and development of future community facilities and utilities consistent with long-range community needs.

POLICIES & RECOMMENDATIONS

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If the Comprehensive Plan is to be of value as an on-going decision-making guide, it must be maintained as an up-to-date working manual, otherwise it will quickly become outdated.

1. The City of Adair Village hereby adopts the applicable Statewide Planning Goals as they apply to the community and reinforces them through specific goals, objectives and policies in response to community needs.
2. The Adair Village Comprehensive Plan is the controlling planning instrument for the City of Adair Village as defined by State law. All other land use development and management ordinances shall be in conformance with the Plan.
3. The Adair Village Comprehensive Plan shall be maintained as an on-going decision-making guideline for planning and development actions within the City of Adair Village and the Adair Village Urban Growth Boundary and the Adair Village Planning Area.
4. All proposed revisions or amendments to the adopted policies shall be reviewed at public hearings before final action.
5. The Adair Village Land Use Development Code shall be the implementing ordinance for land use decision actions in support of the Comprehensive Plan.
6. Local ordinances shall be in conformance with the adopted policies of the Adair Village Comprehensive Plan. Ordinance amendments, deemed in the public interest, that are contrary to the intent of the adopted policies shall be reviewed and amended as policy changes to the Comprehensive Plan in conformance with the ordinance amendment process contained in the Code.
7. Since planning problems may require area-wide action that cannot be solved by the City alone joint cooperative solutions involving more than one level of government shall be actively encouraged.
8. Close coordination shall be maintained with local businesses, school districts, serving utilities, Benton County and other governmental agencies having facilities or programs in the area.
9. Active and on-going citizen involvement programs shall be maintained to ensure that all citizens have an opportunity to be informed and to be involved in the planning process including the implementation of ordinances.
10. City Staff, Planning Commission and City Council members should record notes on planning issues directly in the Plan and Code text as issues occur for future review and possible amendments.

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11. Plan maps should also be used to record changes and proposed amendments.
12. Related planning studies and reports should be recorded as source references in the Adair Village Comprehensive Plan as Amendments occur and they shall be located in the City Hall Offices.
13. A Capital Improvement Program should be developed and maintained as an on-going financial support component for the Comprehensive Plan.
14. The Adair Village Planning Commission shall conduct an annual review of the Adair Village Comprehensive Plan and Land Use Development Code to maintain a current up to date database for the City.
15. The City shall maintain an Official Record File for each activity requiring approval or a permit and shall include any related information as it occurs in the File.

Section 9.200 Environment

The primary **Statewide Planning Goals** (Goals) related to this Section of the Plan are **Goals 5, 6, and 7**, although other Goals also have natural environmental implications.

Goal 5 reads: "To conserve open space and protect natural and scenic resources." In partial response to this goal, this element of the Plan includes an inventory of natural resources including geology, soil and aggregate resources, surface and ground water resources, natural vegetation and fish and wildlife resources. Also included are a series of policies to help ensure the wise management of natural resources for future generations and to avoid land use conflicts damaging to the natural environment.

Goal 6 reads: "To maintain and improve the quality of air, water and land resources of the state." In partial response to this goal, this element includes consideration of waste process discharges including water pollutants, air pollutants and noise pollutants (see also the public facilities element). Policies are included to ensure that waste and process discharges do not threaten to violate, or violate, state or federal environmental quality statutes, rules and standards, nor exceed the natural environmental carrying capacity of the area.

Goal 7 reads: "To protect life and property from natural disasters and hazards." In response to this goal, this element includes an inventory and map of known areas of natural disaster and hazard. Included in the policies are appropriate safeguards to insure against loss of life and property from natural disasters and hazards. The primary hazards in the Adair Village planning area are localized slope, slippage, ponding and erosion problems.

Finally, this element also includes information pertinent to **Goal 3**, "To preserve and maintain agricultural land," and **Goal 4**, "To preserve forest land for forest uses."

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Section 9.210 Climate

The climate of Adair Village is similar to that of most Willamette Valley communities although the adjacent hills provide some local microclimate modifications. Adair Village has a temperate climate with moderately warm, dry summers and mild, wet winters.

The average summer temperature ranges between 51 and 82 degrees. The average winter temperature ranges between 46 and 32 degree. Extreme temperatures of -12°F in December and 108°F in August have been recorded.

Annual precipitation averages about 43 inches, most of which occurs as rainfall at low intensities. About 84 percent of annual precipitation occur from October through April. December is the wettest month with 6.8 inches while July is the driest month with only 0.6 inches. An average of 6.5 inches of snow is possible, generally in December and January. The prevalence of moist marine air causes relatively high humidity and heavy dews throughout the year.

The prevailing winds are from the west and northwest during the summer and from the south and southwest during winter storm periods. Occasional easterly winds bring cold, clear weather in winter and exceptionally dry, warm weather in summer. Wind velocities are generally moderate in the range of 4 to 12 mph from April to September. Winter storm winds of 40 to 50 mph are not uncommon from October to April. The growing season occurs between March and November for an interval of 263 days.

Climate extremes can produce hazardous conditions. Lightning can cause forest fires. Freezing rain can create hazardous traffic conditions. Strong winds can cause property damage like the 1962 Columbus Day winds that exceeded 70 mph. However, the predominant local hazardous condition is flooding caused by rapid snowmelt or intense rainfall like the floods of 1964 and 1996.

Section 9.220 Topography

The Topography Map contains topographic and slope information for the Adair Village Planning Area. The area topography is a transitional zone between the almost flat Willamette Valley floor on the northeast to the Coast Range mountains on the west. In the immediate Adair Village vicinity, the topography consists of foothill ridges rising from the valley floor. The City is situated on one of these gentle ridgelines with elevations ranging from a high of approximately 328 feet to a low of 275 feet. Located on the crest of the ridge, the ground slopes away to the north, east and south. The residential area of the City is located on the north-facing slope. This rolling topography provides varied topographic features for residents.

Immediately west of OR (Oregon) Highway 99 West (this is the correct reference, though this highway is referenced in a variety of ways in earlier documents) lies the foothills of the Coast Range including Hospital Hill on the west and Poison Oak Hill on the northwest boundary of the Planning Area. The maximum elevation within the Planning Area is 525 feet. The topography in the Planning Area poses few restrictions to development although there are some limited areas of steep slopes.

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Slopes within the Planning Area range from 3 to over 30 percent. There are only limited areas of steep slopes that exceed 30 percent. These are located on Poison Oak Hill, parts of Hospital Hill and the upper reaches of Calloway Creek. Slopes within the Urban Growth Area are generally moderate, in the 3 to 15 percent range, except for the southern face of Poison Oak Hill.

Drainage

The City is located on a drainage divided between two small streams. Each flowing eastward and eventually feeding into the main channel of Bowers Slough which empties into the Willamette River approximately 3 miles west of Albany. Bowers Slough begins in the Tampico Road area and flows east through the center of the City. After passing through a small pond and the Adair County Park, this stream eventually feeds into the main channel of Bowers Slough. The southern portion of the Planning Area is drained by Calloway Creek that is also a tributary of Bowers Slough. Calloway Creek drains the Calloway Drive Area, the Oregon Department of Fish and Wildlife (formerly the Oregon State Game Commission) site and agricultural lands south of Ryals Avenue.

There are no flood hazards within the Planning Area. High water table and ponding occur at the base of the ridgeline on the valley floor adjacent to the northeast, east and southeast borders of the Planning Area.

Section 9.230 Geology & Soils

The underlying geology is significant for a number of reasons. Geologic and soil characteristics indicate load-bearing strength, drainage potential, erodibility and suitability for use as agricultural land, timber land, or for recreational, industrial, commercial or residential development. The geologic characteristics can indicate specific hazards, such as slippage problems, or specific resource values, such as the presence of economically exploitable mineral resources.

Geologic Characteristics

Most of the Planning area is located on a base geology of volcanic origin. The City itself and almost the entire area within the Urban Growth Boundary are volcanic pediment rocks. These rocks are gently inclined and generally covered with thin deposits of unconsolidated material. Drainage is shallow and intermittent. Streams with incised channels flow on the bedrock. Soils are dark-brown to reddish-brown silt and clay, 1 to 10 feet thick with shrink/swell cracks. There may be some creep movement on slopes and near drainage courses and limited mass movement near breaks in the slope.

Poison Oak Hill and Hospital Hill, including the Calloway Drive area, are on Eocene volcanic rock. Soils are dark-brown to reddish-brown silt and clay, 1 to 10 feet thick with shrink/swell cracks. Perched ground water zones provide moderate water yields generally adequate for domestic use. Hazards include local mass movement on steep slopes. The west slopes of Poison Oak Hill, located a quarter mile north of the Planning Area, are subject to mass movement hazard. No specific hazard exists in the Study Area but there could be localized problems on steep terrain.

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The rolling hills to the east and south of Adair such as Voss Hill, Spring Hill and Logsden Ridge are composed of sedimentary rocks. Between the igneous rocks of the ridges on the west and the sedimentary rocks of the hills on the east there are stream and terrace deposits that occupy the flat land of the narrow valley floor channels. Quaternary higher terrace deposits on the eastern fringe of the Planning Area including the agricultural lands to the northeast, the bottomlands in the Adair County Park and the agricultural lands south of the State Game Commission Regional Headquarters site. They consist of semi-consolidated gravel, sand, silt and clay of variable thickness. These rocks yield small to moderate groundwater depending on the depth to bedrock. Soils range from poorly to well-drained loams.

Aggregate Resources

Sand, gravel and crushed rock are important factors in the development of an area. These materials are used in concrete, asphalt, and construction. The economic hauling distance for such materials is approximately 15 to 20 miles. Due to the high cost of hauling, there is a need to preserve such resources, especially close to urban centers.

Quarry stone makes a better base for paved surfaces, and it is better suited to the construction of oiled roads than is stream gravel. However, it is generally not suited for use as concrete aggregate, and it is more costly to produce than sand and gravel.

Information on aggregate resources is contained in "Rock Material Resources of Benton County" by the Oregon Department of Geology and Mineral Industries. There are no economically significant rock material resources within the Planning Area. There are three former Oregon State Highway rock quarries on Coffin Butte, two miles north of Adair Village. The site is now used for solid waste disposal. There are however, large active rock and sand and gravel extraction operations in the North Albany area and the Corvallis area, both of which are within economical hauling distance of Adair Village.

A major fault occurs just east of the Planning Area near the Southern Pacific Railroad tracks. This "Corvallis Fault zone" occurs between the volcanic and sedimentary formations and is concealed by the stream and terrace deposits in the Adair vicinity. According to available information, this fault zone is no longer active and no seismic activity has been recorded as originating from this fault zone. Earthquake activity affecting Benton County is associated with earthquakes occurring near Portland or off the Oregon Coast or with larger earthquakes occurring in the Puget Sound area. Due to the short period that records have been kept and the difficulty of detecting an active fault, some precaution is necessary. Adherence to the relevant provisions of the Uniform Building Code for Zone II Seismic Risk is required until more detailed data indicates a change.

Soils

The Soil Conservation Service has mapped the soil types in the Adair Village area in detail, and provided soil interpretation data for each type. This information has been used as major criteria in determining the Urban Growth Boundary and future land uses.

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The Soil Conservation Service uses a classification system of eight capability classes to indicate the suitability of soils for most kinds of field crops. The numerals indicate progressively greater limitations and narrower choices for practical uses.

Class I through Class IV soils can be cultivated. Class I soils have a few limitations while Class IV soils have very severe limitations that: reduce the choice of plants, require very careful management, or both. Classes V through VII soils are usually limited to pasture, range, woodland or wildlife. Classes VIII have limitations that restrict their use to recreation, wildlife, and water supply or to esthetic purposes.

The following description of soil types in the Adair Village area begins with the ridge top soils, those having the steepest degree of slope, and is followed by a description of the soils of the foothills and the flatter bottomlands along the creeks. Further details can be obtained from the Soil Conservation Service's "Soil Survey of Benton County Area" and the attached soils map.

Ridge Tops and Upper Slopes

The soils on the upper slopes and ridge tops of Poison Oak Hill and Hospital Hill are either Witzel very cobbly loam with 30 to 75 percent slope (WLG) or Price-Ritner complex soils, 20 to 30 percent slope (PTE). Both soils are generally unsuitable for development.

Soils on the upper slopes of Poison Oak Hill are Witzel very cobbly loam with 30 to 75 percent slope. This is a Class VII soil. This soil is used for timber production, grazing, water supply and wildlife habitat. It has severe limitations to use because of shallow depth, a high content of coarse fragments and very steep slopes; and it is unsuited for cultivation. Because of the shallow depth the rooting zone for trees is very limited.

Run off is very rapid, and the hazard of erosion is high. Available water capacity is 1 to 2 inches. Permeability is moderately slow. Root penetration is limited to a depth of about 12 to 20 inches by the underlying basalt bedrock.

The upper slopes of Hospital Hill in McDonald State Forest and the small wooded hill south of Calloway Drive, which is presently being developed, are Price-Ritner complex soils with 20 to 30 percent slope. Runoff is rapid and the erosion hazard is high. The soils of this complex are suitable mainly for pasture, timber, water supply and wildlife habitat. Because of the steepness and the high hazard of erosion, these soils have severe limitations to use for cultivated crops.

Price-Ritner complex with 20 to 30 percent slopes is a Class IV agricultural soil but has higher value as productive woodland use.

Uplands and Foothills

The middle and lower slopes of Poison Oak Hill are Dixonville silty clay loam with 12 to 20 percent slopes (DnD) and Price silty clay loam with 12 to 20 percent slopes (PrD). Runoff is medium and erosion hazard is moderate. Permeability is moderately slow. Both are Class III agricultural soils, the Dixonville silty clay

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loam is only moderately productive for woodland but the Price silty clay loam has a high woodland productivity.

The most prevalent of all the upland and foothill soils is Jory Silty clay loam with 2 to 12 percent slope (JoC). This soil underlies the western half of the City of Adair Village, Part of the State Game Commission Regional Headquarters site, almost half of the Tampico Road area, plus most of the developed part of Calloway Drive. The Urban Growth Area west of OR Highway 99 West is underlain by this soil. It is classified as a Class II agricultural soil that is also highly productive for woodland use.

The Jory soil series consists of deep, well-drained soils that formed in colluvium weathered from sedimentary and basic igneous rocks. These soils are on the higher rolling uplands that border the steeper mountainous area.

This soil occupies broad ridges and side slopes. Slopes average about 7 percent. Runoff is medium and the hazard of erosion is slight. Available water capacity is 7 to 11 inches. Permeability is moderately slow. Root penetration is deep.

This soil, when used for agriculture, is suitable for cereal grain, grass seed, orchards, hay and pasture. Some areas are used for timber production, water supply, wildlife habitat and recreation.

The eastern part of Adair Village, plus a third of the State Game Commissions site and a very small area of Tampico Road are Dixonville silty clay loam with 3 to 12 percent slope (DnC). Runoff is medium and the hazard of erosion is slight. This is a Class II agricultural soil suited for unimproved and improved pasture, cereal grain, woodland, water supply and wildlife.

Lower Slopes and Bottomlands

The agricultural land immediately south of the State Game Commissions site consists of Amity silt loam (Am), McAlpine silty clay loam (Mn), Waldo silty clay loam (Wa), and Willamette silt loam of 3 to 12 percent slopes (WeC), all of which are agricultural Class II or III soils. The rural residential development immediately north of Adair Village is on Witham Silty Clay loam with 2 to 7 percent slopes (WkB), McAlpin silty clay loam (Mn), Concord silt loam (Co), Woodburn silt loam with 0 to 3 percent slopes (WoA) and Waldo silty clay loam (Wa).

These soils share a common characteristic in that they pose moderate to severe limitations for the use of septic tank absorption fields, especially the Witham silty clay loam which underlies most of the existing development, and the more extensive Waldo silty clay loam which is largely undeveloped. Waldo silty clay loam and McAlpin silty clay loam occupy narrow bands along Bowers Slough and Calloway Creek.

McAlpin silty clay loam (Mn) is a Class II agricultural soil that occupies alluvial terraces and slopes are 0 to 3 percent. Runoff is slow and the hazard of erosion is slight. Available water capacity is 8 to 10 inches. Permeability is moderately slow. Rooting depth is deep but is somewhat restricted by a

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seasonal, temporary high-water table. The soil is used mainly for cereal grain, grass seed, hay and pasture, wildlife habitat and recreation. Some areas on alluvial bottomland are subject to stream overflow.

Waldo silty clay loam (Wa), a Class III agricultural soil, is in areas along the streams and drainage ways of the foothills. Runoff is slow and the hazard of erosion is slight. Rooting depth is limited by a seasonal high-water table. Permeability is slow. Available water capacity is 9 to 11 inches. This soil is suitable for pasture, hay, small grain, grass seed, wildlife habitat and recreation.

The agricultural area northeast of the Adair Village Urban Growth Boundary is predominantly Woodburn silt loam (WoA) with 0 to 3 percent slope. This is a Class II soil suitable for pasture, hay, small grain, grass seed, vegetables, berries, wildlife habitat and recreation. Runoff is slow to medium; the hazard of erosion is none to slight. Permeability is slow. Rooting depth is somewhat restricted by a seasonal water table in winter and spring.

Agricultural Suitability

Statewide Planning Goal 3 reads, "To preserve and maintain agricultural lands". To help achieve this goal, the Goal calls for "the retention of Class I, II, III and IV soils for farm use". The dominant soil class in the Planning Area is Class II with small areas of Class III and IV located on the north, west and south edges of the Planning Area.

Although most of the area has good agricultural soils ratings, much of the Planning Area is not in agricultural use. There is only 78 acres within the Planning Area outside of the Adair Village City Limits that is presently in agricultural use. Within the Planning Area there are four parcels totaling about 36 acres that are located northeast of Adair Village. Another 42 acres is located south of the Adair Village City Limits. Both of these areas are presently zoned Exclusive Farm Use (EFU) by the County. Within the City there is another 42 acres adjacent to the south City Limits Boundary that is presently farmed as an interim use until residential development occurs.

Woodland Suitability

Soils for the Planning Area have been rated for woodland suitability from Site Class I to V, with I being the most suitable for timber production. The western half of the Planning Area is almost exclusively Class II. The eastern half is about equally divided by Class III, IV, and unclassified soils, with a small area of Class II in the Adair County Park. The most significant Fir growth is in the McDonald State Forest west of the City with scattered Oak growth throughout the Tampico Road rural residential area and around the Adair County Park. Public forestlands located in the southwest area of the Planning Area adjacent to the City Limits are zoned FC-40 by the County.

Development Suitability

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Soils maps identify soil limitations for the construction of buildings without basements and for the operation of septic tank absorption fields. The maps are based on the Benton County Benton County Sanitarians Office soil survey regarding septic suitability. Septic suitability ranges from "generally unsuitable" to "always unsuitable". Most of the Planning Area is generally suitable to marginal. Unsuitable areas are the low drainage areas north and south of the City and the steep hillsides on the west and northwest. The area east of the City is "generally unsuitable" due to high water table and slow permeability, although in each area on-site inspections may alter these general findings. The preliminary Urban Growth Area immediately north of the City limits was specifically identified by the County Sanitarian as a poor septic suitability area on the basis of existing land use patterns and the poor suitability of soils in the area.

Approximately 140 acres in the northwest corner of the Planning Area adjacent to Highway 99 West and the City Limits have been zoned by Benton County as Rural Residential (RR-5 acre) and (RR-10 acre).

Section 9.240 Water Resources

Surface Water Hydrology

The only surface water features in the area are Bowers Slough which flows through the center of the City between properties bordering Barberry and Azalea and Calloway Creek which is in the UGB extension area south of the Ryals Road and small tributaries of these streams. There are also three small ponds, two on Bowers Slough in the Adair County Park and one on a tributary of Calloway Creek located on the ODFW Corvallis South Willamette Watershed District Office site. There are also 28 acres of wetlands in the Adair County Park. The streams in this area are all intermittent streams and are dry part of the year.

Water Quality Standards

Water Quality standards governing these streams are set forth in the "State-wide Water Quality Management Plan". They are included in the plan for the Willamette Basin under "All Other Streams and Tributaries". Beneficial uses to be protected include all uses except "commercial navigation and transportation". The standards state "the highest and best practicable treatment and/or control of wastes, activities and flows shall in every case be provided so as to maintain dissolved oxygen and overall water quality at the highest possible levels and water temperatures, coliform bacteria concentrations, dissolved chemical substances, toxic materials, radioactivity, turbidities, color, odor and other deleterious factors at the lowest possible levels".

Waste Discharge Permits

Waste discharge permits are issued by the Department of Environmental Quality (DEQ) for the construction and operation of new or modified sewage and industrial waste treatment facilities and related effluent disposal. A National Pollutant Discharge Elimination System (NPDES) permit for

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discharges into public waters is issued pursuant to both federal and state requirements. The permit gives the permissible limits for plant operations.

Issued permits must meet applicable federal standards and guidelines as well as applicable portions of the State Water Quality Plan for the Willamette Basin. The DEQ intends that any further applications for permits will be submitted to the appropriate local planning agency for certification of land use plan and goal conformance.

The DEQ has issued a NPDES permit for the operation of the Adair Wastewater Treatment Plant. The DEQ concluded that the Adair Village NPDES Permits were being adequately addressed.

Water Quality Standards, Plans and Compliance

Standards and rules necessary to ensure that beneficial use of public waters are not impaired by inadequate water quality are adopted by the Environmental Quality Commission and implemented by the DEQ. The Statewide Water Quality Management Plan (OAR 340, Division 41) developed by DEQ includes beneficial water uses to be protected, water quality standards, minimum design criteria for point source controls and general policies.

The State Water Quality Management Plan contains standards for 19 drainage basins. Adair Village is within the Willamette Basin. All beneficial uses except commercial navigation and transportation are to be protected in the Willamette Basin. The Statewide Water Quality Management Plan must be reviewed and updated every three years. Water quality standards are revised periodically based on new information or to meet new federal requirements. To ensure protection of water quality standards, the DEQ must issue a certification that standards will not be violated by anyone applying for a federal permit for actions in or adjacent to a waterway which may result in a discharge of pollutants to the waterway.

Groundwater

The volcanic rocks that comprise the foothills of the Coast Range yield small quantities of water that are usually adequate for domestic use. Records for wells in the nearby Lewisburg area show yields of 30 to 60 gallons per minute (gpm). Wells tapping the sedimentary rocks of marine sandstone and shale east of Adair Village produce small quantities of good-quality water adequate for domestic uses.

Groundwater resources should be protected from potential pollution. Pollution can result from septic tank wastes, urban runoff, solid waste leachates, and irrigation return water when wastes are allowed to percolate into the soil in areas of groundwater recharge. Septic tanks particularly pose a potential pollution hazard to groundwater resources. In areas of dense development contamination of individual wells can be a serious health hazard.

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Section 9.250 Vegetation & Open Space

Natural Vegetation Values

Vegetation provides a number of important values for the community. In addition to the obvious economic value, woodlands, forests and other areas of natural vegetation serve to conserve, protect and enhance other resources. On steep slopes the natural vegetative cover helps stabilize the soil and thereby protects water resources from excessive sedimentation. The protection of water quality by natural vegetation also helps protect fishery resources and provides habitat for a wide variety of wildlife. Natural vegetation supports outdoor recreation activities, provides an open space resource for the urban environment, and generally enhances the esthetic quality of the community.

Existing Natural Vegetation Resources

Within the City of Adair Village itself there is relatively little natural vegetation except on the eastern edge of the City. The surrounding area, however, contains significant natural vegetation resources including stands of coniferous, hardwoods, and mixed trees.

East of OR Highway 99 West natural vegetation is confined largely to the eastern edge of the City and the Adair County Park that contains 18 acres of oak groves, and 28 acres of wetland. A natural vegetative buffer, consisting of oaks and other deciduous trees, separates the park activity areas from the residential portion of Adair Village. The only other notable natural vegetation east of Highway 99 is limited to a very narrow band of mixed hardwood riparian vegetation adjacent to the small creeks.

West of OR Highway 99 West much of the land is either forested or wooded. Poison Oak Hill is covered with stands of Oregon Oak. The area along Tampico Road is a mixture of open lands, brush lands and wooded areas of predominantly Douglas Fir or Oregon Oak. McDonald State Forest, south of the Tampico Road area, is heavily wooded with stands of Douglas Fir and hardwoods. Finally, the southwest corner of the Planning Area adjacent to Calloway Creek is covered by residual Douglas Fir from previous logging and Oregon Oak and brush.

The Riparian Zone

The riparian zone is that band of land adjacent to and influenced by water bodies including lakes, ponds, marshes and intermittent and perennial streams. Much of the best wildlife habitat is found in riparian zones. The most significant attribute of major riparian zones is variety. The mix of habitats, combined with the productive aquatic environment, is suited to the needs of virtually all wildlife species in the Willamette Valley.

The productivity of the riparian zone for wildlife is directly related to the diversity and quality of vegetation present. The larger the vegetated zone adjacent to the water, and the more diverse that vegetation, the greater its productivity. All riparian zones, however, merit protection, owing to the particular importance to wildlife of diverse habitat near water.

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Fish and wildlife require undisturbed riparian areas as sources of food, water and/or habitat. Significant changes in these areas may result in partial or total loss of fish and wildlife. Although very limited in extent, the riparian zones along Bowers Slough, Calloway Creek and other small streams and ponds should be protected.

Section 9.260 Fish and Wildlife

The key to maintaining a diverse and abundant wildlife population is simply to provide an abundance of diverse habitats.

The Oregon Department of Fish and Wildlife identifies ten habitat types:

- Slow still waters
- Fast moving waters
- Marsh
- Riparian
- Open Areas
- Edges
- Deciduous trees
- Coniferous trees
- Coniferous and Deciduous mixed trees
- Dead defective trees

Nearly all areas can provide some habitat for non-game wildlife of some kind. Some species can adapt to a variety of habitats but others are restricted to specific habitat types. For example, the spotted owl is restricted to old growth timber areas while woodpeckers need dead or defective trees for nesting.

To ensure an abundance and variety of wildlife, development proposals should be reviewed to insure the maximum feasible preservation of habitat types identified above. Preservation of riparian zones, particularly along streams, is of outstanding importance for wildlife. Provision and preservation of parks, open space and water areas is important.

Threatened or Endangered Wildlife Species

The Oregon Department of Fish and Wildlife has not identified any known "threatened or endangered species, or any specialized habitats" within the Adair Village Planning Area. There are also no significant fisheries resources though the pond in the Adair County Park is used by children fishing for crappies.

While there is no especially significant habitat within the Planning Area, there are important wildlife areas nearby.

Oregon Department of Fish & Wildlife Lands

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The E. E. Wilson Game Management Area immediately adjacent to the northern boundary of the Planning Area is the only facility in the State where game birds are reared annually for release to the wild. In addition, juvenile hunting of upland birds is permitted annually, other small game hunting is allowed by permit, and the area is used for bird dog trials. The area is one of the largest blocks of undisturbed wildlife habitat remaining in the Willamette Valley and has been the site of numerous wildlife field research projects.

The 44-acre site occupied by the ODFW District office on the south border of the City is not used very extensively for wildlife habitat or hunting purposes at this time although there is a small pond utilized by water fowl. There are no specific plans for more extensive use of this site for game purposes and the Commission has been in negotiation with the City and the Santiam Christian School to sell or trade some portions of this site.

West of Adair Village lies the extensive McDonald State Forest and the Paul Dunn State Forest. The McDonald State Forest borders OR Highway 99 West from Arnold Avenue almost to Ryals Avenue, while the Paul Dunn State Forest borders segments of Tampico Road. These state forests provide significant wildlife habitat immediately adjacent to the community.

Land Use Conflicts

The guidelines for achieving Statewide Goal 5, "Open Spaces, Scenic and Historic Areas and Natural Resources," states that "Fish and Wildlife areas and habitats should be protected and managed in accordance with the Oregon Wildlife Commission's Fish and Wildlife Management Plans.

Most of the policies and recommendations concerning fish and wildlife are based on those made by the Department of Fish and Wildlife in the Benton County fish and wildlife habitat protection plans. Preservation of the riparian zone and prevention of pollution are among the most critical concerns for both fish and wildlife.

Changes in land use from open land uses to more intensive development are reducing the total wildlife habitat base, resulting in a net loss of both numbers and types of wildlife. Any activity that removes or alters existing habitat adversely affects the wildlife that requires that habitat. Those activities and land uses that can have adverse effects on fish and wildlife are:

- Filling or draining of aquatic habitats.
- Water pollution.
- Clearing of riparian zones.
- High-density development in or adjacent to sensitive habitats.
- Field burning and other practices which remove vegetation from roadsides, fencerows, and other unused areas.
- Conversion of forest and agricultural land to small parcels.

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The extension of urban development northward from the present City Limits to the southern boundary of the E.E. Wilson Game Management Area has been restricted to include only those properties within the City's Urban Growth Boundary already developed at rural residential densities.

Farm use is considered the land use most compatible with the management area. However, even farm use poses problems including livestock trespass and transmission of parasites and disease from domestic fowl. Residential development could result in negative reaction from adjacent residents to hunting and depredations on wildlife by cats and dogs. To prevent future conflicts a land use buffer should be maintained between the two uses.

Section 9.270 Air Quality & Noise Control

Air Quality

Winds are important in land use planning in a number of ways. In locating industrial plants, for example, it is necessary to consider the prevailing wind directions so that the harmful effects of air-polluting emissions will be reduced. Wind direction also has significance for the application of fertilizers, insecticides and chemicals for weed control on agricultural and forestlands. The nearest location for which wind information is available is Salem airport that should be fairly representative of the Adair Village Area. Winds are out of the south and southwest at Salem for 40 percent of the time; out of the north and northeast for 20 percent of the time; and out of the west and northwest for 20 percent of the time. Conditions are calm 11 percent of the time and winds from the east are fairly rare. The average wind speed ranges from 4.2 miles per hour, for winds from the east, to 8.2 miles per hour for winds from the south. Further information on climatic characteristics is contained in the "Soil Survey of Benton County" by the Soil Conservation Service.

The Adair Village Urban Growth Area is a Class II Prevention of Significant Deterioration (PSD) air quality area. The Environmental Protection Agency regulations designate three classes of PSD areas. Class I increments permit only insignificant air quality deterioration; Class II increments permit moderate deterioration; Class III allows for the greatest amount of deterioration, but in no case beyond the national air quality standards.

Under the federal regulations, all areas of the state are automatically classified as Class II areas except for mandatory Class I areas and "non-attainment" areas. The enforcement program is administered by a pre-construction and pre-modification permit program for certain types of stationary sources. The permit program ensures that emission sources do not exceed numerical increments applicable to that class and that they use the best available control technology.

No Air Contaminant Discharge Permits have been issued in the Planning Area as there are no significant stationary sources of air pollution. The Department of Environmental Quality has classified the various communities in the state according to the "increment" available for total suspended particulate (TSP) and sulfur dioxide (SO₂), carbon monoxide (CO) and other significant pollutants. With no significant industrial development or other stationary source of air pollution in Adair Village, the City has almost a

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full "increment" available of both TSP and/or SO₂ and there is no apparent danger of "closing out" of the airshed.

No specific sites have been identified in the plan for future industrial or major commercial development. Should an industry or commercial development wish to locate in Adair Village it would be subject to the Planned Development review procedures of the zoning ordinance which include provision for full consideration of potential environmental impacts, including air pollution.

Motor vehicle traffic cause anywhere from 80 to 90 percent of the CO generated in most urban areas of the state. Accordingly, the DEQ has devised a procedure, used on average speed and volume of cars, to determine if there is a possibility of violations of the 8-hour CO standards.

The DEQ's 8-hour CO standards for urban areas with a population of under 50,000 show that traffic would have to reach an average weekday level of 69,200 at 55 miles per hour for there to be a possible violation of the 8-hour carbon monoxide standard.

Therefore, it has been determined that the Adair Village Comprehensive Plan does not appear to conflict with Class II air quality standards and the roads in the Adair Village Comprehensive area do not cause existing violations, and will not cause future violations, of the 8-hour carbon monoxide standard.

Field Burning

The field-burning program is administered by the DEQ with guidance from the Advisory Committee on Field Burning. The program seeks to minimize the impacts of field burning activities within safety and meteorological constraints. The program also involves coordination with fire districts to ensure that field and other burning activities are performed in a safe manner.

Field burning is widespread in the Willamette Valley and occurs in the Adair Village vicinity. The location of Adair Village on the western edge of the Willamette Valley and the prevailing wind patterns provides adequate protection from field burning problems most of the time. DEQ standards for field burning should also reduce future impacts.

Coordination with Department of Environmental Quality

The DEQ requires that a Notice of Intent to Construct (NC) must be filed by all persons proposing to construct an air contaminant source. The NC is used to identify facilities which are considered air contaminant sources and which will require Air containment Discharge Permit (ACDP). Not all sources requiring NC's need an Air contaminant Discharge Permit. Certain types of air contaminant sources are required to have a DEQ-issued ACDP before operation of that source can begin.

Certain types of parking facilities, highways, airports and other types of indirect sources of pollution require a DEQ Indirect Source Construction Permit (ISCP) prior to construction and operation. The City of Adair Village will coordinate actions with the DEQ regarding the above site-specific permit activities. Specifically, upon request from the DEQ, the Adair Village Planning Commission will prepare a

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statement, to be forwarded to the DEQ, regarding compatibility of applications with the City's Comprehensive Plan and local ordinances.

DEQ Rule-Making Practices and Procedures

The DEQ is required to make public notification of and solicit public comment on all proposed regulations, e.g., ambient air and emission standards and programs, prior to adoption. The DEQ presently notifies the City of Adair Village of all applicable rule-making actions of the DEQ.

Noise

In larger urban centers noise is an increasingly serious pollution problem. One of the reasons people live in a smaller city like Adair Village is to avoid the noise and other pollution problems of the larger cities.

Statewide Goal 6, to maintain and improve the quality of the state's resources and to insure future developments do not violate, or threaten to violate, applicable state or federal environmental quality statutes, rules or standards, includes noise concerns.

Federal and State Policy

Both the state and federal governments have adopted policies concerning noise. Federal Public Law 92-574, 2(b) states, "It is the policy of the United States to promote an environment for all Americans free from noise that jeopardizes their health or welfare."

The Oregon Legislature in adopting the Oregon Noise Control Act of 1971 found that the noise at "unreasonable levels is as much a threat to the environmental quality of life and the health, safety and welfare of the people of this state as is pollution of the air and water." (ORS Chapter 467). The legislature accordingly authorized the DEQ, through the Environmental Quality Commission, to adopt and enforce statewide standards of noise control (OAR 340-35).

The DEQ, for example, requires vehicles operating on public roads to meet noise emission standards (ORS 467.030). Industrial and commercial sources also must meet DEQ noise standards for all sources are contained in OAR 340-35-005 through 340-35-100. Adair Village presently does not have noise problems, other than some traffic noise from OR Highway 99 West.

[Section 9.280 Planning Opportunities & Constraints](#)

There are no major hazards and few constraints for development in the Planning Area. The uniqueness of the area's natural environment, however, should be preserved to the maximum extent possible and future developments should be limited to the environments capacity to absorb growth and maintain the area's environmental values and resources.

A few areas, notably Poison Oak Hill and the Calloway Drive area, have some slope constraints. But the topography of the area, including ridges, rolling hills and bottomlands is generally a strong positive attribute, providing a varied and visually attractive environment. There are no economically significant

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geologic deposits in the area and the geology also poses no major constraints, except in the nearby areas of Poison Oak Hill. The soils of the Planning Area are generally good agricultural soils and urban growth has specifically been directed away from the most productive agricultural lands.

The water resources in the area are relatively few, with no rivers or lakes, and just two limited drainage courses, with small ponds. Their scarcity and the limited capacity to absorb development impacts from construction or pollution strongly suggest care must be taken to protect these resources. The area is rich in natural vegetation resources and associated wildlife. Development should also respect the need to preserve these values.

Finally, both air and noise pollution are not serious problems and are not expected to be a problem in Adair Village. The Planning Commission should include consideration of potential environmental impacts from future development proposals in the planning review process. Projects with potential adverse impacts should be submitted to the DEQ for review and comment to ensure that new developments do not violate state standards.

Section 9.290 Environmental Goals & Policies

GOALS & OBJECTIVES

1. To recognize the opportunities and constraints posed by the natural environment.
2. To protect the unique resources of the Adair Village area.
3. To ensure that future development will complement the City's natural resource base.

POLICIES & RECOMMENDATIONS

General

1. Any expansion of the Adair Village Urban Growth Boundary shall identify and classify existing natural features including wetland and riparian areas that may require preservation, protection or restoration.

Topography

1. Areas shall be maintained as natural open space to protect soils, vegetation, water, wildlife and open space resources until development occurs.

Geology & Soils

1. Development proposals in areas considered to pose geologic hazards, such as land slippage, poor drainage, ponding and high-water table, shall submit engineering investigations of the site for project review to ensure that no environmental problems will result from development.

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2. As additional land is needed to accommodate the City's growth needs the Urban Growth Boundary may be expanded. Preservation of the most productive agricultural soils shall be a factor in determining the Urban Growth Boundary expansion area.

Water Resources

1. The City of Adair Village shall comply with state and federal water quality protection requirements and regulations within the City's limited resources to address these issues.
2. Applications for National Pollutant Discharge Elimination System Permits (NPDES) shall be reviewed for conformance with the goals and policies of the Comprehensive Plan.
3. Groundwater resources shall be protected from potential pollution from septic tank wastes, urban run-off, solid waste leachates and irrigation.
4. The City shall protect ponds, sloughs, wetlands and drainage ways as natural resources for the community to the maximum extent feasible.
5. New development adjacent to any drainage way shall be set back no less than 20 feet from the top of bank as a protective buffer.

Natural Vegetation, Fish & Wildlife

1. Native vegetation shall be preserved wherever feasible.
2. Riparian vegetation shall be preserved or restored to the maximum extent feasible to protect water quality and the wildlife habitat associated with riparian corridors.
3. In-channel vegetation between the water's edge and the topographic break at the top of bank shall be protected as specified in the City's Land Use Development Code (LUDC).
4. Designated greenways along watercourses shall be used to protect natural vegetation and water resource values.
5. Development of land uses that require excessive removal of land, vegetation or alteration or filling of drainage ways shall be controlled to maintain drainage integrity.
6. Public access to open space areas shall be secured and maintained wherever feasible.
7. Parks and open areas shall be managed to protect existing native vegetation. Undeveloped natural areas in existing and future parks shall be protected to the maximum extent possible while still meeting the recreational needs of the community.

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8. Development proposals for residential, commercial or industrial developments shall recognize the value of existing on-site native vegetation and shall inventory and preserve these resources to the maximum extent feasible.
9. The City shall work toward establishing a tree plan that identifies new locations for tree planting to provide the next generation of tree canopy for the City including a program for street tree planting and maintenance for future developments.

Air Quality

1. The City of Adair Village shall seek to comply with state and federal air quality protection requirements and regulations recognizing the City's limited resources to address these issues.
2. The City shall coordinate with the Department of Environmental Quality regarding air quality issues within the community.
3. Future development in the Adair Village area shall not conflict with regional air quality standards.

Noise

1. Proposed developments shall comply with the DEQ Noise Control regulations, the Oregon Noise Control Act, and all other applicable federal, state and local noise control regulations to minimize adverse noise impacts on nearby properties to the maximum extent feasible.
2. Vegetative noise buffers shall be encouraged for any future proposed stationary noise source, such as an industrial operation.

Section 9.300 Population & Economy

The primary **Statewide Planning Goals** (Goals) related to this Section of the Plan are **Goals 2 and 9**, although other Goals are also impacted by the Population and Economy element of the Plan.

Goal 2 reads, "To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions." Population trending and projections are a means of identifying potential land use needs for future growth and development.

Goal 9 reads, "To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens." Comprehensive Plans should contribute to a stable and healthful economy and should provide areas for suitable for increased growth and development of the area's economic base."

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Section 9.300 contains background data on existing population and employment levels and projections of future population and employment trends. Population and economic data for Adair Village cannot be viewed in isolation. Adair Village is an integral part of the larger Corvallis and Benton County region.

Population and economic data provide the basis for determining land use; housing, transportation and public facility needs, and also indicate the expected impact on the environment from population and economic growth.

Section 9.310 Population

A projection of population growth is an essential step in the comprehensive planning process. Projections serve as a tool in assessing future land use needs. **Section 9.310** contains background data on existing population, trends and future population projections. A projection is an estimate based on assumed growth factors. Therefore, the projected population for any target date may occur before or after the projected period based upon changes in local growth conditions.

Adair Village did not exist at the time of the 1970 U.S. Census and there is no historical data available prior to the City's incorporation in 1976. Portland State University Center for Population Research and Census (PSU), provided a limited enumeration of the City's population at incorporation. PSU has continued to make yearly estimates of the City's population. These estimates are required by law and are the basis for the distribution of state cigarette, liquor, and highway tax funds and federal revenue sharing funds.

The only other source of information on Adair Village's population is a limited survey undertaken in 1978 as part of the Plan's preparation. The 1980 U.S. Census produced the first detailed profile of the City's population. Population projections have been estimated for Adair Village by Benton County in coordination with the State Office of Economic Analysis. These projections are based on County projections for the entire Benton County area recognizing that local developments in Adair Village could significantly change the projected outlook for the County.

Table 9.300 A summarizes the City's population and housing at the time of incorporation.

Table 9.300 A-- An Incorporation Enumeration Summary

1976

TYPE OF UNIT	HOUSING			Occupancy Rate	POPULATION	Average Household Size
	Occupied Units	Vacant Units	Total Units			
Single Family Units	26	4	30	0.87	121	4.65
Multiple Family Units	117	3	120	0.98	417	3.56
Mobile Homes	-	-	-		-	-
Group Quarters	-	-	-		-	-

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TOTAL ALL UNITS	143	7	150	0.95	599	3.76
Unoccupied mobile homes are not counted as housing units.						
Owner-Occupied Housing Units		31	Population		116	
Renter-Occupied Housing Units		112	Population		422	

Source: Portland State University (PSU)

The only additional information relevant to the age structure of the Adair Village population resulted from a 1978 questionnaire. Thirty households, or one-fifth of all the households in the City (150), responded to the questionnaire. These households included some 118 people with an average household size of 3.9 people. Some 15 percent of the people in these households were preschool children; 22 percent were school-age children; 25 percent were young adults, ages 18 to 30; 35 percent were adults, ages 30 to 65; 3 percent were over 65.

In addition to the resident population, the PSU Adair Village population included an allowance for the use of the former military base facilities by the Oregon-Southwest Washington Laborer's Training School and the now defunct Chicano Indian Study Center of Oregon (CISCO). In 1976, these two operations added an estimated full-time population equivalent of 61 people, for a total population estimate of 599 people.

Population Trends

Adair Village's population has been relatively stable. Some population was lost due to closure of the Chicano Indian Study Center and a reduction in the resident population for the Labor's Training School. However, by the year 2000, 15 housing units had been constructed. In addition, three interrelated subdivisions have been approved with 102 additional dwelling units. By the 2010 Census when all of these were constructed, an additional population of approximately 304 people was added to Adair Village resulting in a 56.7% increase in population.

Table 9.300 B also demonstrates that between 2000 and 2010 Adair Village had a significant increase in overall growth and population.

Table 9.300 B-- Adair Village Population Trends

YEAR	POPULATION	DIFFERENCE	% CHANGE
1976	599		
1980	589	-10	-1.7%
1990	554	-35	-5.94%
2000	536	-18	-1.67%
2010	840	+304	+56.7%
2026	2,814	+1,974	+235%

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The forecasts contained in **Table 9.300 B** rely on the coordinated forecasts prepared by Benton County and the Office of Economic Analysis that allocated population growth to cities. Although constrained by these forecasts, they do provide the most logical place from which to begin an examination of alternative futures for Adair Village.

The 2026 Population Projection

The 2026 population projection in **Table 9.300 B** is based on an approximate population growth of 235% over 2010 to 2026. Compared to past trends this is an optimistic projection but with an operational municipal sewer and water systems and an approved annexation of 128 acres containing 83 acres for residential growth in the R-3 Zone located south of Arnold Avenue and Vandenberg Avenue. This area can accommodate 405 residences and 1,113 additional people at a household density of 2.75 people per household.

The 2010 Census

The Adair Village 2010 Census population was 840 people. The 2010 Census provides the current base for determining future land use needs although area wide projections and the City's growth potential due to available urban services indicate a higher growth potential for the City. The City will monitor development trends and will amend the Comprehensive Plan as needed to accommodate future growth increases. The 2010 Census provides the current population profile of the community.

Table 9.300 C summarizes the 2010 Census population characteristics.

Table 9.300 C-- Adair Village 2010 Population Characteristics

Characteristic		Number	%
Persons		840	100.0%
Sex			
	Male	408	48.6%
	Female	432	51.4%
Race			
	White	743	88.5%
	Hispanic	56	6.7%
	Black	10	1.2%
	American Indian	12	1.4%
	Asian	16	1.9%
	Other	3	0.4%
Age			
	Under 6	75	8.9%
	6-12	252	30.0%
	12-15	83	9.9%
	16-18	166	19.8%

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Households	19-34	123	14.6%
	35-65	111	13.2%
	Over 65	30	3.6%
Housing Units		279	
	Families	227	
	Nonfamily	52	
		293	
	Owner	175	59.7%
	Renter	104	35.5%
	Vacant	14	

Source: 2010 US Census

Projected Population

In Oregon, there are state requirements for coordinated forecasts of population at the county level. This means that:

- Counties must adopt state forecasts for the county or present compelling information for diverging from those forecasts and;
- The combined local forecasts for incorporated and unincorporated areas in the County must be equal to a county's coordinated forecast.

Similar requirements do not exist for forecasting employment.

There are, however, problems associated with forecasting small community growth. The following conditions are why forecasts for small cities are highly uncertain:

- Projections for population in most cities and counties are not based on deterministic models of growth; they are simple projections of past growth rates into the future. They have no quantitative connection to the underlying factors that explain why and how much growth will occur.
- Even if small cities had a sophisticated model that linked all these important variables together (which they do not), they would still face the problem of having to forecast the future of the variables that they are using to forecast population or employment growth. In the final analysis, all forecasting requires making assumptions about the future and conditions affecting those assumptions are subject to change.
- Comparisons of past population projections to subsequent population counts have revealed that even much more sophisticated methods than the ones used in planning studies are often inaccurate for extended periods of time, even for relatively large populations. **The smaller the**

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area and the longer the period of time covered, the more unreliable the results for any statistical method.

- Small cities start from a small base. A new subdivision of 100 homes inside the Portland UGB has an effect on total population that may be too small to measure. That same subdivision in Adair Village could increase the City's population by about 21%. If phased in over three years, for example, the City's average annual growth rate during that period would be over 7%.
- Small cities can have rapid growth for many reasons including:
 1. The availability of urban services particularly water and sewer.
 2. The introduction of a major employer.
 3. Because they are near to metropolitan service areas (like Corvallis).
 4. Because they have high quality of life values for homesteads, retirement and proximity to recreational activity areas.

There is ample evidence of very high growth rates in the short-term and there are also some cases of high growth rates sustained over many years for small communities like Adair Village.

Although not necessarily accurate, forecasts of population and employment do drive the planning process. Population and employment growth mean more households; more households need more houses; more households also need more services; and housing and services both require more buildable land.

To understand the population growth factors for Adair Village, it is necessary to view the community within the larger regional context. Adair Village is essentially a rural residential community in an attractive living environment with a full range of public services for people working elsewhere, primarily in Corvallis and Albany.

Adair Village is within an easy 15-minute commuting distance from both Corvallis and Albany. The Corvallis and Albany areas are the fastest growing segments of Benton and Linn Counties. Adair Village will continue to be a highly desirable living area attractive to people employed in the Corvallis and Albany areas.

Section 9.320 Economy

This Section provides an overview of the City's economy and presents policies to guide its future economic development. It is clear that Adair Village's potential for economic development has long been impacted by the City's close proximity to Corvallis and Albany.

Oregon's economy is expected to follow a pattern of modest growth. The long-term population forecast by Oregon's Office of Economic Analysis predicts steady population growth. At this rate of growth,

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Oregon is expected to add one million people by 2015 and another million by 2040 growing to 5.2 million in 2040. Over 70% of this population growth, 1.7 million people, is expected to come from net migration into Oregon.

The Bureau of Economic Analysis projects per capita income in Oregon will increase to \$26,200 in 2015. Per capita income in the United States is projected to increase at the same rate as in Oregon, so the state's per capita income is expected to remain at 94% of the U.S. average.

Employment growth in Oregon is expected in the Services and Retail Trade sectors, which are expected to account for 60% of workers. According to a forecast of growth by industry from the Oregon Employment Department, five of the leading growth industries are in the Services sector, including the relatively high-wage Business Services, Health Services, and Engineering & Management Services industries.

The Manufacturing sector is projected to contribute 10% of Oregon's employment growth. Leading manufacturing industries, in terms of employment growth, are Electronic & Electrical Equipment, Transportation Equipment Machinery, Instruments & Related Products, and Printing & Publishing.

The only industries in Oregon that are expected to decline in the Manufacturing sector are: Lumber & Wood Products, Textile Mill Products, Apparel & Leather Products, and Paper & Allied Products.

Adair Village's economy is tied to national and state trends and to its proximity to Corvallis and Albany. Existing local employment opportunities in the Adair Village area are limited. Total local employment is estimated at approximately 100 jobs most are held by people who live outside the Adair Village area. The major local employers are the Santiam Christian School, Oakcraft Manufacturing, Valley Catering, and the Oregon Department of Fish & Wildlife and Four Spirits Distillery.

The district office of the Oregon Department of Fish and Wildlife is responsible for the Department's programs. Approximately 25 employees of ODFW are based in the Adair Village vicinity.

Work Place Location

It is estimated that less than 20 workers live and work in Adair Village. Most commute outside of the City, primarily to Corvallis, while others work in Albany and a small number work in the Salem area.

Commuting Patterns

Most of the people who live in Adair Village work elsewhere. Primary transportation was by vehicle although a few bicycled or walked. Adair Village established a four-times-a-day, every week day Transit service in partnership with Benton County Dial-A-Bus and Corvallis Transit System.

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Section 9.321 Economic Sectors

Sectors are groups of related industries, as defined by the Standard Industrial Classification (SIC) system. These are the same categories utilized by the Oregon Employment Department. **Table 9.300 D** identifies the Employment Sector for Adair Village Residents.

Table 9.300 D-- Industrial Sectors

Employment Sectors
Agriculture, Forestry, Fisheries
Mining
Construction
Manufacturing
Transportation
Communications & Public Utilities
Wholesale Trade
Retail Trade
Finance, Insurance, Real Estate
Business & Repair Services
Personal Services
Recreation & Entertainment Services
Professional & Related Services
Health Services
Education Services
Other Professional Services
Public Administration

Projected Employment

Projected employment levels are used as a basis for determining industrial and commercial land use needs and population levels.

With a small residential commuter community like Adair Village, it is impossible to project the future local employment level. Adair Village is located in a larger economically developing region. Additional regional economic development will be the prime force in generating additional population growth in the Corvallis-Albany area, which in turn will impact Adair Village's growth potential.

Employment by land use site category are groups of employment sectors that generally have similar types of land use:

- **Commercial:** Retail Trade.
- **Office:** Finance/Insurance/Real Estate and Services.
- **Industrial:** Agricultural Services/Forestry/Fishing, Mining, Construction, Manufacturing, Transportation/Communications, Utilities & Wholesale Trade.

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- **Public:** Federal, State, and Local Government.

SECTION 9.323 LOCAL ECONOMIC OPPORTUNITIES

Bedroom Community

Adair Village has been a bedroom community to Corvallis and Albany. A classic bedroom community has few if any industries and less commercial businesses than would normally be present for a given population.

The proximity to Corvallis is certainly an important factor in Adair Village's development, one that may have more benefits than liabilities. Adair Village has many advantages that will be attractive to people, industries and businesses. As the City's population increases, it will be capable of supporting the additional services that are now desired. The key issue is how this growth and development is managed.

Commercial Opportunities

There is only one distinct commercial area in Adair Village. The AV Market & Deli, a restaurant and a coffee shop are the City's present commercial center. In addition, this area contains the Adair Village Community Building/City Hall and Park. The City has developed a Civic Center plan for the area adjacent to the City Hall on the City's property located on the west side of William R. Carr Avenue and on Benton County property on the east side. Two historic Barracks Buildings from the former military base have been moved onto this property and are being restored for civic uses. It is intended that William R. Carr Avenue and this property will become the City's centralized civic and commercial center. The four-plex across from the Community Building is zoned for commercial use and could be developed commercially.

Industrial Opportunities

Adair Village has two distinct industrial development opportunities. The first area is located one and a half miles north of the City in the Adair Village Industrial Park (AVIS). This area contains 128 acres that could support additional employment with improvements and services while providing the City with an income base. The second area is the Laborer's Training Center and the Block Building facilities, both of which are directly east of the County's property. These areas could support a clean high-tech type of employment base in the future.

Infrastructure

The infrastructure of a community can be defined as those public facilities and services that contribute to the basic structure of the community, such as water and sewer systems, roads, and community services. It is apparent that community growth and development is dependent upon the availability of these facilities.

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Facilities in Adair Village having the most apparent impact upon the City's economy are its municipal water and sewer system, transportation system, public facilities and services, such as fire, parks and municipal government.

The municipal water system and sewer system are substantial assets to economic development. These facilities will need capacity increases and upgrading to accommodate the projected growth in Adair Village.

Local Actions for Growth and Development

While activities like business recruitment and marketing strategies can produce some results, this can be an expense that has limited success, particularly for small communities. Adair Village should maintain contact with the Oregon Department of Economic Development and the Corvallis-Benton County Economic Development Partnership for business recruitment.

Statistics indicate that the majority of new jobs are created locally. Support of local businesses is an attraction feature for new potential employers. Besides specific development incentives, preparedness is the most useful action a community can take.

A factor that may influence more economic growth in Adair Village is the attractiveness of an Adair Village location for Corvallis businesses. Land availability, support facilities, administrative assistance, attractive housing areas and most of all, a positive helpful community attitude are the most important factors influencing economic development.

Community preparedness and a positive attitude begin with the City's adopted goals and policies.

[Section 9.390 Population & Economy Goals & Policies](#)

OVERALL GOAL

To encourage economic developments for Adair Village that are compatible with maintaining the area's livability.

POLICIES & RECOMMENDATIONS

General

1. The City shall strive for continual and substantial progress toward improving the quality of life for area residents including livability and economic prosperity.
2. Population and Economic Census data shall be updated as data becomes available to the City.

Population

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1. The City has adopted the 2006 population projection of approximately 2,814 people for the year 2026 authorized by Benton County and the Oregon Office of Economic Analysis until development trends indicate the need for an update.
2. The City shall track population growth on an annual basis to determine if growth projections remain valid. If growth exceeds projections over a five-year period, a reexamination of urban growth needs may be initiated to determine if there is a need to expand the Urban Growth Boundary.
3. The City shall consider trends in household size and median age of residents as factors influencing the demand for services. The City will utilize a household per capita of 2.75 persons for future planning purposes.
4. The City of Adair Village will carefully manage and accommodate incremental population growth through expansion of the Adair Village Urban Growth Boundary and development of new lands in conformance with the City's adopted Growth Management Policies.

Economy

1. Adair Village shall encourage business and economic activities that support community needs.
2. The City shall encourage broadening of local employment opportunities and shall seek expansion of the City's industrial base.
3. The City shall encourage commercial, industrial and service developments that support the community.
4. The City shall seek employment opportunities for the Adair Village area that are compatible with maintaining the environmental and livability resources of the community.
5. The City shall continue the cooperative association with local business and agencies to assist with their problems, needs and desires, to the mutual benefit of the City and these agencies.
6. The City shall maintain liaison with the Oregon Economic Development and Business Development Departments, and the Corvallis-Benton County Economic Development Partnership and the Chamber of Commerce to assist in attracting developments that will improve employment opportunities for Adair Village.
7. The City of Adair Village shall work cooperatively with the City of Corvallis and Benton County to ensure an improving economy for the area.

[Section 9.400 Housing](#)

Statewide Planning Goal 10 reads: "To provide for the housing needs of the citizens of the state".

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Goal 10 requires incorporated cities to complete an inventory of buildable residential lands and to encourage the availability of adequate numbers of needed housing types in price and rent ranges commensurate with the financial capabilities of its households.

The Housing Section of the Adair Village Comprehensive Plan presents an inventory of existing housing, housing trends, housing demand, housing need and buildable land needs. Comparisons with conditions in 1976, 2000 and 2010 are presented representing the last 34 years between Incorporation in 1976 and the last Census in 2010.

Although these comparisons are informative, they are of limited value in assessing Adair Village's present trends and future projections. Municipal sewer and water system improvements will have a significant impact on the City's growth potential.

The Housing Element of the Adair Village Comprehensive Plan contains an inventory of existing housing in Adair Village including - total housing units, types, conditions and trends. Due to the uniqueness of Adair Village, techniques for projecting future housing demand are somewhat limited. There is a potential demand, however, and buildable residential lands that can accommodate that demand have been provided.

Adair Village offers a desirable living environment that has attracted increasing numbers of people who commute to work elsewhere. "Adair presently provides one of the few examples of affordable, moderate income housing within commuting distance from Corvallis and Albany" (North Benton Citizen Advisory Committee Plan). It can be expected that given the opportunity additional people will be drawn by the natural attractiveness and the recreational opportunities that the area offers. Adair Village also is the only community in North Benton County that offers a full range of public facilities.

The housing data will continue to vary somewhat depending upon where and when the data was obtained. However, it remains within the same general order of magnitude.

Section 9.410 Existing Housing

The original 150 housing units within the City were constructed to accommodate the military housing needs of the U.S. Air Force in 1957. The base housing was acquired by a private developer in 1969 when the Federal Government declared the entire property surplus and placed it on the open market. The developer divided the property and offered it to the general public. The first residents moved into the housing units and formed a Homeowner Association in 1973. On May 25, 1976 the City of Adair Village was incorporated including the 150 former base housing units.

Housing Growth

Table 9.400 A summarizes the number of houses for each type and their percentage of the total housing in the community.

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Table 9.400 A-- Housing Growth 1976-2010, Plus 2026 Estimate

Year	Population	Housing Units	Single-family Homes		Multi-family Homes		Manufacture Homes	
			No.	%	No.	%	No.	%
1976 ¹	422	150	30	20%	120	80%	0	0%
2000 ²	536	180	56	31%	124	69%	0	
2010 ²	840	293	162	55%	131	44%	2	1%
2026 ³	2,814	1,023	655	64%	348	34%	20	2%

Sources: ¹ 1976 Incorporation Enumeration Summary

² 2000 & 2010 U.S. Census.

³ 2026 City/County Population Projection

Single-family Homes

At incorporation in 1976 there were 30 single-family housing units that accounted for only 20% of Adair Village’s housing. This was due to the configuration of military base housing when Adair Village was a military base.

The City has encouraged conversion of duplex units to single-family units and ten or more have been converted while some homeowners have also converted duplex units into larger single-family houses that helped to bring single-family units and home ownership into a better balance for the community.

Multi-Family Housing

At incorporation in 1976, there were 120 units of duplex multi-family housing that accounted for 80% of Adair Village’s housing. While duplex units are sometimes considered single-family structures, they are included herein with multi-family units since they are usually rental properties like other multi-family units. There is a total of 60 duplex buildings, one four-plex unit, and seven (7) multi-family units on the Santiam Christian School property. The 7 multi-family housing units located on the Santiam Christian School property house 15 people although this number can vary. This housing is private housing for the school and is not available to the general public.

Multi-family housing is the primary affordable housing opportunity for young families and the elderly in Adair Village.

The R-2 Single-family Residential District permits multiple-family housing in conformance with the “Planned Development” procedures in **Section 6.104 and 7.200 of the Adair Village Land Use Development Code** (Code).

Manufactured Homes

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Adair Village has a relatively low percentage of manufactured homes (MH), 2 units for approximately 1% of Adair Village's total housing. Even these two units existed prior to annexation to the City. No MH units have been placed in the City. There are also no manufactured home parks within the City.

The City has made allowance in the Adair Village Land Use Development Code (LUDC) for more moderately cost housing by permitting manufactured homes on individual lots within the City's residential districts as specified by State standards.

Planned Developments

Planned Developments are permitted in the Adair Village Code, which encourages the application of new techniques to achieve efficiencies in land development while providing enhanced and economical living environments. In 2000, the City granted final approval to Creekside and Castlelands Planned Developments for the City's first Planned Developments. In 2000, final development plans were approved for Creekside Planned Development and Castlelands Planned Development that included 102 single-family lots and 11 duplex townhouse style lots. Most of the single family lots were developed by 2006.

Planning Area Housing

Housing within the Adair Village Planning Area offers a mix of housing types in four distinct areas.

1. The City R-1 Zone, Adair Meadows, is a 10,000 square foot minimum lot size Residential District that includes both multiple-family duplexes and single-family urban housing.
2. The City R-2 Zone, is an 8,000 square foot minimum lot size Residential District that is located north of Bower's Slough and is all single-family housing.
3. The City's Northern Urban Growth Boundary (UGB) area contains 18 acres north of the City's R-2 Zone with nine (9) houses on 11 lots in the 1 to 2.5-acre range.
4. The Rural Residential housing on Tampico Road is on lots of varying size, ranging from less than an acre to forty acres with newer medium to upper income homes.
5. The Calloway Drive area contains new upper income suburban type residential homes on approximately one-acre lots.

Housing Condition, Value & Tenure

Housing conditions in Adair Village are generally good. The 2000 Community Survey found no housing in "poor" condition. Housing in Adair Village is mostly moderate-income housing in sound condition. The newer housing in the R-2 Zone since 2000 ranges from moderate to upper-middle income housing and is in excellent condition.

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Most of the housing in the R-1 Zone was built in 1954. Therefore, half of Adair Village's housing is 60 years old.

The 2010 Census specifies the total number of housing units in Adair Village at 293. Of this total 279 were occupied and 14 vacant for a total vacancy rate of 4.8%. Only 3 houses were vacant for sale and only 4 units were vacant for rent. This clearly indicates that housing availability is exceptionally low in Adair Village.

Owner Units

Of the 279 occupied housing units only 175, or 62.7%, were identified as owner occupied in the 2010 Census.

Rental Units

Of the 279 occupied housing units, 104, or 37.3% were identified as renter occupied in the 2010 Census.

Housing Costs

Housing costs grew at rates nearly double incomes. The increasing cost of housing is beyond the means of many households without some form of assistance. A recognized standard of maximum shelter costs is 30 percent of household income. In Oregon, 37.2% of renters and 22.5% of owners pay more than 30% of their household income for housing.

Without financial assistance, many elderly and low-income families are forced to accept inadequate housing. For these households, the cost of either maintaining a home or finding rental shelter at a cost of less than 30 percent of their net income becomes very difficult.

Housing costs and rent levels in Adair Village are modest compared to many areas of the state. The City will continue to seek means of reducing housing costs within the City. However, it must be recognized that municipal water and sewer and other public facilities and services will contribute to higher housing costs, while Adair Village's low property tax rate (\$2.658/\$1,000) helps keep costs down. Reduced lot sizes, efficient planning and inexpensive construction alternatives can be utilized to maintain housing within affordable limits.

Affordable Housing

The State of Oregon has declared a Statewide Goal that all communities have the responsibility of providing an adequate number of household units at price ranges and rent levels commensurate with the financial capabilities of Oregon households.

Small communities like Adair Village are limited in their ability to affect the housing market. It is clear that the most a community can do is not to place undue burdens on the availability of land and the cost

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of municipal services. Maintaining administrative costs for land use decisions within reasonable limits and provision of timely decisions can also encourage developers to choose an Adair Village location.

Housing authorities in larger cities are more likely to address housing needs for special classes of individuals like low-income, those with disabilities, or other special needs. Small cities have a more difficult time specifically addressing these special housing needs especially when one considers that determining the socioeconomic needs and distribution for an expanding population is a highly speculative task at best.

Among the means at the City's disposal are Code provisions for smaller lots, the provision of multi-family zones in the community, as well as provisions for manufactured homes. It is also important that a community preserve and maintain its existing housing stock for the purposes of conserving natural resources used in home construction and for providing lower priced housing to residents of the community.

The City recognizes their existing housing stock as an extremely valuable resource. Therefore, the City has adopted policies pertaining to the rehabilitation of existing housing and the maintenance of a wide range of housing prices in Adair Village. Unfortunately, property assessment laws discourage a homeowner from making improvements to the home. By automatically raising the assessed valuation of a house after repair, these tax laws provide a disincentive to home repair.

Assisted Housing

There are a number of public and private housing assistance organizations that can help provide affordable housing in Adair Village. This assistance includes new home purchase, rent supplements, low interest loans and grants for rehabilitation as well as other programs.

The number of assisted housing programs in the City will continue to vary from year to year due to availability of funds and qualifications of applicants.

The City recognizes its responsibility to accommodate assisted housing in Adair Village. There is a strong preference for programs that assist households in obtaining housing already available in the community as opposed to targeted housing developments that concentrate assisted housing in one area or in single developments.

The Federal Fair Housing Act of 1988 protects the right to freely choose a place to live without discrimination.

Qualified citizens of Adair Village should be aware of available assistance programs, and should participate in them if they choose. The City can be a source of information concerning housing availability in general and should assist those seeking information on housing assistance.

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Section 9.420 Housing Trends

Past housing trends provides little information that is helpful in projecting future needs. Municipal sewer and water system improvements will substantially increase housing opportunities providing an immediate incentive for housing production in Adair Village. This is evidenced by the Creekside and Castlelands developments.

There are several regional trends that will affect the type of housing needed in the next 20 years in addition to local conditions:

- About 70% of population increase will come from net migration.
- Household size is expected to continue declining.
- The region will add more residents that are 65 and older and group quarters will increase by about 2%.
- Younger people in the 20 to 34 age range are more mobile and generally have less income than people who are older and they are less likely to have children. All of these factors mean that young households are more likely to be renters and renters are more likely to be in multi-family housing.
- Baby boomers in their 50s are about to reach the "empty nest" stage and these households have different needs than families.
- Nationwide, the rate of family households has decreased from 81% to 66% between 1970 and 2012. Married households with children under 18 have decreased from 40% to 20% over the same period. One person households increased from 17% to 27%, while the average family size declined from 3.1 to 2.6 between 1970 and 2012. (America's Families and Living Arrangements 2012. Vespa, Lewis, Kreider, August 2013 US Census Bureau).
- Income statistics indicate a substantial preference for single-family housing and ownership when incomes allow that choice regardless of age.
- The rate of increasing housing costs is roughly double that of the rate of income increase.

Residential locational choice trend also includes:

- Access to work.
- Access to shopping, recreation and friends.
- Public services.
- Community and neighborhood characteristics.

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- Land and improvement characteristics.

In all, Adair Village's potential for growth and development will depend on these national and regional trends as well as local factors, but most of all it will be the City's approach, responsiveness and preparedness that will guide Adair Village's housing development.

Single-family Homes

Although becoming increasingly expensive, single-family homes are the primary choice of homeowners in Adair Village. In 2000, the City approved the addition of 102 single-family homes in the Creekside and Castlelands subdivisions on the northern end of town. All are site-constructed homes. Single-family homes can be expected to continue as the housing of choice and their percentage of the total housing market will increase although Multi-family and Manufactured Home alternatives will show some gains also. Single-family housing has increased to 162 units in 2010 that now comprise 55% of the housing in Adair Village.

Multi-Family Housing

There are 131 multi-family housing units comprising 44% of Adair Village's 2010 housing units, most are duplex units. One four-plex unit and 7 multi-family units in the Santiam Christian School complete Adair Village's multi-family housing. This is a comparatively high percentage compared to other communities and was primarily due to type of construction preferred by the military when Adair Village was a military base. There has been limited new multi-family housing development in the Adair Village area.

The percentage of multi-family units is expected to decline overall while the actual number of multi-family may increase in the long term in Adair Village. Also, the 12 townhouses in the R-2 Residential Zone are considered multifamily although they are intended for individual ownership as single-family units.

Manufactured Homes

The cost of single-family homes is beyond the means of an increasing number of families. Manufactured homes are therefore rapidly becoming a house of choice for low to moderate income families. They provide excellent value, and with housing costs growing at rates nearly double incomes, they will likely be the affordable housing choice. Manufactured homes comprised less than 1% of Adair Village's existing housing. Adair Village has not experienced manufactured housing placements although they may be expected to increase their share of the housing market during the planning period.

Planned Developments

The City approved two Planned Developments in 2000 that have been completed in the Creekside and Castlelands developments. Planned Development proposal trends are expected to continue during the planning period as a means of addressing the affordable housing issues in the community. Planned

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Developments can increase overall residential density while providing enhanced living environments that can help to reduce housing cost.

[Section 9.430 Projected Housing Demand & Need](#)

The language of Goal 10 and ORS 197.296 refer to housing need and requires communities to provide needed housing types for households at all income levels. Goal 10's broad definition of need covers all households.

House Bill HB2709 codified in the Statewide Land Use Planning Laws ORS 197.296 also requires an analysis of demand for new housing. Specifically, it:

1. Refined the definition of buildable lands to include "redevelopable land".
2. Requires coordination of population projections with the County and State.
3. Sets criteria for prioritizing land for UGB expansions.
4. Sets specific requirements regarding buildable lands for needed housing.

Provisions 1 through 3 apply to all jurisdictions. Provision 4. Applies to only to certain jurisdictions. DLCDD has waived the requirements of ORS 197.296 for 50 cities in Oregon including the City of Adair Village. However, ORS 197.296 restated pre-existing law or administrative rules that still apply to all jurisdictions.

Demand is what households are willing to purchase in the market place. Growth in population leads to a growth in households and implies an increase in demand for housing units that is usually met primarily by the construction industry based on the developer's best judgment about the types of housing that will be absorbed by the market.

Most plans make forecasts of new housing demand based upon population projections. Housing authorities are more likely to address housing needs for special classes of individuals like low-income, those with disabilities or other special needs.

Trying to determine the future socioeconomic and special housing needs for an expanding population is highly speculative at best.

Projected Housing Demand

Housing demand in the Adair Village and surrounding area cannot be accurately projected based upon past construction trends due to the unique circumstances surrounding development in the area.

As noted in **Table 9.300 B**, population growth in Adair Village had decreased by accumulated 10.5% between Incorporation in 1976 to the year 2000. While the projected increase from 2000 to 2010 was 56.7% and the actual period of growth was from 2001 to 2006.

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The population forecasts contained in **Table 9.300 B** relies on the coordinated forecasts prepared by Benton County and the Office of Economic Analysis that allocated population growth to cities. Although constrained by these forecasts, they do provide the most logical place from which to begin an examination of housing demand for Adair Village.

As summarized in the **Section 9.300**, Adair Village is expected to witness a year 2026 population of 2,814 people. The 2010 U.S. Census indicates that the average household size in the U.S.A. was approximately 2.58 people per household; in 1976, the year of Adair Village's incorporation, the number for the U.S.A. was 2.89. In Oregon, average household size was slightly lower at 2.47 per household in 2010. In both Oregon and the U.S.A., average household size has been dropping over the last 40 years.

For the purposes of revising the Adair Village Comprehensive Plan to accommodate the projected year 2026 population, it was assumed that an average household size of 2.75 persons per household would occur over the planning period. (In the 2010 Census, Adair Village had a population of 840 and 293 houses (14 of the houses were unoccupied, leaving 279 occupied houses), which makes the average size 2.87 persons per household in Adair Village, which is fairly consistent throughout Adair Village's history, assuming five percent non-occupied rate.

It is estimated that single-family units will increase to 64% by the end of the planning period in 2026. The estimated increase in multi-family units from 1976 is 228 units although the percentage has dropped from 80% in 1976 to 34% in 2026. The estimated increase in manufactured homes is quite small. A gain of only 18 units is presented however that is a doubling of the percentage from 1% to 2%. If state and regional trends increase Adair Village could expect a higher percentage of manufactured homes. The assumptions and estimates are intended to increase the single-family housing percentage while allowing for the other types of housing as their need increases.

Projected Housing Need

Although Adair Village has received a waiver from some of the needed housing requirements of ORS 197.296 it is apparent that needed housing in addition to housing demand is an issue that should be addressed.

Housing costs have grown at rates that are nearly double income rates. Due to rising land and housing costs, Oregon is witnessing a trend in which many people are seeking more affordable types of housing than conventional single-family units on large lots provide.

City of Adair Village has projected few additional units of multi-family housings because of the unusual circumstances that have created the high number of multi-family housing units. The 2010 mix of 44% multi-family units would drop to 34% by the end of the planning period in 2026. This is still well above the multi-family needs of most small communities including Adair Village. The City has made a strong commitment to accommodate low- and moderate-income housing needs. Most of the existing duplex units will continue to provide valuable rental housing during the planning period.

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Although multi-family and mobile home trending has been minimal, the City has provided for future inclusion of both housing types in the Comprehensive Plan Policies and the Land Use Code to assist in reducing housing costs. In addition, the City has also encouraged division of existing duplex units to further assist in providing low cost housing opportunities for the area.

The duplex division procedures and the mobile home approval procedures and standards will accommodate these needs successfully. Additionally, the City can accommodate new multi-family development through the PUD procedures. In combination, these techniques clearly allow the City to achieve a housing mix that is consistent with community needs and income capabilities.

As stated earlier, housing authorities are more likely to address housing needs for special classes of individuals like low-income, those with disabilities or other special needs. Small cities have a more difficult time specifically addressing these special housing needs especially when one considers that determining the socioeconomic needs and distribution for an expanding population is a highly speculative task at best.

However, **Goal 10 does require cities to address housing need.** The approach adopted by Adair Village is threefold:

1. The City will not discriminate against needed housing types and programs that address the needs of its citizens.
2. The City will provide for a variety of housing opportunities for its citizens through implementation of the Adair Village Land Use Development Code.
3. The City will seek means to reduce housing cost by providing a mix of housing type and density that address the needs of its citizens.

Presently it is estimated that that 30% of the duplex units will convert to owner-occupied units.

Single-family Homes

It is recognized that single-family homes will be the preferred housing type in the City of Adair Village and its share of the housing market is projected to increase although demand for multi-family housing and manufactured homes will also increase. The existing percentage of 55% for the single-family share is projected to be 64% by 2026, or 655 houses. This represents an increase of 493, over the existing 162 houses, during the planning period to 2026.

Multi-family Housing

It is assumed that multi-family housing will increase overall but the percentage of multi-family housing will decrease from its present level of 44% to 34% by the year 2026. However, 217 multi-family units are projected to be added during the 2026 planning period. Multi-family housing in Adair Village is

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anticipated to be low to medium density in nature and limited in numbers. It is assumed that multi-family housing will continue to take the form of two to four-unit structures in most cases.

Manufactured Homes

Manufactured Homes are continuing to gain market share in Oregon because they have become one of the best values available to a home purchaser. Recognizing that the cost of single-family homes is beyond the means of an increasing number of families, there will be a demand and public need for manufactured homes. The Plan assumes that there will be a greater demand for manufactured housing during the planning period resulting in a 2% share by 2026 for a total of 20 manufactured home units. An increase of 18 manufactured homes during the planning period. This number may be too low. The City could expect it to increase altering the percentages between site-built single-family and manufactured homes.

Planned Developments

The City expects and encourages more proposals for Planned Developments during the planning period. Planned Developments can increase residential densities while providing enhanced living environments that can help to reduce housing cost.

[Section 9.440 Buildable Lands for Residential Use](#)

Buildable lands, as defined by LCDC: "refers to lands in urban and urbanized areas that are suitable, available and necessary for residential use".

County-sized rural residential lands within the Planning Area total 276 acres, consisting of 84 parcels containing 60 housing units. Some 62 acres are zoned "Rural Residential 5 acres" and 142 acres are zoned "Rural Residential 10 acres PD".

It is apparent, therefore, that if additional development is to take place in the Adair Village area, it will have to be in areas that can be annexed to the City and provided with City services. With the availability of improved City services and the demonstrated desirability of the area for homes, it is apparent that the area can experience rapid growth in the future.

The accepted the population projection of 2,814 people, provided by Benton County and the Oregon Office of Economic Analysis, is the estimated base for determining future residential land use needs to the year 2026. The City will monitor development trends and will amend the Comprehensive Plan as needed to accommodate future growth.

As delineated in Section 9.830 Growth & Development Opportunities, Adair Village requires an additional 45 acres of buildable land, as identified in **Table 9.800 B** (Section 9.800-Growth Management), to accommodate the housing needs of the community based upon the coordinated population projections. Only 14 net acres are suitable for future urban development within the Adair Village northern Urban Growth Boundary (UGB) expansion area of 2000. There are only 62 net acres available

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in the southern UGB expansion area. The City is bounded in the north by E.E. Wilson Game Management Area; to the west by Or Highway 99W; to the east by the railroad and higher quality EFU (Exclusive Farm Use) lands. ODF&W land borders the southwest corner of the present City and County owned parcels which the City plans to develop as a downtown area.

Table 9.400 B-- Buildable Residential Land Need Summary

Existing Population	840	People
Existing Housing Units ²	293	Units
Projected 2026 Population ¹	2,814	People
Projected Household Population	2.75	People
Projected Housing Units Needed	716	Units
Remaining Housing Need Shortage	233	Units
Projected Buildable Land Need	45	Acres
Available City & UGB Net Buildable Land	76	Acres

Notes: ¹ Benton County and the Oregon Office of Economic Analysis

² 2010 Census

The City and Urban Growth Boundary area can meet the initial residential land needs of the City. However, development trends will require an additional 45 acres to meet projections prior to the year 2026. The obvious and most viable expansion area is the remaining Weigel Trust property that was excluded from the Southern UGB expansion. The only other area capable of supporting future urban expansion is the area immediately east of the existing City UGB that contains portions of some of the same tax lots already in the UGB. This area contains 36 acres that is zoned EFU in the County and is the only other contiguous property available to the City.

Buildable land needs and growth management are addressed in detail in the **Section 9.800, Growth Management**. However, it is evident from the needs analysis that there is no residential land needed at this time to support the City's growth and development and no Urban Growth Boundary expansion is needed or proposed at this time. The City will continue to monitor growth trends and will seek UGB expansion in advance of needs as developments approach 75% of needed capacity.

The Plan's primary objective is to manage urban residential expansion and to maintain and improve the area's livability and environmental resources.

Section 9.490 Housing Goals & Policies

GOALS & OBJECTIVES

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1. To provide a housing policy plan that seeks to increase opportunities for all citizens to enjoy affordable, safe, energy efficient housing.
2. The City recognizes the need for an adequate supply of housing that includes a variety of types and designs that are responsive to community needs.

POLICIES & RECOMMENDATIONS

General

1. The City shall support through implementation of the Adair Village Land Use Development Code housing types and programs that address the needs of all its citizens.
2. The City shall provide a variety of housing opportunities for its citizens through implementation of the Adair Village Land Use Development Code.
3. The City shall seek means to reduce housing costs to address the needs of all its citizens.

Housing Types

1. The City shall support and encourage a range of lot sizes, housing types and densities within the locational criteria of the Adair Village Land Use Development Code.
2. The Urban Growth Area shall provide for single-family housing and manufactured homes on individual lots and multi-family alternatives will be considered under the City's "Planned Development" procedures of the Adair Village Land Use Development Code.
3. The City shall encourage innovative design and planning concepts to reduce the cost of housing and services through the "Planned Development" procedures of the Adair Village Land Use Development Code that may permit an increase in density if the project demonstrates improved livability.

Owner Occupancy & Rental Units

1. The City shall encourage an increase in owner-occupied housing within the City in order to achieve a higher ownership ratio for a more stable community population.
2. The City shall allow individual ownership of single duplex units using zero lot line procedures upon approval of an application request.

Housing Costs & Housing Assistance

1. The City supports the need to reduce housing costs and supports a variety of housing opportunities to accomplish this goal.
2. The City supports innovative methods of construction to reduce building costs.

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3. The City supports housing and family assistance programs that would benefit the local community.
4. The City should identify and implement federal and state housing assistance programs that are compatible with community needs.

Section 9.500 Land Use

The Land Use Element of the Plan contains information and recommendations relevant to land use needs that address the following **Statewide Planning Goals: Goal 2** Land Use Planning; **Goal 9** Economic Development; **Goal 5** Open Space, Scenic and Natural Resources; and **Goal 8**, Recreational Needs. **Goal 3** Agricultural Lands and **Goal 4** Forest Lands are also discussed because they are included in the City's Planning Area although they do not exist in the City of Adair Village or within the City's Urban Growth Boundary (UGB).

Goal 2 reads in part: "to establish a land use planning process and policy framework as a basis for all decisions and actions related to the use of land and to assure an adequate factual base for such decisions and actions".

The entire Comprehensive Plan and the process by which the Plan has been prepared, addresses this goal. Specific land use proposals and policies, however, are contained in this element.

Goal 3 reads in part: " preserve and maintain agricultural lands".

Goal 4 reads: "To conserve forest land for forest use".

Goal 5 reads in part. "To conserve open space and protect natural and scenic resources".

Goal 8 reads in part: "To satisfy the recreational needs of the citizens of the state and visitors".

Goal 9 reads in part: "To provide adequate opportunities throughout the state for a variety of economic activities." This includes providing adequate land to meet the site needs industrial and commercial uses.

Introduction

The purpose of the Land Use element of the Plan is to delineate a land use pattern for the Adair Village urban area that will guide the future use of land. The land use plan is based upon the other elements of the Comprehensive Plan, community desires as expressed by citizen reviews, policy statements, projected land use needs to the year 2026, and existing land use patterns.

Land Use Survey

A land use survey of the Planning Area was conducted in 1978 to provide base information for the Land Use Element of the Comprehensive Plan. This information was updated in 2000, 2001 and 2006. Existing land use was mapped on the County Tax Assessment maps at scales of from 1" equals 100 feet

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to 1" equals 400 feet. This information was then transposed to maps at a scale of 1" equals 400 feet, for the entire Planning Area. The following major land use categories were mapped and analyzed:

1. **Residential** land use includes all single-family, multi-family and manufactured home units.
2. **Commercial** land uses include all offices, general business, professional and service facilities, retail and wholesale stores and shops.
3. **Industrial** land uses include all manufacturing activities.
4. **Public and Semi-public** use is a broad category including schools, churches, cemeteries, parks, municipal facilities, public and private utilities, state forests and state wildlife areas.
5. **Open Space** land includes agricultural and forest lands located outside of the City in addition to areas within the City that include wooded areas and vegetative areas, drainage courses, riparian areas and wetlands, and parks and playground areas.

Section 9.510 Existing Land Use

Table 9.500 A summarizes the **Adair Village Planning Area** that contains 1082 acres. Of this total, 514 acres (48%) is in some form of public or semi-public ownership including; 126 acres of recreation areas, 229 acres of state forests, and 44 acres owned by the Oregon Department of Fish and Wildlife.

Some 473 acres (43%) are designated for residential use. Of this total only 95 acres (9%) have currently been developed to city urban densities, while 262 acres (24%) are designated as rural residential areas. Agricultural operations designated as Exclusive Farm Use accounted for 78 acres (7%) or of the total area. The remaining 287 acres (26%) of the area is largely in Forest Conservation and woodland areas.

The City of Adair Village occupies only 267 acres (25%) of the Planning Area. The combined Public Forests, County Forest Conservation Zone and the Oregon Game Commission properties total 338 acres (31%) percent of the total Planning Area.

Only 60 acres (6%) within the Planning Area are potentially available for future city urban conversion.

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Table 9.500 A-- Adair Village Planning Area - Existing Land Use 2013

<u>Land Use</u>	<u>Acres</u>
Residential	
R-1 Single-family - City	19
R-1 Multi-family - City (duplexes + four-plex)	32
Residential Vacant	10
R-2 Single-family	32
R-3 Mixed Density Residential & Open Space	104
Rural Residential (RR-5)	62
Rural Residential (RR-10-PD)	142
Suburban Residential (Arbor Springs Estates)	72
Commercial	1
Limited Industrial	
S.A.G.E. Block Building	6
Oakcraft Cabinet Shop	2
Education	
Laborer's Training School	11
Prince of Peace Mennonite Church	2
Santiam Christian School	43
Recreation	
City of Adair Village Playground	2
City of Adair Village Park & City Hall	3
Benton County Adair Park	114
Benton County Park in City UGB	7
Other Public Lands	
McDonald State Forest	222
Paul Dunn State Forest	7
Oregon Game Commission	44
Public Facilities	
Adair Village Sewage Treatment Plant	2
Agricultural (Exclusive Farm Use)	78
Forest Conservation (FC-40)	65
Total Planning Area	1,082

Table 9.500 B shows existing land use within the City. The residential areas represent 75% of the City and the former military installations of the Air Force S.A.G.E. Base comprise 25% of the area. The latter is now largely occupied by four semi-public agencies. Also 14 acres of County Park is located within the Adair Village Urban Growth Boundary (UGB) in the former military base area.

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Table 9.500 B-- City of Adair Village & UGB - Existing Land Use 2013

City Land Use	Acres
Residential	
Adair Meadows R-1 Zone	
Single-family	19
Duplexes	32
Four-plex	1
Recreation - City Playground	2
Church Vacant Property	4
Vacant	<u>5</u>
Subtotal	63
2000 Northern Residential R-2 Zone	
Single-family	27
Vacant	<u>5</u>
Subtotal	32
2010 Southern Annexation R-3	
Single-family R-3 Zone	83
Open Space & Wetlands R-3 Zone	<u>21</u>
Subtotal	104
Non-Residential	
Laborer's Training School E-1 Zone	11
SAGE Block Building Limited Industrial M-1 Zone	6
Prince of Peace Mennonite Church P-1 Zone	2
Santiam Christian School E-1 Zone	43
Cabinet Shop Limited Industrial M-1 Zone	2
Commercial C-1 Zone	1
Recreation - City Park P-1 Zone	<u>3</u>
Subtotal	68
City Total	267
Urban Growth Boundary Land Use	
City UGB Rural Residential RR-5 County Zone	18
Contains 9 Existing Houses	
City UGB Recreation - Benton County Park P-1 Zone	<u>14</u>
Located on the SAGE Military Base Property	
City UGB Total	32

Rural Residential Land Use

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Total Residential land within the Planning Area is 473 acres 44% of the entire Planning Area. However, rural residential development outside the City is on lots that range from 1 to 30 acres in size. Within the Planning Area 276 acres 26% has been designated by the County as rural residential use. Past County controls permitted rural residential development on lots of an acre or more but present land use controls restrict rural residential development in the Adair Village Planning Area to lots of five and ten acres.

City Residential Land Use

There are 95 acres or 36 % of the total area of the City in the R-1 and R-2 Residential Zones. The R-1 Zone is known as Adair Meadows and has a total area of 63 acres. A playground of 2 acres, a Church vacant property of 4 acres and 5 acres of vacant buildable land leaves 52 acres in residential use in the R-1 Zone. The R-2 Residential zone has a total area of 32 acres with 5 acres of vacant buildable land leaving 27 acres of existing residential land in use.

Adair Meadows consists of two residential groupings separated by a narrow bank of open land. Each area is served by a curvilinear street system. The southern group is located on Willamette Avenue and Laurel Drive. The northern group is located on Columbia Avenue and Azalea Drive.

Residential housing types are clearly separated. The eastern half of the northern group is exclusively single-family homes; the western half is duplex housing. The entire southern group is also duplexes.

A total of 12 acres is devoted to single-family homes with an average lot size of .28 acres. The smallest lots are .17 acres and the largest is .56 acres. Most are within the .20 to .35-acre range.

A total of 28 acres is devoted to multi-family housing (duplexes) with an average lot size of .45 acres. The original lot sizes range from .27 to .50 acres, however, on the northern fringe of the southern group, the property owners have acquired adjacent vacant lots creating double lots of an acre or more.

Adair Village has a large number of a multi-family residential units in the community due to the construction type built by the military for base housing. The 2000 Community Survey identified 63 single-family housing units (35%), 115 multiple-family housing units (64%) and 2 manufactured homes (1%) for a total of 180 housing units. The ratio of single-family to multiple-family is shifting toward more single-family units due to duplex conversions in the R-1 Zone and new single-family housing construction in the R-2 Zone that has 112 single-family homes.

In 2010 the City of Adair Village annexed 128 acres of land that had been approved as an Urban Growth Boundary expansion in 2008. The annexation includes 83 acres of residential land that is Zoned R-3. It also includes 21 acres of Open Space and Park land and 24 acres of E-1 zoned land reserved for expansion of athletic fields for the Santiam Christian School.

Commercial Land Use

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Presently, there are two retail commercial facilities within the City servicing the Planning Area. The AV Market & Deli, a Restaurant & Pub located on 1 acre and Jamocha Jos Coffee Shop all located on the west side of Wm. R. Carr Avenue. There is also potentially a Commercial Planned Development on 1.06 acres located on the east side Wm. R. Carr Avenue that has not been developed although it now has an existing four-plex housing unit on it. The only other commercial facilities are located three miles south of the City at Lewisburg.

Industrial Land Use

Currently the only industrial property within the City is a Cabinet Shop on 2 acres and the S.A.G.E. Block Building on 6 acres located in the former military base. The sites are located in the City's M-1 Limited Industrial Zone.

The County designated a 155-acre area, one and a half miles north of the City as an "Industrial Planned Development Zone". This site is owned the City of Adair Village and is located adjacent to the Wilson Game Management Area. A 27-acre portion of the property was sold to existing users-Pacific Region Composting a subsidiary of Republic Services-of the property leaving the City with 128 acres. It is accessible via Camp Adair Road and the Willamette & Pacific Railroad that has a railroad siding at this location. The City supplies water to the site although municipal sewer service is not available at this time. Industrial development at this site can provide Adair Village with a nearby industrial base and income.

Public & Semi-public Land Use

City public lands and facilities include the City Park and Community Building that also contains the Adair Village City Hall and the City Playground located in the Adair Meadows area. Additional park and open space have been provided in the R-2 Residential Zone to protect wetlands and preserve open space. Municipal sewer and water facilities are also provided throughout the City and are discussed in more detail in **Section 9.600, Public Facilities & Services**.

Benton County also has a County Park in the City's UGB area across Wm. R. Carr Avenue from the City Park that contains 7 acres and it maintains a large regional Adair County Park containing 114 acres that abuts the Adair Meadows area. The City is well provided with park and open space.

The **Educational Facilities District, E-1** contains most of the former military base facilities located south of Arnold Avenue. The purpose of this district 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".

The Oregon & Southwest Washington Laborer's Training School previously occupied approximately 36 acres between Arnold Way, Vandenberg Avenue and Second Street and included approximately 25 buildings. The Laborer's Training School provides facilities for the Adair Rural Fire & Rescue District that

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utilizes Building 220 for a fire station. Permitted uses in the Educational Facilities District also include faculty, employee and student housing.

Since incorporation of the City several changes in ownership have occurred in the Educational Facilities Zone. The Oregon & Southwest Washington Laborer's Training School now has only 11.43 acres and is now for sale. The former Base Command Center, building 225, is zoned M-1 Limited Industrial and contains 5.74 acres. The Mennonite Church owns Building 245 and 1.75 acres on Arnold Avenue and the Santiam Christian School now owns 18.54 acres. All of these ownerships are considered "educational" and comply with requirements of the federal government and the Educational Facilities Zone.

Open Space Land Use

Open space consists of lands used for agricultural, forest or other natural vegetative or water areas that are preserved, maintain or developed in a natural state that would:

1. Conserve and enhance natural or scenic resources:
2. Protect air or streams or water supply:
3. Provide conservation of soils and wetlands:
4. Conserve landscaped areas that reduce air pollution and enhance property values:
5. Enhance the value of adjacent parks and other open space areas: and
6. Promote orderly urban development.

Section 9.200 Environment contains a detailed description of the natural vegetation within the Planning Area.

Public Open Space lands account for large acreages in the Adair Village Planning Area. These public lands include the McDonald State Forest, the Paul Dunn State Forest, the E. E. Wilson Game Management Area, the Adair County Park, and the site of the ODFW's District Headquarters. Some 452 acres or 42% of the Planning Area is in large-acreage public lands. Besides serving forest, wildlife, recreation and conservation uses, these public lands are a resource for the community. The City should coordinate with the State Forestry and ODFW to ensure protection of these resources.

Private woodland elsewhere includes stands of Oregon Oak and Conifers on Poison Oak Hill, and scattered mixed stands in the Tampico Road and Calloway Drive area. This resource provides a desirable contrast with the largely open agricultural lands east of Highway 99 West.

Scenic Resources in the Adair Village Planning Area are a considerable asset. The forested ridgelines of Hospital Hill and Poison Oak Hill to the west, and Logsden Ridge to the southeast provide an appealing contrast to the open agricultural lands. Preservation of these visual resources, which also protect soil and water resources is desirable.

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The rolling agricultural lands to the northeast, east and south of Adair Village are also a scenic resource. Development opportunities in Adair Village will help divert development pressure away from these areas.

Agricultural Lands exist on the rolling hills south and northeast of the City. There are currently 78 acres of EFU land within the Adair Village Planning Area that comprise only 7% of the total area. Much of this land is associated with rural residential development and not large commercial-scale agricultural operations.

Forest Lands and natural vegetation comprise a significant portion of the Adair Village Planning Area. The portions of the Planning Area that can be considered true forest lands are the County Forrest Conservation Zone, FC-40 and the McDonald and Paul Dunn State Forest. The Planning Area contains 294 acres of designated forest lands, approximately 27% that provide protection for the headwaters of Calloway Creek. Hospital Hill with its coniferous tree cover is also a significant scenic site.

In addition to the forest lands, the E. E. Wilson Game Management Area north of Adair provides a further contrasting natural environment to the wooded ridges and agricultural hills and bottomlands. The highways in the area, particularly Highway 99 West, Tampico Road, Ryals Avenue and Arnold Avenue afford many scenic vistas of the diverse landscape in the general Adair Village area.

City Open Space has always been a feature of Adair Village. When Adair Meadows was originally built, the layout of the housing allowed for a natural system of open space. This open space still exists today with open space areas helping to buffer residential developments. It is desirable to maintain some of these buffers before they are lost to development. To this end, the Adair Village Homeowners Association acquired a 2.31-acre playground site that has now been deeded to the City.

The City also acquired a 2.6-acre park site and Community Building on Wm. R. Carr Avenue north of Arnold Road that is also utilized for the Adair Village City Hall. In addition to these two small parks, the City owns a 100-foot wide strip of open space between the regional Adair County Park and the Adair Meadows residential area.

Section 9.520 Land Use Trends

Rural Residential Trends

Rural residential development has occurred in the area surrounding the City on lots ranging from one to seven acres with a majority of lots in the one to three-acre range. Rural and suburban development has occurred in three areas. First, rural residential development north of Bowers Slough to the E. E. Wilson Game Management Area. This area is now within the City's Northern UGB area. Second, rural residential development west of the City in the Tampico Road area. And finally, suburban residential development southwest of the City in the Calloway Drive area.

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Rural residential growth can result in a number of problems. Rural development is highly consumptive of land resources and septic system utilization can result in health hazards and potential water pollution problems.

In the past, rural development has occurred on lots that were not much larger than some City lots. Present County parcel standards however limit the creation of future suburban lots, limiting building to existing vacant parcels. Future suburban or urban development in the Adair Village area would require annexation to the City of Adair Village.

County-sized rural residential lands within the Planning Area total 278 acres, consisting of 108 parcels containing 80 housing units. Some 64 acres are zoned "Rural Residential 5 acres" including 18 acres within the Adair Village UGB. Some 142 acres are zoned "Rural Residential 10 acres PD". And some 72 acres are zoned Suburban Residential in the Calloway Drive area with 51 lots of 1 to 1.5 acres.

Under the County's present land use standards, only six additional parcels can be created and only 33 additional housing units can be added within the Planning Area, provided septic tank approval can be obtained. Of the 33 potential residential units, 25 are within the Calloway Drive suburban residential development leaving only 8 potential residential units for the rest of the Adair Village Planning Area. It is apparent, therefore, that if additional development is to take place in the Adair Village area, it will have to be in areas that can be annexed to the City and provided with City services. With the availability of improved City services and the demonstrated desirability of the area for homes, it is apparent that the area could experience substantial growth in the future.

City Residential Trends

All of the City's initial structures were part of the military complex built by the U.S. Air Force in 1957. In 1969 the base was declared surplus and was acquired by various individuals and organizations. Residential purchases by developers and individuals initiated the Adair Village Homeowner's Association that led to incorporation of the City in 1976. The housing area of the base was called Adair Meadows and still contained 150 housing units in the 1980 census. Little additional development occurred in the City. The 1990 Census counted 165 houses and the 2000 census counted 180 Houses. The four-plex on Wm. R. Carr Avenue was also annexed to the City in 1990.

In 1994 and 1995 a total of 23.60 acres within the Northern Urban Growth Boundary (UGB) of the City was annexed to the City for residential development. Another 4.08 acres of UGB area was annexed in 1999 for a total area of UGB annexation of 27.68 acres. This leaves only 18 acres in the UGB for future residential growth of the City.

In 2000 final development plans were approved for Creekside Planned Development and Castlelands Planned Development that was placed in the City's R-2 Residential Zone that included 89 single-family lots and 12 duplex townhouse style lots. Site development, utilities and road improvements began in

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late 2000 for Phase One that includes 32 single-family lots for the Creekside development and the 12-townhouse duplex lots for the Castlelands development.

In 2010 the City of Adair Village annexed 128 acres of land that had been approved as an Urban Growth Boundary expansion in 2008. The annexation includes 83 acres of residential land that is Zoned R-3. It also includes 21 acres of Open Space and Park land and 24 acres of E-1 zoned land reserved for expansion of athletic fields for the Santiam Christian School.

Commercial Trends

There is no trending for commercial facilities at this time. Due to the proximity to Corvallis commercial development has been limited until additional population is achieved. However, there will be an increased need for commercial service facilities in Adair Village as growth continues to occur.

Industrial Trends

There is no trending for industrial development at this time. The Cabinet Shop is an occupied limited industrial use. The SAGE Block Building is zoned M-1 and has great potential for industrial use but is essentially under used at this time.

Industrial development at the City's 128-acre industrial site located north of the City in the County can provide Adair Village with a nearby industrial base and income with site and facility improvements.

Public & Semi-public Trends

The primary trending in the public and semi-public area is directed toward improvements to the existing facilities. Improvements to the City and County parks are occurring in addition to expansion and improvements to the Santiam Christian School. The City's proposed Civic Center on William R. Carr Avenue presents a special opportunity to combine civic and commercial activities into a town center for the community.

Open Space Trends

Substantial open space that includes forests, agricultural fields, park lands and extensive natural vegetation continues to provide Adair Village with one of its most distinctive features.

See Section 9.810 for more detailed historic information.

[Section 9.530 Land Use Needs & Planning](#)

The designation of future land uses was based upon the findings and needs identified in all the elements of the Comprehensive Plan and the citizen participation achieved through reviews during the public hearings process.

The general criteria that guided the selection of lands for each future use were:

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1. The need to maintain an adequate supply of land for future urban development.
2. The existing land use patterns and growth trends of the area.
3. The natural environmental constraints including topography, geology, soils, water resources, natural vegetation, wildlife and air resources.
4. The accessibility to existing and proposed transportation systems.
5. The availability of existing and proposed community facilities, utilities and services.
6. The locational suitability for each land use classification with respect to available natural amenities.

In addition to the general criteria, the recommendations for future residential land use were guided by the need to accommodate a variety of living environments in response to meeting the future housing needs of Adair Village.

Adair Village Land Use Districts

To facilitate Planning and development of the City, seven land use districts were established.

Primary Zoning Districts

Residential	R-1	10,000 sf minimum lot size.
Residential	R-2	8,000 sf minimum lot size.
Residential	R-3	6,500 sf minimum lot size.
Limited Commercial	C-1	
Limited Industrial	M-1	
Educational Facilities	E-1	
Public Use	P-1	

Conditional Zoning

Planned Development	PD	
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Table 9.500 C-- Adair Village Land Use Districts - 2001

Land Use Districts		Acres	Percent
Primary Zoning Districts			
Residential District	R-1	63	24%
Residential District	R-2	32	12%
Residential District	R-3	83	30%
Open Space & Wetlands		21	8%
Limited Commercial District	C-1	1	1%
Educational Facilities District	E-1	54	20%
Limited Industrial District	M-1	8	3%
Public District	P-1	5	2%
Total Land Use District Area		267	100%
Planned Development PD			
R-1-PD 2			7%
C-1-PD 2			7%
R-2-PD 25			86%
Total Planned Development Area		29	100%

Rural Residential Needs

Preservation of the open space and vegetative cover in the areas outside of the City should be protected as rural development occurs. Large acre zoning in the County should be maintain adjacent to the City so future urban conversion is not encumbered by fragmented rural residential development.

City Residential Needs

The City and County have agreed to the population projection of 2,814 people provided by Benton County and the Oregon Office of Economic Analysis as an estimated base for determining future residential land use needs to the year 2026.

The City's population grew from 535 people in 2000 to 840 people in 2003. Since this time the City's population has remained at 840 people until 2013 when it was projected to be 845 people. The lack of growth was primarily due to a lack of developable land in the City.

To address this need, the City annexed 128 acres of land in 2010 that had been approved as an Urban Growth Boundary expansion in 2008. The annexation includes 83 acres of residential land that is Zoned R-3. This still leaves a need for an additional 45 acres to accommodate the projected 2026 population.

See Table 9.800 B.

Commercial Needs

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As the community grows there will be an increasing need for commercial service facilities. A designated one-acre commercial parcel is now utilized as a community grocery store, restaurant and coffee shop adjacent to the Adair Village City Hall. A one-acre property across Wm. R. Carr Avenue from the City Community Building is also designated commercial but presently has a fourplex housing unit on it.

The City has approved a Civic Center Master Plan adjacent to the City Hall on the City's park property located on the west side of William R. Carr Avenue. Two historic Barracks Buildings from the former military base have been moved onto this property and are being restored for civic uses. It is intended that William R. Carr Avenue and this property will become the City's centralized civic and commercial center.

To support commercial interest, future commercial facilities would need to attract customers from Highway 99 West.

With an increasing population and highway traffic, and with expanded development and use of the Adair County Park, the community should be able to support an area-wide commercial center. Suitable locations include areas adjacent to Arnold Way that would be convenient to existing residents and the highway traveler.

Industrial Needs

A single Cabinet Shop and the S.A.G.E. Block Building located adjacent to the Santiam Christian School are the City's only designated Limited Industrial property, Zoned M-1.

The SAGE Block Building has great potential for industrial use, particularly a High-Tech industry. This is also true for the Labors Training School property although zoning conversion from E-1 to M-1 would be required.

Future industrial developments may be located within the City upon request under the Planned Development procedures of the Land Use Code.

It is expected that the bulk of Adair's population will continue to be employed outside the immediate Adair Village area. However more intensive use of the Laborer's Training School property, the Block Building and the Santiam Christian School could increase local employment opportunities. The nearby Adair Industrial Park located in the County outside of the Adair Village Planning Area also provides local employment opportunities.

Public & Semi-public Land Needs

The City has exceptional park facilities for a community its size. Local park lands should be provided by future residential developments as the City grows to maintain the level of parks and open space now available, similar to those provided by the Creekside development.

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Should any of the **Educational Facilities District** facilities change ownership or revert back to the federal government, the City should reassess the area. Accordingly, the Code states that "whenever the use of any E-1 Zone property is abandoned or the ownership is either transferred for different use or reverts to the federal government, such abandoned or transferred area shall be designated a 'Planned Development Sub-Zone', (PD) until a revised zoning plan for the area has been adopted by the City Council.

Open Space Needs

The policies and recommendations contained in this Section and those contained in **Section 9.200 Environment** are directed toward ensuring the preservation of open space, the protection of scenic and natural resources, and the promotion of a visually attractive environment for the Adair Village area.

The need for open space can vary from active uses such as agricultural or recreational areas to more passive areas preserved for conservation or scenic preservation, including unique natural features such as wooded areas, or other places of scenic or special interest.

Open land may have obvious economic value, as is the case with agricultural and forest lands, but it also has other values that are not always readily apparent. Natural vegetation on steep slopes, for example, protect soils from erosion and thereby preserves clean water resources. Open areas also provide a variety of habitat for wildlife. These and other natural resources values are discussed in more detail in **Section 9.200, Environment**.

In addition to economic and conservation values, in recent years there has been a growing awareness of the value of open lands as an aesthetic resource which is also important to the general quality of life and livability of an area. Thus, open land in general, has a number of significant values and certain types of open land have special significance as needed open space for the community.

Parks and natural open space, for example, are important in meeting the recreational needs of the community and in providing an attractive living environment. Such areas not only enhance adjacent property values but also have a significant effect on a community's economic potential by helping attract new businesses and industries. Parks are discussed in detail in **Section 9.600, Public Facilities & Services**.

Open space can be any size. It can range from broad expanses or agricultural and woodland areas to mini-parks and landscaped areas. Various landscaping measures can be undertaken in new developments which can enhance their appearance while increasing open space for the community as a whole. These measures range from preserving existing trees and other natural vegetation to provisions for "cluster developments".

The City has a strong interest in preserving the considerable open space, recreation and scenic resources of the community and the surrounding area.

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Forest Lands do not directly apply to lands within the Adair Village Urban Growth Boundary but wise management of the remaining natural vegetation is essential, particularly on Poison Oak Hill. Most of the public and private forest lands are located in the Planning Area outside of the Adair Village Urban Growth Boundary. These areas should continue to be protected from further development.

Scenic Resources and open space values should be protected and enhanced both within the Urban Growth Area and within the surrounding area. Open space linkages through the community and into the surrounding area should be maintained. The drainage channels north and south of the City, particularly, should be preserved as open space greenways and buffers.

Agricultural lands currently outside the Urban Growth Boundary are recommended for preservation in large agricultural tracts until urban growth necessitates revision of the Urban Growth Boundary with the exception of the small parcels containing a total of 40 acres presently bordering the City and the City's existing UGB that is capable of being included in an expanded Urban Growth Boundary for the City. **This area should be given strong consideration for inclusion in the City's UGB when the current UGB begins to approach full development.**

In protecting the scenic resources of the Adair Area, the need is twofold: to protect the values of these broad landscape scenes, and to protect and enhance the local open space resources within the community. The latter includes preservation of steep slopes and drainageways, the development of parks, and the provision of landscaping within the community. See **Section 9.600, Public Facilities & Services** for more detail. The playground area, the western edge of Adair Meadows adjacent to the highway, and the UGB area of the City would particularly benefit from a City landscaping program.

Urban Growth Boundary Needs

The City can accommodate the residential land needs of the City initially, however, development trends may require expansion prior to the year 2026 if the expected additional growth occurs. The City potentially has 76 acres of net residential land available for new residential development. However, to meet the projected housing need by the year 2026 an additional 45 acres may be needed. It should also be noted that the City is bounded on three sides by public lands and this is the only area abutting the City that is capable of supporting increased growth.

Land needs and growth management are addressed in detail in the **Section 9.800, Growth Management**. However, it is evident from the needs analysis that there will be residential, commercial, industrial, public and open space land needed in the future to support the City's growth and development. The City will continue to monitor growth trends and will seek UGB expansion in advance of needs as developments approach 25% of capacity or as needed. The Plan's primary objective is to manage urban expansion and to maintain and improve the area's livability and environmental resources.

Section 9.590 Land Use Goals & Policies

GOALS & OBJECTIVES

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To provide a land use policy plan to guide the City of Adair Village in blending a variety of living conditions with commercial and industrial support facilities that maintains the open space and scenic resources of the City.

POLICIES & RECOMMENDATIONS

General

1. Sufficient land area shall be maintained for the balanced expansion of all major land uses.
2. Encourage the re-use, adaptation, and redevelopment of existing lots and buildings.
3. The City of Adair Village shall encourage new developments to implement improvements beneficial to the community.

Residential Land Use

1. The City shall maintain an adequate availability of residential buildable lands that provides locational choices for each housing type.
2. The City shall encourage higher density compact residential development to provide more efficient land utilization and to reduce the cost of housing, public facilities and services.
3. A variety in lot sizes, housing types and street patterns shall also be encouraged.
4. Residential districts shall be protected from heavy through traffic, conflicting land uses, or other encroachments that would impair a safe, quiet living environment.
5. Outside the city limits, single-family dwellings or manufactured homes may be allowed on rural residential lots with adequate on-site water supply and sewage disposal capability, in accordance with the City/County Urban Growth Management Agreement.
6. Areas outside the City Limits but within the City's Planning Area as shown on the Adair Village Comprehensive Plan Map, Section 9.180, Growth Management Agreement Map may be maintained under the County's land use designations unless annexation to the City occurs. Changes to the County land use designations shall be submitted to the City for review and approval as specified in the Urban Growth Boundary Management Agreement.
7. Minimum rural residential lot size for the unincorporated Planning area should not be reduced below 5 acres until needed for future urbanization.

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8. Land divisions in the unincorporated Planning Area should be required to provide urban conversion plans in accordance with Benton County and Adair Village Agreement Standards.
9. To guarantee the widest range of housing opportunities, the City shall create residential categories that provide development choices.

Commercial Land Use

1. The City of Adair Village has supported the development of a Village Center in conformance with the City's Growth Management Policies since 2003. The intent of the Center is to provide a central village square that serves as the focus for civic activities with the inclusion of a commercial center with urban residential that includes a pedestrian-oriented streetscape. William R. Carr Avenue has been selected for the Village Center. It has excellent assets – Highway visibility, head-in parking and a central community location.
2. As Adair Village grows there will be a need for small neighborhood service commercial uses that can be provided under the Planned Development Section of the Land Use Development Code, Section 7.200.

Industrial Land Use

1. The City should designate areas for future industrial growth to support an economic base for the community.
2. All industrial development shall strictly comply with the environmental quality standards of the State of Oregon, including all applicable standards and regulations of the Oregon State Board of Health, the Oregon Department of Environmental Quality and any other public agency having regulatory jurisdiction.
3. The City should focus on industrial developments that are compatible with maintaining Adair Village's livability and which will not disrupt residential areas due to excessive traffic, noise or other pollutants. High-Tech Industries with activities contained within a building are preferred and encouraged.
4. Approval of future industrial development proposals shall be contingent upon the community's capacity to accommodate growth and demand for public services.
5. The City should encourage industrial development of the City owned Adair Industrial Park located north of Adair Village unless a land trade for property adjacent to the City can be negotiated.

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Educational Facilities District

1. Following any change in use or ownership within the Educational Facilities Zone future land use shall be subject to the City's Site Plan Review procedures or the Planned Development review procedures of the Development Code.
2. Surplus property in the Educational Facilities Zone should be acquired by the City, if possible, for future public use, or clean industrial development. If City acquisition is not feasible, clean high-tech industrial use of the property should be encouraged.
3. The City of Adair Village shall encourage educational developments to implement improvements beneficial to the community.

Open Space & Scenic Resources

1. A system of open space including agricultural lands, woodlands, parks, recreation areas, and scenic areas should be maintained within and around the Adair Village Urban Growth Boundary.
2. Open space lands shall be integrated with urban growth to enhance the urban environment. Specifically, the drainage channels and streams north and south of the City shall be preserved as open space greenways and buffers.
3. The City shall encourage preservation of the natural features and natural vegetation as open space to the maximum extent possible through the land use review and approval procedures of the LUDC.
4. The City shall ensure that landscaping is included as an integral part of site plan review procedures.
5. Agricultural lands outside the Urban Growth Boundary, should be maintained in large acreage parcels to reduce the negative effects of scattered fringe developments and to preserve open space around the community until required for urban use.
6. Wooded areas shall be preserved to the maximum extent possible. Highest priority should be given to open space or park use with secondary priority given to other public uses that would preserve the natural features. Private developments shall be encouraged to preserve these areas.
7. Identified undevelopable lands including wetlands, drainage courses and steep slopes shall be retained as protection against erosion hazards while also preserving scenic natural open spaces for the community.

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8. The City and County should cooperate in protecting and enhancing the scenic and recreational areas both within the Urban Growth Boundary and within the surrounding portion of Benton County.
9. The City should maintain coordination with Oregon State University to ensure that the Department's future plans concerning the Hospital Hill portion of the McDonald State Forest give full consideration to the conservation and esthetic interests the City has in maintaining the forest resource.

Section 9.600 Public Facilities & Services

Statewide Planning Goal 11 addresses public facilities and service needs and reads: "To plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for urban and rural development".

Adair Village is the only community in North Benton County that has a full range of public facilities and services including water and wastewater facilities, storm drains, fire protection, parks and recreation facilities and library services.

Adair Village's public facilities, services and utilities must be expanded or improved if the City is to maintain an adequate level of service. Since the public facilities are often costly and relatively permanent, it is especially important that they be planned to economically fulfill the long-range needs of the community.

This element of the Plan contains an inventory, policies and recommendations concerning schools, parks, water and sewerage facilities, storm drainage, solid waste disposal, fire protection, energy and communications systems, public buildings and other public services.

It is important that the extension of urban services for developing areas be undertaken in a coordinated manner to achieve balanced community growth while also taking into consideration the opportunities and constraints of the environmental and economic resources.

Section 9.610 Governmental Services

Adair Village

The Adair Village Community Building is located on William R. Carr Avenue. The City is staffed by a City Administrator, a Utility Clerk, a Finance Clerk, a Recreation Coordinator, a Public Works Supervisor, and a Utility Worker. In addition, the City contracts for a City Attorney, a City Planner, a City Engineer, and a Community Service Officer, who oversees City Code enforcement. The City also contracts with Benton County Sheriff's Office (BCSO) for additional patrol services.

Adair Village has an elected Mayor-Council form of government. The Mayor and Council members all serve without pay. The City also has an appointed Planning Commission and Budget Commission.

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Adair Village levies a Property Tax and receives revenues from State revenue sharing, water and sewer charges, utility franchises, and miscellaneous fines and charges, and property leases. Expenditures include general administration and operations, contract services, materials, park maintenance and development, street maintenance and improvements, and water, sewer and storm drainage operation and improvements.

A five-year Capital Improvement Program is in place in support of long-range financial planning as part of the yearly budget the yearly budget. The City is completing, in 2015, an updated Wastewater Facilities Plan. The existing Water System Facilities Plan (2008) will be updated at the point the City is within two years of upgrading the existing plant.

Benton County

Benton County Sheriff's Office (BCSO)

The City of Adair Village no longer has an established a police department. In 2009, in expectation of significant residential growth in the southern UGB expansion area, a local police department was established. The City maintained the Police Department into the 2014 budget year, but the national recession prevented the expected residential growth and the Police Department was suspended until the City's growth can support it.

Since that time, the City has contracted with the BCSO Police for additional patrols to provide protection in addition to its normal level of service. This contract will continue until growth allows the City to re-establish its own police Department

County Library

A Bookmobile library is located in the City on Arnold Avenue once a week.

County Building Inspection

Building Permits were previously were issued at the Adair Village City Hall. T with the Benton County Building Department provides to the City. Beginning in 2015, Benton County Building Department began providing construction inspection and administrative services and now runs the whole program.

Section 9.611 Health and Social Services

The City of Adair Village has no local health facilities. No doctors or dentists maintain offices in Adair Village, and residents must use the facilities in Corvallis, Albany and Salem for medical treatment. Fire department personnel are available for emergency aid.

Health and social service programs originating in a small community are rare. Consequently, they must be sought from larger jurisdictions. Corvallis organizations provide some assistance and social services to local residents but the majority of these services are obtained from Benton County or the State of Oregon.

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Section 9.612 Fire Protection & Emergency Services

Adair Village is within the Adair Rural Fire Protection District (ARFPD). It extends from one mile south of Adair Village to the northern county line. On the east, the District is bounded by the Willamette Pacific Railroad tracks. On the west, it takes in the Tampico Road and Soap Creek Road areas. The District has a total area of 18 square miles.

The main fire station is located in Adair Village at 6021 NE Marcus Harris Avenue, midway between Arnold Avenue and Vandenberg Avenue. There are presently five bays in the station. A second station is located at 37096 Soap Creek Road. The District responds to all types of emergencies including fire, medical and rescue.

The Department is staffed by 13-15 volunteer firefighters. There are currently three support staff members, five officers, and eight volunteers. All fire fighters are required to be trained to NFPA FF 1 and EMS First Responder level. In addition, the Department encourages those who desire to become Emergency Medical Technicians (EMT's). The Department currently has 5 Basics and a Paramedic. The rescue squad vehicle serves the emergency medical quick response unit and the Corvallis Fire Department ambulance provides full emergency ambulance service. The District equipment and stations are maintained with volunteer help.

Adair Village is supplied with water from the City's municipal water system and currently has about 50 fire hydrants. 28 fire hydrants in the residential area and 22 in the institutional base area. The Fire District tests all hydrants annually. The water system, the County 911 Center and the Fire Department are responsible for the (ISO) insurance rating of 4 in the City and 8 in the surrounding rural area. In 2014, the City initiated a hydrant upgrade program in partnership with ARFPD and has begun to replace the hydrants in the worst condition.

There are few serious fire hazards within the City or the District. The area has a very light commercial fire hazard with the most significant life hazard being the schools. The District's greatest hazard is the wild land interface properties and the landfill. The District has enjoyed Mutual Aid agreements with the neighboring fire departments since the early 1980's and has established a first alarm mutual response policy with the Corvallis Fire Department, Albany Fire Department, and South East Polk Fire District.

Section 9.613 Parks & Recreation

Park and recreation facilities in the Adair Village area are provided by the City and, Benton County, and Oregon State University.

Playgrounds

The City owns a 2.31-acre site between Laurel Drive and Columbia Avenue that is used as a playground. Facilities include basketball, swings, slides and a seesaw. The site is accessible by a public footpath linking Laurel Drive and Columbia Avenue. Additional landscaping could enhance the site. As the City of

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Adair Village grows, consideration should be given to local playground facilities to serve these additional areas.

Adair Village Park Area

The City owns a 2.6-acre site west of William R. Carr Avenue for which is utilization utilized as a park and for community services. The site includes an existing building of approximately 2,800 square feet City Hall and Community Building. The City also moved two of the historic barracks onto this 2.6-acre site in 2009. The City plans to use these as an interpretive center and a community center. Both the park area and all the buildings are being improved on a continuing basis. Some of this area may be used as part of the downtown development area. The building is used for recreation and community functions and houses the City Hall offices and Council Chamber. This area is also planned as a Civic Center for the Community.

Benton County Park Area

A Benton County Park is located east of William R. Carr Avenue on owns a 7.2-acre site located east of William R. Carr Avenue, across the street from the Adair Village Park. The County facility includes a ball field and a building used by the Benton County Model Railroad Club.

Adair County Park

Adair Village is fortunate in that it is located immediately adjacent to the regional Adair County Park, owned and developed by Benton County. The Adair County Park is the largest, most developed park in the Benton County Park System. The park site, located north of Arnold Avenue, was obtained by the County in 1971 from the Federal Surplus Lands Program and includes 114 acres of park and recreation lands.

Formerly, this area served as a recreational area for the Adair Air Force Station. The only remaining military facilities are the tennis courts. The courts have been improved and additional facilities have been added. Facilities include two group picnic areas with kitchen shelters and barbecue pits seat a total of approximately 300 picnickers. Extensive sports facilities including baseball and softball fields, sand volleyball courts, horseshoe pits, open turf areas, walking paths, and a small children's play area. Hiking trails are available. The Park also contains a world class disk golf course, which is available to all and has been the site of large tournaments.

A Master Plan for the Adair County Park was prepared and improvements are continually being made to this important regional facility. Planned improvements include expanded covered picnic facilities, children's play area, interpretive trails and restrooms. The Park also has wooded areas for camping as additional funding assistance becomes available. All proposed developments are subject to review by the City of Adair Village in accordance with City/County Urban Growth Management Agreement.

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The park serves residents regionally including north Benton County and the Corvallis and Albany areas. The Adair County Park is a needed public facility. The State Outdoor Recreation Plan indicates a need for regional parks in Benton County. In addition to serving regional recreation needs, the Adair County Park provides the residents of Adair Village immediate access to quality recreation facilities.

The park represents a major asset to the community but it can have a number of impacts on Adair Village as usage increases. Potential impacts include increased traffic through the community and the surrounding area; a potential need for improved police, fire, and emergency services; an increased demand for water and sewer facilities, and increased noise and auto-generated air pollution in the area. The park activity areas, however, are well buffered from the Adair Village residential areas helping to minimize potential problems.

Section 9.620 Schools

Adair Village school children attend Corvallis District No. 509J schools, and Santiam Christian School. and the Prince of Peace Mennonite Community Church has a Preschool.

Schools servicing Adair are:

Schools & Grades Corvallis District No. 509 J

- Mountain View Elementary K - 5
- Cheldelin Intermediate 6 - 8
- Crescent Valley High 9 -12
- Santiam Christian School

Mountain View Elementary School

Adair Village children in grades K through 5 attend Mountain View Elementary School located in Lewisburg, three miles south of Adair Village. The school was built in the 1960's and is in good condition.

Cheldelin Intermediate School

Adair Village children in grades 6 through 8 attend Cheldelin Intermediate School, located within Corvallis, approximately 5 miles south of Adair Village.

Crescent Valley High School

Adair Village high school students in grades 9 through 12 attend Crescent Valley High School, located 5 miles southwest of Adair Village.

Santiam Christian School

Santiam Christian School, an interdenominational, Christian school, is located in Adair Village on south of Arnold Avenue on an 18.54-acre site in the Educational Facilities District, E-1. It includes buildings for

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elementary, junior high and high school in addition to support and administrative facilities. A number of people live on campus in existing housing units.

Santiam Christian School is operated by the Santiam Christian School Corporation, an Inter-denominational non-profit corporation. The school is parent sponsored and governed by a Board of twelve directors who are elected by the parent society. They set policy and direct the school as prescribed by its constitution. The School is fully accredited and meets the requirements for graduation of the Oregon State Department of Education.

Future Needs

School enrollments vary significantly from year to year. They appear to go through a cyclic rollercoaster pattern of ups and downs. Population growth and the distribution of that growth impacts local schools and the need for facility improvements. Urban growth in the Adair Village area will impact the local public schools although impacts to the local Christian schools is less significant since these schools draw students from six surrounding counties.

The population of within the Adair Village city limits is estimated at to grow to 2,814 people by the year 2026; this is an increase of 1,969 people in 716 households. This is a 235% increase from over the last 2010 Census in 2010 that will significantly impact local schools. No additional public elementary schools are presently planned for the area. As growth in the North Benton area reaches the point where another elementary school is needed, strong consideration should be given to locating a new school in Adair Village.

Elementary schools provide an important focus for a community. An elementary school in Adair Village would be both a convenience and a major step in reinforcing Adair Village as an urban service center for the North Benton County area. As growth in the north Benton area reaches the point where another elementary school is needed, strong consideration should be given to locating a new school in Adair Village. The location of schools should be compatible with educational needs and community land use patterns. New schools should be located in coordination with other community facilities, particularly parks, bike and pedestrian ways and streets and highways.

Section 9.630 Water System

Background

The original Adair water system included the existing treatment plant, major transmission lines, and storage reservoirs. It was built in 1943 to serve the old Camp Adair Army base that at times contained over 50,000 soldiers. As a result, the Adair Village Water System today has a potential capacity considerably in excess of the City's needs.

Improvements were made to the original system in 1960 when the Air Force Base was constructed and again in 1972, when the base property became surplus, ownership of the water system was transferred to the City of Albany, when the base property became surplus. Albany maintained and operated the

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system until 1978 when it returned the facility to the federal government. During this time, the system was limited to less than 200 users.

The City of Adair Village acquired the water system in May 1978. The City, Benton County, and the North Albany County Service District immediately hired a consultant to prepare a "Comprehensive Water System Development Program". The report was completed in June 1978 by HGE, Inc. It included recommendations for system improvements to meet the City's needs, and also recommended improvements to meet the needs of the North Albany area.

Negotiations were held between the City of Adair Village and Benton County to consolidate the water supply system for the North Albany area. Agreement could not be reached and eventually Pacific Power and Light Company were selected to supply most of the North Albany area with water. One water district, the Dumbeck Water District, voted to utilize the Adair Water System, but that contract ended in 2008.

The City contracted with CH2M Hill/OMI from 2006 to 2012 to run the water and wastewater systems. The City brought both systems back in-house in 2012 and has made major improvements since that point. A major leak in a line serving the industrial park area (see Existing Service Area below) was located and the City was able to replace the lines serving the PRC site and the E.E. Wilson Game Management offices. The City also attacked a wide range of leaks at the Water Plant and refurbished all the valves and moving parts, including refurbishing spare valves. These two projects reduced the City's water loss from over 80% to 40%. The next major project to reduce water loss is the replacement of the Voss Hill Reservoir (see below-Storage).

A number of Plans and Studies have been completed over the years. Most have recommended capital improvements to the system and a maintenance program that the City has systematically undertaken within its funding availability.

The following studies have been completed:

- Comprehensive Water System Development Program, November 1978.
- Water System Evaluation and Master Plan, September 1993.
- Water System Evaluation and Master Plan, January 1994 by Westech Engineering, Inc.
- City of Adair Village Water System Master Plan, December 2001 by HBH Consulting Engineers.
- City of Adair Village Water System Master Plan Update, November 2006 by HBH Consulting Engineers.

These Plans and Studies are hereby included by reference in the Adair Village Comprehensive Plan as part of this Section.

Existing Service Area

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Today the Adair Village water system serves the City and adjacent properties and a number of sites on Camp Adair Road. The site known as the Adair Village Industrial Site (AVIS) was formerly a plywood mill of Wells Property Inc. The site passed both Boise-Cascade and Georgia Pacific ownerships. The updated north transmission lines serve the PRC site and the E.E. Wilson offices and maintenance buildings

Water Source

Adair Village obtains its water from the Willamette River. The intake structure and nearby water treatment plant are located three and a half miles southeast of Adair Village. The City has a 3.0 cfs Water Right and an 82 cfs Water Permit.

Treatment Plant

The Adair water treatment plant provides full treatment with coagulation, flocculated, sedimentation, filtration and disinfection. Production has averaged 432,475 gallons per day gpd. Water sold averages 143,541 gpd. Adair Village residential customers account for 53.1%; The Dumbeck Water Association utilized 23.5% and other users within the city and adjacent to the city accounted for 23.4%. Water sold averaged 52.4 million gallons per year while 52.3 million gallons was unaccounted for or 46.7% of the water pumped from the Water Treatment Plant.

The largest improvement needed, both in scope and cost, is replacement of the water treatment facilities. Refer to the 2006 Report cited above for more details. The refurbish at the water treatment plant has extended the life of the plant until residential growth will provide the funding necessary to replace the plant.

Storage

Storage facilities include two storage reservoirs. The Voss Hill reservoir has a storage capacity of 1 million gallons. Improvements have been made at the Voss Hill Reservoir and a second reservoir is planned in this area. The existing Hospital Hill Reservoir will be vacated when the second Voss Hill reservoir is completed a capacity of 500,000 gallons. Both reservoirs have significant leaks and storage is 70% at Voss Hill and no more than 50% at Hospital Hill. An additional 250,000 gallons can be stored at the treatment plant.

Plans are moving forward to begin the replacement of the Voss Hill in-ground reservoir with two one million gallon above ground reservoirs. Moving the reservoirs above ground will allow gravity feed to provide sufficient pressure throughout the system. It will allow the removal of the booster pumping station on the east end of town and the Hospital Hill reservoir will no longer be needed.

Transmission and Distribution System

A ten-inch line conveys the treated water from the treatment plant to the Voss Hill Reservoir. Two ten-inch lines lead out of the Voss Hill reservoir. One serves Adair Village; the other line extends to the Camp

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Adair Road sites. A six-inch line connected from the Camp Adair Road line to supply the Dumbeck Lane Water District, but it is no longer in use.

The ten-inch transmission line from the Voss Hill reservoir to Adair Village feeds into a booster pumping station just inside the City's eastern boundary. A system of eight- and six-inch distribution lines serves the residential area, which includes everything within the city limits and additional residential areas west of OR Highway 99W and the institutional base area. The work involved finding the north line leak allowed a close look at that portion of the transmission system and it was found that the lines were still in good shape, the leaks were found at all the metal valves and connections and the City has established a program to replace those valves and connections. The transmission and distribution system is in need of improvements. Substantial water losses in the system have occurred but system improvements are continuing.

Existing Capacity and Future Demand

It is currently estimated that the existing water system has sufficient capacity to serve the City's current and short-term needs although significant improvements are needed and to initially serve the substantially larger population that is projected in the R-3 residential zone to the year 2026.

Projected Water demands are summarized on page ES-4 of the 2006 Report cited above. These 2026 demands will be approximately 3 times the current usage. Reduction in water loss has made the demand portion of the 2006 study outdated.

Section 9.640 Wastewater (Sanitary Sewer) System

The provision of public sewers is a powerful tool by which urban growth can be guided, especially when coordinated with the provision of water and other public services. Benton County has adopted a policy whereby sewerage wastewater service shall be restricted to Urban Growth Areas unless a severe health hazard exists in the adjacent County area.

Many of the soils in the Adair area are marginal to poorly suited for septic tanks. There is already a potential hazard from septic tank use in the area immediately north of the City. Future development within the Adair area will depend on the availability of City sewer service more than on any other single factor. The Adair Village wastewater system was originally built in 1958 to serve the Air Force Base. The Adair Village water and wastewater systems became the property of the City of Albany in 1972 but later reverted to the federal government until they were acquired by the City of Adair Village in May of 1978.

All of the base housing and buildings are connected to the sewerage system. The system is presently primarily limited to the area within the incorporated limits of Adair Village although a few structures are located outside of the City Limits including the Benton County Club House and properties of the Oregon Game Commission.

The City has completed several studies for improvements to the sanitary sewer system over the years including:

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- Sanitary Sewerage System Plan Facilities Plan, July 1988 by Westech Engineering, Inc.
- The Wastewater Facilities Plan Supplement, January 1990, by HE, Inc.
- City of Adair Village Wastewater Facilities Plan, February 2007 by Tetra Tech/KCM, Inc.
- In process-2015 Wastewater Facilities Plan by Civil West Engineering.

These studies recommend capital improvements to the system and a maintenance program that the City has systematically undertaken within its funding availability. These Plans are hereby included by reference in the Adair Village Comprehensive Plan as part of this Section.

Treatment Plant

The treatment plant is located in on the eastern edge of Adair County Park. Treatment consists of an Imhoff tank for primary settling, trickling filters, secondary clarification and chlorination. Although the treatment plant is 42 years old, the major structures and equipment are in excellent condition and performance is presently within the range expected and is operating better than average.

Treatment Plant improvements and a new waste discharge system was implemented in the 1990's that now discharges treatment plant effluent into a 5-acre holding pond for summer irrigation on a 25-acre site acquired by the City on the east side of the railroad. Treated and stored wastewater is discharge by Force Mains to the Willamette River at river mile 122 during winter high stream flows. This new system was selected because of its low monetary costs, its beneficial use of wastewater, reliability and flexibility for expansion.

Receiving Stream

Formerly, wastes from the Adair Treatment Plant were discharged into Bowers Slough in winter and spray irrigated on land in summer, without discharge into public waters. Problems related to discharges into Bowers Slough necessitated a new discharge system that did not require utilization of Bowers Slough. Also, one of the other problems is that Bowers Slough is a poor receiving stream. It has limitations due to the intermittent stream flows that would limit any expanded use of the Adair Treatment Plant. The new treatment and discharge system now irrigates on City land in the summer and discharges to the Willamette River at river mile 122 during high water winter stream flows.

Collection System

The Adair sewage Village wastewater collection system consists of two pump subsystems. One subsystem serves the Adair Meadows R-1 and R-2 residential areas and portions of the former military base facilities. The other pump subsystem serves the other southern portion of the former military base facilities.

Wastes from the Adair Meadows residential area flows by gravity into a trunk line of Azalea Drive and then to a pumping pump station in the Adair County Park. From there the wastes are pumped to the

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treatment plant. Most of the wastes from the former military installations flow into a second trunk line along Arnold Avenue that also connects to the treatment plant.

Studies of the collection system have been performed and there are indications that a significant infiltration problem exists. Flow in winter is approximately four times that in summer. Also, during the summer months some effluent may be seeping out of the system and not reaching the sewage treatment plant.

Future Needs

The Adair Village wastewater treatment system has the capacity to accommodate the near-term projected growth; however, growth to the projected 2026-year population will require substantial improvements. Treatment flows are measured in equivalent dwelling units, EDUs. Currently the existing EDUs are 398 and the future EDUs that includes the R-3 residential zone is 1092 approximately 3 times the existing use.

Improvement needs are divided into Three Phases. Phase 1 addresses the immediate high priority improvement needs to the collection and treatment systems for current usage. Phase 2 is divided into 2A and 2B. Phase 2A improvements to the collection and treatment system prior to any significant increase in flows. Phase 2B is improvement to the treatment plant before 300 additional EDUs are added to the system. Phase 3 is improvements to the collection system that is needed prior to approaching the 2026 population of 2,814. It is apparent that Adair Village has an existing inflow and infiltration (I/I) problem with the existing collection system. The treatment plant requires replacement.

Refer to the 2007 Evaluation Report noted above for more specific information and clarifications.

Sewage Works Grant Funds

The DEQ annually develops and adopts a prioritized sewage works list to govern the distribution of EPA sewage works construction grants. This list significantly governs public sewage works construction as federal funds cover 75% of eligible facility costs. The DEQ must certify sewage works construction grant applications as being complete. Applications include land use plans and state goal conformance that meets state requirements supporting the priority need in the state. State grant and loan financial assistance may also be available to help finance sewage works construction.

On-Site Sewage Disposal

There are two houses in the prior northern UGB area that are still on septic. A number of residences within the Planning Area are dependent on septic systems. There are 33 potential building sites within the Planning Area that could be built upon, provided County approval of septic suitability is can be obtained.

Standards and Permit Requirements

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The Environmental Quality Commission adopts and the DEQ implements rules and standards necessary to control on-site sewage disposal in order to prevent water pollution, health hazards and nuisance conditions. The DEQ has delegated the actual responsibility for approving on-site sewage disposal in Benton County to the Environmental Health Services Division of the Health Department that issues permits for septic tanks. The Benton County program is monitored by the Salem office of the DEQ. After receipt of an application for septic tank installation, county sanitarians perform an on-site evaluation of the soil and approve or deny the request.

Land use clearance is required prior to issuing an on-site sewage disposal permit. Benton County reviews applications for conformance with local land use plans. Septic tank approval must also be obtained for buildings not reserved by public sewers prior to issuing a building permit.

Section 9.650 Storm Drainage

The storm drainage system is separate from the sanitary sewer system and there is no treatment of storm wastes. There are two residential piped storm drainage systems in Adair Village. One serves the Adair Meadows R-1 residential area and the other is the R-2 residential area. Both systems empty storm water into Bowers Slough.

There are also two systems that drain the institutional base area (south of Arnold Avenue. The western system is piped to the south where an open drainage channel flows to Calloway Creek. The eastern system is piped to the east where open drainage channels flow into Bowers Slough. The Calloway Creek system flows into Bowers Slough and Bowers Slough flows into the Willamette River.

In newly developing areas, insufficient consideration is sometimes given to storm drainage, especially if an area develops slowly, in a piece-meal way. The Planning Commission should consider the adequacy of storm drainage plans as part of its development review process.

Storm drainage projects can be disruptive of the natural environment. Plans for storm drainage improvements should include consideration of environmental as well as land use impacts. Construction of storm drainage channels along natural waterways must be executed with care in order not to reduce the environmental, recreational and open space values of these stream corridors.

Section 9.660 Solid Wastes

Benton County administers the area's Solid Waste Management Program. The regional landfill for the Linn-Benton and Polk County area is the Coffin Butte Site three one miles northwest of Adair Village. Solid waste in Adair Village is collected by the Corvallis Republic Services and is disposed of at Coffin Butte.

The North Benton Plan has recommended that Valley Landfill execute a resource recovery system. The establishment, construction, and operation of a solid waste disposal site, including transfer stations and demolition landfills, require a permit from the DEQ. Valley Landfills, Inc. has been issued a permit to operate Coffin Butte.

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While the provision or supervision of solid waste disposal sites is not the responsibility of Adair Village, the City has a vital interest in ensuring that adequate disposal facilities are available and that the management of disposal sites is in line with sound environmental practices. There is always potential for surface and ground water pollution from solid waste landfills, but potential pollution from Coffin Butte should not affect the Adair area as the site lies in another drainage basin.

Section 9.670 Energy & Communications Systems

Primary energy and communications services are provided by the following companies:

- Consumers Power, Inc. (CPI) & Pacific Power
- Northwest Natural Gas Company
- Telephone Service — Comcast
- TV Cable – Comcast

Electric Power

The electrical system serving Adair Village was originally constructed as part of the military installations and after the property was declared surplus, electrical service was taken over by Consumers Power, Inc. (CPI). Consumers Power obtains its power supply from the Bonneville Power Administration (BPA). A BPA substation and a CPI substation are located adjacent to one another near the Adair Industrial Park two miles northeast of Adair Village. CPI transmits the power at 7,200 volts for distribution in the Adair Area. Transformers on individual utility poles convert power for domestic use. The overhead distribution system in Adair Village exhibits a seemingly excessive number of poles, transformers, and lines, and detracts from the appearance of the community.

Several aspects of electric power service have significance to the Comprehensive Plan. First, there is the need to conserve electrical energy. The conservation programs of Consumers Power are discussed in the Energy Element of Section 9.800. Another concern is the location and design of major facilities such as transmission lines and substations. These facilities can have a blighting effect on an area unless carefully designed and located to minimize adverse impacts. Overhead distribution lines within a community, particularly in residential areas, can also have a blighting effect.

The City requires review and approval of substation facilities and utilities for subdivisions. Underground utilities are required for all residential subdivisions in the Adair Village Land Use Development Code.

Natural Gas

Natural gas within the general Adair Village area is provided by the Northwest Natural Gas Company. Natural Gas lines have been extended to serve Adair Village.

Telephone

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Telephone service is provided by Comcast. An equipment substation is located at the intersection of Arnold Avenue and Laurel Drive on a 0.35-acre site.

TV Cable

Cable Service is provided by AT&T Broadband and Comcast cable service.

[Section 9.680 Planning Implications](#)

Public facilities and services are an essential planning component and provide the primary elements to support community growth. Adair Village's public facilities and services are capable of supporting additional community growth although there are some improvements needed. City Hall improvements and expanded police protection are identified needs that will increase as growth occurs.

Schools and fire protection are currently serving Adair Village very well, although expansion of both the level of service and support facilities will be needed as growth occurs. Both of these facilities have available land for their expansion needs. The City should maintain communication with these agencies and keep them informed of future community growth trends that could impact their level of service and facility needs.

In summary, Adair Village's public facilities and services are currently serving the needs of the community and with identified improvements Adair Village is capable of providing an excellent level of service to an expanding community.

[Section 9.690 Public Facilities & Services Policies](#)

GOALS & OBJECTIVES

To provide a public facilities policy plan as a guide for the location and development of future community facilities and utilities consistent with long-range community needs.

POLICIES & RECOMMENDATIONS

General Policies

1. The City shall ensure that public facilities contribute to an efficient framework for incremental community growth and development.
2. The City shall consider the impacts on community facilities before building, rezoning, or annexation requests are approved.
3. The City shall maintain procedures that require development projects to bear the cost for needed support facilities.
4. Growth trends shall be carefully monitored to accurately anticipate the need for future public facilities expansions.

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5. The City shall develop maintain a Capital Improvements Program to guide financial implementation of needed facilities and services. The program shall include: parks and recreation facilities, water and sewerage facilities, storm drainage, streets and other transportation improvements, public buildings, and any other necessary public facilities.
6. The City shall maintain System Development Charges (SDC) for the reimbursement and improvement costs for capital improvements and shall review these charges annually to ensure that they keep pace with rising costs and community needs. SDCs shall be maintained for the municipal water system, sanitary sewer system, drainage system, transportation system and park system.
7. The City shall seek financial assistance grants and loans for needed facility improvements.
8. Open space, green space, parks, pocket parks, and plazas shall be incorporated into the Village Center, Neighborhood Centers, and all new residential development. The Comprehensive Plan goal is to provide 2.5-acres of open space for every 1,000 residents of Adair Village or approximately one new park for every 300 new dwelling units. The City shall work toward establishing a citywide park master plan with the objective of setting aside sufficient lands for future parks.
9. The City shall require construction of new infrastructure that facilitates urban development and emergency response efficiency prior to or concurrent with development of new land within the Urban Growth Boundary.
10. The City shall continue to seek improvements to the municipal water and sewer facilities to increase the City's service capacity and to prevent potential health and safety hazards to community residents.

Schools

1. The City shall maintain a coordination program with the Corvallis School District 509J and the Santiam Christian School as part of its ongoing planning effort.
2. The City shall keep the School Districts informed of development trends and projects with substantial population increases as part of the City's project review process.
3. Should a new elementary school be needed to serve the North Benton County Area; strong consideration shall be given to locating the school in Adair Village.

Parks

1. The City shall maintain a long-range park and recreation program.

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2. The long-range park program should include consideration of greenway buffers and bicycle and pedestrian trails.
3. The City shall cooperate with Benton County and Oregon State University in developing the City and County park lands within the Adair Village area.
4. The City shall support programs of public and private urban landscaping.
5. The City should cooperate with the Benton County Parks Department in the planning and development of the Adair County Park.
6. Development proposals for the Adair County Park shall be submitted to the City for review and approval as specified in the Urban Growth Boundary Management Agreement.
7. The City shall seek financial assistance for the planning and development of the City's park and recreation programs.

Water System

1. Municipal water facility improvements shall be maintained as part of the City's ongoing Capital Improvement Program and shall be updated and maintained as an integral part of the City's ongoing planning process.
2. The City shall seek Facility Planning Grants for improvements to the Adair Village water system.
3. Municipal water service shall be provided to meet the needs of existing and future users and shall provide adequate fire flow capabilities to protect the public.
4. The provision of water services shall be coordinated with the provision of other public services, particularly municipal sewerage service.
5. The City shall seek to maximize the existing investment in the water system through the encouragement of additional connections to assist in reducing individual service fees.
6. The City may provide municipal water service to requesting areas at cost within the service capability of the facilities and the City's financial limitations. "At cost" shall include the costs of Capital Improvements, operational and maintenance costs and future system expansion needs.

Wastewater Facilities

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1. Municipal sewer facility improvements shall be maintained as part of the City's ongoing Capital Improvement Program and shall be updated and maintained as an integral part of the City's ongoing planning process.
2. The City shall seek Facility Planning Grants for improvements to the Adair Village wastewater system.
3. The City shall continue to correct infiltration problems in the sewage collection system.
4. Municipal sewer service shall be provided to meet the needs of existing and future users.
5. The provision of sewerage services shall be coordinated with the provision of other public services, particularly municipal water service.
6. The City may provide municipal sewerage service to requesting areas at cost within the service capability of the system and the City's financial limitations. "At cost" shall include the cost of Capital Improvements, operation and maintenance costs and future system expansion needs.

On-Site Sewage Disposal

1. No on-site sewage disposal systems shall be allowed in the City unless the municipal system is unavailable.
2. The County should only approve on-site sewage disposal systems for low-density developments that will not result in health hazards, water pollution or the untimely extension of public services.
3. Areas with existing on-site sewage disposal systems that pose potential health and pollution hazards shall receive a high priority for Municipal Sewer Service.
4. On-site sewage disposal systems shall be discouraged in areas immediately adjacent to the City, where City sewers can easily be extended.

Storm Drainage

1. As part of the City's project review process, private developments shall be required to submit detailed drainage plans in conformance with area plans.
2. The City and the County shall review plans for developments within the Urban Growth Boundary to ensure that storm drainage plans for developments are adequately related to the needs of the entire area.

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3. Open drainage courses that can function as linear greenways shall be preserved as open space wherever possible in lieu of creating covered storm drains.
4. Area storm drainage projects should be maintained as part of the City's ongoing Capital Improvement Program.

Solid Wastes

1. Adair Village supports Benton County's continued Solid Waste Management Program.
2. Benton County should continue to monitor any adverse effects of the nearby Coffin Butte disposal site.
3. The City supports the County in investigating and encouraging recycling efforts.

Fire Protection & Emergency Services

1. The City supports the continued improvement of the Adair Rural Fire Protection District, for fire protection and emergency services.
2. The City supports the need for expanded fire protection and emergency services to meet the needs of additional urban development and the Adair County Park.
3. Newly urbanized areas shall be equipped with a fire hydrant system.
4. Subdivisions and Partitions shall be submitted to the Adair Rural Fire District for review and recommendation.

Energy & Communications Systems

1. Electric power distribution systems and telephone and cable television lines shall be located underground in all future developments.
2. Pole locations needed by serving utilities shall be coordinated with the City.
3. The City shall keep all private utility companies informed of community planning policies and development trends and shall submit subdivision and development plans to local utilities as part of the City's project review process.

Other Public Facilities & Services

1. The City supports the need for improved police protection resulting from continued growth and development of the City and the Adair County Park.
2. The City shall continue to improve the developing Village Center as the City's primary governmental and commercial center.

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3. The City shall continue to provide administrative and public works services within its financial capabilities while seeking outside assistance and programs for needed services.

Section 9.700 Transportation

Statewide Planning Goal 12 reads: "To provide and encourage a safe, convenient and economical transportation system". In response to this goal, the transportation element of the Comprehensive Plan contains an inventory, recommendations and policies concerning streets and highways, mass transit, bicycle and pedestrian ways, and railroads for the Adair Village area.

Although the major element of the transportation system is the street and highway network, the Plan seeks to strengthen all modes of transportation and thereby facilitate the improved flow of people, goods, and services.

It is important to recognize that transportation systems function as more than systems for the safe and efficient movement of people and goods. They also become the basic structural and organizational framework on which a community grows and develops. The Comprehensive Plan recognizes this interrelationship with other plan elements and seeks to improve it through recommended improvements to the primary transportation system.

Changes to the transportation system can have a wide variety of economic, social and environmental impacts. Major transportation facilities should efficiently meet economic and social needs, without disrupting urban social units, unique natural resources, or cohesive land use districts.

Section 9.710 Streets & Highways

Streets, Highways and Land Use

The street and highway element of the Comprehensive Plan has a two-fold purpose. First is to provide an efficient circulation system for the community. Second is to function as an organizational framework for community growth and development. Streets and highways must therefore compliment other elements of the Plan to form a coordinated and comprehensive planning program for the community.

Street and highway policies can affect the overall direction and pace of urban growth, can help determine appropriate areas for differing land uses, and can influence the character of individual neighborhoods.

As the street and highway network changes, traffic patterns also adjust and seek the most convenient route. As route choices increase, individual street traffic decreases. If choices are limited, traffic increases. As traffic increases, adjacent livability is affected due to such problems as noise, air pollution, traffic hazards and parking problems.

Discontinuous streets, stop streets, and curved streets discourage traffic and increase adjacent livability. Through streets, on the other hand, encourage traffic, which then becomes an attraction for commercial

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developments. As commercial developments occur along major thoroughfares, efficient movement of traffic decreases due to commercial access conflicts.

The interrelationship of street and highway networks with land use development patterns is clearly evident and requires careful coordination to achieve the desired goals and objectives of the Comprehensive Plan.

Table 9.700 A outlines the existing streets and highways and the agencies responsible for them.

Table 9.700 A-- Adair Village Planning Area Streets and Highways

State Highway

OR (Pacific) Highway 99 W Federal Aid Primary	120 ft. row width - 4,700 In.ft. West border of the City City Access at Arnold Ave and Vandenberg Ave.
Adair Frontage Road Federal Aid Primary	60 ft. row width - 700 In.ft West border of City UGB City Access at Newton Rd. and Kiwi Lane

County Streets

Arnold Avenue	60 ft. row - 1,600 ft. in City
Ryals Avenue Federal Aid Secondary	100 ft. row within the Planning Area
Tampico Road	100 ft. row within the Planning Area
Arboretum Road	80 ft. row within the Planning Area
Calloway Drive	60 ft. row within the Planning Area
Leslie Place	50 ft. row within the Planning Area
Tanya Place	50 ft. row within the Planning Area
Lorri Place	50 ft. row within the Planning Area

City Streets

Wm. R. Carr Avenue	60 ft. row Vandenberg to Arnold 50 ft. row Arnold to Columbia 50 ft. row Columbia to Daphne Ct.
Columbia Avenue	50 ft. row Wm. R. Carr to Azalea 40 ft. row Azalea to Cedar Lane
Azalea Drive	40 ft. row
Cedar Lane	40 ft. row
Laurel Drive	40 ft. row
Willamette Avenue	40 ft. row
Holly Lane	40 ft. row
Barberry Drive	50 ft. row to Daphne Ct. 60 ft. row from Daphne Ct north

Private City Streets

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Educational Facilities District

Marcus Harris	Private Easement
Santiam Lane	Private Easement
Ebony Lane	Private Easement
Birch Lane	Private Easement

Fish & Wildlife Department Property

Vandenberg Avenue	60 ft. row to Wm. R. Carr Private Easement
Purple Vetch Lane	North Boundary of Fish & Wildlife Private Road

Traffic Volumes

Updated Traffic Volumes for the Adair Village Planning Area can be obtained from the Oregon Department of Transportation Highway Division and the Benton County Road Department.

Arnold Avenue, the City's main access arterial to OR Highway 99 W, also serves as the main access to the Adair County Park. The Park's increased usage will increase traffic on Arnold Avenue.

Ryals Avenue connects OR Highway 99 W to Arnold Avenue and will be the arterial for the southern UGB expansion of the City. It then turns easterly to Independence Road connecting to Highway 20 and Albany. At present, the average daily traffic on Ryals Avenue remains relatively slight. However, it will be impacted by increased residential development in Adair Village.

Tampico Road is another major arterial in the Adair Village Planning Area connecting to OR Highway 99 W. Traffic on Tampico Road at OR Highway 99 W has increased only slightly due to development limitations on rural lands in Benton County.

Street and Highway Functional Classification and Standards

The streets and highways element of the Comprehensive Plan establishes a four-fold functional classification system based upon the type of traffic a street is intended to carry.

Highways carry regional traffic with origins and destinations outside the area.

Arterials carry major local traffic between communities or nearby areas, or between community districts.

Collectors carry traffic between sub-areas or neighborhoods of the community and between arterials.

Local Service Streets carry primarily local traffic seeking access to adjacent property.

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The Adair Village Land Use Development Code (LUDC) establishes minimum rights-of-way and roadway widths.

The City should maintain an ongoing street improvement program for all City streets and should cooperate with county, state and federal agencies to provide needed improvements to streets that extend beyond municipal jurisdiction.

Street improvements for Adair Village should include the following goals:

1. Minimum right-of-way widths should be provided in conformance with the City's Development Standards.
2. Pavement widths should be provided in conformance with the City's Development Standards.
3. Curbs, gutters, storm drainage and underground utilities should be provided throughout the community.
4. Sidewalks with street trees and landscape buffers between walks and curbs should be provided.
5. A logical continuation of collector and arterial streets should be provided for.
6. Curvilinear and discontinuous streets in residential districts should be utilized to discourage through traffic.
7. Future right-of-way expansion potentials should be protected by setback requirements and zoning Code standards coordinated with the Comprehensive Plan.

In order to implement the City's street improvement program, the City should seek funds from the Oregon Department of Transportation (ODOT) or other State Agencies.

Highways

OR Highway 99 W bisects the Planning Area from north to south. This highway is the major thoroughfare linking Corvallis and the Monmouth-Independence area of Polk County. From Monmouth, Highway 99 West continues north to McMinnville and Portland.

OR Highway 99 W is part of the Federal Aid Primary System and is maintained by the State of Oregon. The highway adjacent to Adair is two-lane with a central turn lane and is in good condition. All of the incorporated area of Adair Village abuts the highway's east side. The major issues related to the highway include traffic safety, access, access control, and adjacent development controls. The Benton County Plan states that access control and frontage road development should occur in developable areas bisected by a highway such as Highway 99 West.

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Arterials

There are four county-maintained arterials in the Adair Village area, each of which connects with OR Highway 99 W. The most significant of these is Arnold Avenue that serves as the City's primary arterial, dividing the residential area to the north from the institutional area on the south side. Arnold Avenue joins with Ryals Avenue east of the City at the railroad tracks that connects with Independence Road outside the Planning Area.

Ryals Avenue is a county-maintained road that is part of the Federal Aid Secondary System. Ryals Avenue serves two functions. The western segment will become the primary arterial for the southern portion of the City. The eastern segment, connecting Arnold Avenue and Independence Road, provides Adair Village with access to the growing North Albany area.

Tampico Road and Arboretum Road are the other two county-maintained arterials. Tampico Road links the Soap Creek area and parts of southern Polk County with Highway 99 West. Arboretum Road is part of the original old OR Highway 99 W that has now been bypassed in this segment by the present highway.

If future urban development occurs west of Highway 99 West, the basic street extension alternatives appear to be:

1. Allowing urbanization to occur on both sides of Highway 99 West without a cross-traffic tie creates a split community separated by a limited access highway. A split community poses difficult but not impossible problems. Many communities are divided by highways or railroads and are still able to function, but it is not the preferred planning strategy
2. Extensions west across the OR Highway 99 W could occur at the Blake Lane/Tampico Road connection, and another at Calloway Drive. However, City expansion across Highway 99 West is not recommended.

Collectors

Three interconnected roads are designated as City Collector Streets. Vandenberg Avenue, which was abandoned just east of William R. Carr Avenue, and its connection to William R. Carr Avenue and Wm. R. Carr Avenue's connection to Barberrry Drive and Barberrry Drive's connection to the Adair Frontage Road are the City's Collector Streets.

Vandenberg Avenue could provide an alternate eastern access to OR Highway 99 West from the City with links to William R. Carr Avenue and Arnold Avenue if it could be reinstated. It is now essentially an easement on the ODFW property. Vandenberg should be reinstated and become a connection down to Ryals Road when residential development begins in the southern UGB expansion area. William R. Carr Avenue connects to the historic Loops (Adair Meadows) area and Barberrry Drive, which connects to the

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newly developed R-2 residential area north of Bowers Slough. William R. Carr Avenue is therefore the most significant collector tying the other collector streets together that service all of the local residential streets in the northern half of the City. William R. Carr Avenue between Vandenberg and Arnold is also intended to become the City's primary Civic Center Street.

Vandenberg Avenue and William R. Carr Avenue from OR Highway 99 W to Arnold Road have a 60 ft. right-of-way. William R. Carr Avenue from Arnold to Barberry has a 50 ft. row and Barberry has a 50 ft. row width to Daphne Court and 60 ft. north of Daphne.

Local Streets

The remaining streets in the area are Local Streets. The Local City streets in the Historic Loops (Adair Meadows) area are Laurel Drive, Willamette Avenue, Holly Lane, Columbia Avenue, Azalea Drive and Cedar Lane. These streets are all undersized, allowing only one lane of one-way travel with one curbside-parking lane and sidewalks only on one side. This condition can cause traffic congestion and vehicle-pedestrian conflicts that may be hazardous. Parking is limited within the Loops area. Since street widening cannot be accommodated, off-street parking facilities may be needed as new development occurs. Carmen Place is a court between the west entrances to the two Loops.

All of the Local City streets in the Loops area have a 40-foot right-of-way width.

Barberry Drive is the primary collector for the northern part of the City. It connects William R. Carr Avenue to the Adair Frontage Road via Box Elder Street. There are eight courts and streets other than Box Elder that feed into Barberry. They are Daphne Court, Hyacinth Court, Hibiscus Drive, St. John's Place, Cori Court, and Mulberry Drive, which is a private street.

Local private streets serving the institutional area south of Arnold Avenue are, Marcus Harris, Santiam Lane, Ebony Lane, Birch Lane and Vandenberg Avenue.

Section 9.720 Mass Transit

Existing Services

The 99 Express was developed to serve Adair Village four times a day on weekdays. It connects with the Corvallis Transit System and the Linn-Benton Loop at the Corvallis Transit Center after stops at the Samaritan Medical complex and on 9th Street in Corvallis.

Local bus service is also available to Senior Citizens and the handicapped from the Benton County Dial-A-Bus system. No fare is charged but donations are accepted. The system is subsidized by the Benton County Parks and Recreation Department and operated by the Senior Citizens Council of Benton County. The Dial-A-Bus system is a demand-responsive bus system. It serves Adair Village when requested.

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Section 9.730 Bicycle and Pedestrian Ways

Bikeways and pedestrian ways are elements of a balanced transportation system. Bikeways can help meet daily travel needs and can particularly contribute to meeting recreation needs. Bikeways help in the conservation of energy and contribute to overall physical fitness.

Types of Bikeways

Funds are available from the Oregon State Highway Division for the construction of bike and pedestrian ways. The Division uses a three-fold classification system for bike and pedestrian ways. The classes are:

- Class I: A separate trail for joint use by bicyclists and pedestrians.
- Class II: A route that is adjacent to the travel lane of motorized traffic, but provides a physically separated through lane for bicycles and pedestrians (i.e. sidewalk).
- Class III: A route that shares the roadway with motor vehicles. Adjacent Routes are designated by signs, striping, or other visual markings only.

Existing and Potential Bicycle and Pedestrian Ways

OR Highway 99 W passes along the western edge of the City. This Federal Aid Highway provides bicycle access to Adair Village from other areas of Benton County, while providing bicycle access to the Adair County Park. It has direct links to Corvallis, Independence, Monmouth, and McMinnville.

There is a designated bicycle way in Adair Village along the north side of Arnold Avenue leading to the Adair County Park and along the east side of Carr between Arnold and the Loops. A footpath exists through the playground that lies between these two streets, linking Columbia Avenue and Laurel Drive.

The plans for the Adair County Park include pathway connections from the City to the park at Azalea Drive and Willamette Avenue. The Benton County Parks Department has also discussed plans to provide a bicycle and pedestrian way along Arnold Avenue interconnecting OR Highway 99, the City and the Adair County Park.

The increased traffic that will be generated by Park visitors from outside the Adair area, suggests that strong consideration should be given to providing a pedestrian and bikeway link from OR Highway 99 W through Adair Village to the Adair County Park. Such a link could be provided by securing an easement across the vacant land along Arnold Avenue, creating a bike and pedestrian path. An alternative could be the striping of Arnold Avenue for bicycle travel. Allowing for the provision of a bicycle and pedestrian access to the park could reduce potential auto traffic while providing protected access for pedestrians and bicyclists.

As the community continues to develop the City should include the provision of future bicycle and pedestrian pathways in the planning review process. Any major development proposals should include consideration for these pathways. The provision of pathways can often be combined with the

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preservation of open space greenways. Preservation of greenways is particularly desirable along Bowers Slough on the northern edge of the City. A pathway provided in conjunction with such a greenway could be connected into Azalea Drive and the system of trails planned for the Adair County Park.

Section 9.740 Railroads

A single-track Willamette & Pacific Railroad line lies just east of the City of Adair Village and forms the eastern boundary of the Adair Village Planning Area. The Willamette & Pacific Railroad operates 184 miles of former Southern Pacific/Union Pacific branch lines west of the Union Pacific main line linking communities west of the main line.

There is no passenger service. The AMTRAK station nearest to Adair Village is located eight miles away at Albany. The North Benton County Plan calls for "serious consideration to be given to possible future utilization of the railroad for passenger and commuter transportation, as well as increased freight transport usage."

The North Benton Plan points out that rail passenger transportation is potentially a more efficient utilization of energy resources and land right-of-way resources than the automobile. Recognizing this, the State Department of Transportation is presently endeavoring to encourage increased passenger rail travel in the Willamette Valley and has begun an experimental state-subsidized expanded service. The experiment will help determine the direction for future passenger rail service in the Willamette Valley. The Corvallis-Adair Village area is off the main Eugene-Albany-Salem-Portland route therefore passenger rail service to the Corvallis-Adair area is doubtful.

The Willamette & Pacific line that passes by Adair is not the primary Union Pacific line but it does provide a potential resource for existing and future industrial use. There are no sidings at Adair Village, but an unused siding does exist at the Adair Industrial Park northeast of the City. Ryals Avenue crosses the Willamette & Pacific track immediately east of the Adair County Park.

Section 9.790 Transportation Goals & Policies

GOALS & OBJECTIVES

To provide a transportation policy plan as a guide for a systematic network of traffic ways related to the patterns and needs of community activity.

POLICIES & RECOMMENDATIONS

General Policies

1. The City shall seek to develop a balanced transportation system that includes all transportation modes appropriate to the City's needs.
2. Transportation policies and proposals enhance the livability of the city.

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3. Transportation proposals shall be reviewed to minimize adverse social, economic, energy and environmental impacts and costs.

Streets & Highways

1. The City shall design new streets and retrofit existing streets to reflect the character, village scale, and development patterns of Adair Village.
2. The City shall design new streets and retrofit existing streets to be as safe as possible through passive design features that limit excess speed and engage driver attention.
3. The circulation network shall provide for convenient movement of traffic and access to all parts of the community. A Master Street Plan is needed to guide street development, particularly in the annexed UGB area. It is essential that the plan map be kept up-to-date to protect needed alignments and rights-of-way.
4. The circulation network shall help encourage compact community development, without disrupting or bisecting areas with a natural unity.
5. The Oregon Department of Transportation Street and Highway Functional Classification System and Standards for "highways", "arterials", "collectors", and "local service streets" shall apply to Adair Village Streets.
6. Arterials shall provide for the convenient movement of traffic around the periphery of main concentrations of community activity.
7. The use of land adjacent to arterials shall not be allowed to conflict with the safe and efficient movement of traffic.
8. Arnold Avenue and Ryals Avenue shall be preserved and maintained as the City's primary Arterial Streets.
9. Collector streets shall provide for movement between the City's neighborhoods and collect and distribute traffic from arterial streets and highways.
10. William R. Carr Avenue and Barberry Drive shall be preserved and maintained as the City's Primary Collector Streets and shall be connected to the Adair Frontage Road when extended to serve the North Urban Growth Area.
11. Local residential streets shall be designed and constructed to discourage through traffic.
12. The City shall seek alternatives to improve traffic and safety conditions on existing City streets and shall develop standards for new streets to prevent traffic congestion and hazards.

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13. The City shall cooperate with the County and State to guarantee that safety conditions on County and State roads are maintained for the protection of area residents.
14. Marcus Harris and Vandenberg Avenue should be designated as public streets as the City expands south into the annexed UGB area or into some of the Fish & Game Commission property.
15. The alignment of new streets shall be determined with consideration given to existing property lines, natural features and maximum land utilization.
16. New streets shall provide for a logical pattern of street names and addresses.
17. Existing and proposed street alignments and rights-of-way shall be protected from encroachment by future developments through adherence to the standards and review criteria of the Development Code.

Mass Transit

1. The City shall support a regional transit system to transport area residents to nearby urban centers.
2. The City supports the Benton County Dial-A-Bus service as a necessary and needed transportation system for elderly and handicapped citizens.
3. The City shall work with and support efforts by other governmental agencies or private industry concerned with future regional public transit.

Bicycle & Pedestrian Ways

1. The network of sidewalks, bikeways and pedestrian rights-of-way represent an extension of the City's street system. The City shall support integration standards that facilitate bicycle and pedestrian travel.
2. The City shall develop a bikeway and pedestrian plan as part of its on-going planning program that contains a priority list of future bike and pedestrian ways.
3. The Planning Commission shall include consideration of bicycle and pedestrian needs as part of the project review procedure.
4. The City shall cooperate with the County in providing connections or extensions to future bike or pedestrian ways within the Planning Area.

Railroad

1. The railroad is recognized as a community resource for possible future passenger and freight service for the area. Expansion of its use is encouraged.

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Section 9.800 Growth Management

The Growth Management Element of the Plan builds on the data in all the other plan elements to provide the basic framework for future development in the Adair Village area. It addresses the basic problems of urbanization and responds to **Statewide Planning Goal 14**, "To provide for an orderly and efficient transition from rural to urban land use".

In the past, the City has had limited powers to guide development which would eventually become part of the City. The policies for greatly improved governmental coordination will ensure that the timely provision of urban services and facilities will provide an orderly and efficient transition from rural to urban uses.

The Growth Management Element of the Plan presents the overall development strategy for the Adair Village Urban Growth Area. This strategy is based on the background data and findings in the previous elements on Population and Economy and the Natural Environment. The information, policies, and recommendations contained in the other plan elements are detailed refinements of the Growth Management Element and were utilized in formulating the overall urban growth strategy.

As an introduction to the Growth Management problems and needs of the Adair Area, this element begins with a brief historical profile in partial response **Statewide Planning Goal 5**, "To preserve historic resources", and outlines the area's historic resources. Subsequent sections address the overall pattern of development in the Adair Area and the problems posed by urban growth.

In response to these problems, an Urban Growth Boundary has been defined to ensure an orderly and efficient conversion of land to urban use.

The final Section assesses the energy implications of both the overall growth strategy and the energy implications of the other elements of the Plan in response to **Statewide Planning Goal 13**, "To conserve energy".

Section 9.810 Historic Background

Adair Village is located at the junction of two former wagon roads. One of the roads is now largely occupied by Pacific Highway 99 West, linking Corvallis and Monmouth. A second wagon road branched off at Adair along what is now Tampico Road and led to Dallas. Tampico Road is part of the old Portland and Umpqua Valley Road that followed the foothills of the Coast Range, skirting the valley floor.

CAMP ADAIR

The Adair area remained a rural agricultural and forest resources area until the 1940's when the area began to experience its first dramatic change since the early pioneer days. In 1943, during World War II, the Camp Adair Army base was constructed. At one time this camp contained over 50,000 men. A historical marker now commemorates the old army base two miles north of Adair Village at the junction of Camp Adair Road and U.S. 99 West. The marker explains that the Camp Adair Army base was the site of the cantonment where four World War II Divisions trained: the 70th Infantry (Trailblazer Division),

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the 91st Infantry (Powder River Division), the 96th Infantry (Deadeye Division) and the 104th Infantry (Timberwolf Division).

After the war, the army camp was dismantled. Limited sales were made to private owners and eventually much of the former base became what is now the E. E. Wilson Game Management Area. All that is visible today are a few structures and the extensive road system that once served the camp and now crisscrosses the game management area. One of these former army camp roads extends through the Adair Village UGB to Bowers Slough. Also remaining are the major water system components including the treatment plant, transmission lines and storage reservoirs that once served the camp. Today, a portion of this system serves the City of Adair Village.

S.A.G.E. AIR FORCE STATION

The structures and other facilities in Adair Village were constructed in 1957 when a portion of the former army camp became the Adair Air Force Station (AFS). The Adair Air Force Station was the headquarters of the Portland Air Defense Sector. The main focus of the base was the Semi-Automatic Ground Environment buildings (S.A.G.E.). Still standing today, the S.A.G.E. building is a massive concrete blockhouse that once housed 28 million dollars' worth of electronic equipment. In addition to the S.A.G.E. building, other facilities included some 35 military related structures, 150 housing units and recreation facilities.

ADAIR MEADOWS

The Air Force Base was declared surplus property by the federal government in 1969. The facilities were then parceled out and deeded to several new owners. The housing was sold to a private developer that subdivided the area now known as Adair Meadows and sold individual lots to new owners. The purchase of individual properties initiated formation of the Adair Village Homeowners Association in 1973 to administer land use controls and provide for the needs of the residents. The Homeowners Association purchased property, developed a playground and initiated the formation of the City.

The City of Adair Village was incorporated on May 25, 1976. The first City Council meeting was held on August 18, 1976, and the first meeting of the Planning Commission occurred on October 11, 1976.

S.A.G.E. BASE FACILITIES

The remaining S.A.G.E. Base Facilities were deeded to two governmental agencies, the Oregon Game Commission and Benton County; and two private non-profit organizations, the Chicano-Indian Study Center of Oregon (CISCO) and the Oregon Southwest Washington Laborers Training Trust ((OSWLTT).

The City acquired a portion of the Benton County Park property on the west side of Wm. R. Carr Avenue that included an existing building utilized as a Community Building and City Hall. The existing Base Fire Station was also acquired. It presently holds a Grocery Store and will soon add a Restaurant. Later, a Coffee Shop, was also added next door. The water and sewer systems of the former Air Force Base were

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originally operated by the City of Albany but were declared surplus and acquired by the City of Adair Village in 1978. The water system that serves the City is particularly unique in that it has a large Willamette River Water Permit for 82 cubic feet per second (cfs) that is capable of serving areas outside the City with improvements to the treatment facilities.

The CISCO property again became surplus in 1977 and most of the property was added to that already held by the OSWLTT Laborer's Training School that provided full-time technical training for apprentices in the construction trades. The base chapel was acquired by the "Prince of Peace" Mennonite Church and the Bowling Alley, building 246, was acquired by a private developer and leased to RCA Woodworking, Inc., a private cabinet making shop, now the Oakcraft Furniture & Cabinet Shop.

The land and facilities, including the Officers Mess, building 257, was acquired by Benton County and are now used for recreation. Benton County administers and continues to improve the Adair Regional Park at this site. The facilities acquired by the Oregon Game Commission are now the commission's Regional Headquarters.

The Santiam Christian School acquired 19 acres from the OSWLTT Laborer's Training School for an interdenominational Christian school facility for grades K through High School. As with most schools, enrollment varies. The Santiam Christian School varies between 600 & 700 students and approximately 50 faculty and administrators.

The former non-residential Air Force Base is now occupied by the following landowners:

1. Benton County – Parks Department
2. OSWLTT Laborer's Training School (Includes the Adair Rural Fire & Rescue Station)
3. Prince of Peace Church
4. Santiam Christian School
5. Oakcraft Furniture & Cabinet Shop
6. S.A.G.E. Block Building
7. City of Adair Village City Hall and Community Building and park area
8. AV Market and a Restaurant
9. Coffee Shop

The City completed a Comprehensive Plan and Land Use Development Code that was acknowledged by the Oregon Department of Land Conservation and Development on April 16, 1982. It was updated in 2001 and in 2006 additional Policies were added. The Adair Village Land Use Development Code was also adopted in 1982 and was updated in 1995, 2000, 2010 and 2014. The City initiated water and sewer system improvements and acquired a city park and community building. The City has maintained an active governmental and administrative team to govern and manage the needs of the City.

2003 - TGM grant and City & State discussions on Adair Village growth potentials.

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2004 - UGB expansion discussions with City, County & State officials and Santiam Christian School.

2005 - Urbsworks hired to prepare Adair Village urbanization strategy.

2006 - City and County adopt 2026 population projections for Adair Village with a forecasted population of 2,814.

2007 - First UGB urban expansion proposal for 145 acres of needed land. Challenged and recommendation for a reduction in area.

2008 - Amended UGB urban expansion proposal to 127.5 acres of needed land.

2010 - The City annexed 127.5 acres of land formally contained within an Urban Growth Boundary approved in 2008 located south of Arnold Avenue on property owned by the Santiam Christian School and the Dorothy A. Weigel Trust. This area includes 25 acres for expansion of the Santiam Christian School athletic facilities and 21 acres preserved for parks and open space leaving 83 acres for residential development in the city's R-3 residential zone permitting an average density of 6.5 residential units per net residential area.

PRESERVATION OF HISTORIC SITES

Unless historic sites are suitably identified, much of their potential value to the general public is not realized. There are at least three sites in the Adair area worthy of a historic site designation.

Junction of Tampico Road and OR Highway 99 W. A sign at this location could indicate the old Portland Umpqua Valley Road and should include an appropriate map and explanation.

Junction of Camp Adair Road and OR Highway 99 W. This is two miles north of the City but the Army base that was in this area is significant in Adair's history. Four existing signs explain the World War II history of the four divisions that trained here but there is no graphic explanation of the site itself. A sign would enhance an understanding of what was there and what remains of the base. These two sites are located outside the Adair Planning area but are identified as recommendations to Benton County.

Adair S.A.G.E. Air Force Station. The City of Adair Village itself can be considered a historic site. The traveler on the OR Highway 99 W must surely be struck by the dominating former S.A.G.E. Military Base. A sign explaining the former S.A.G.E. Base with an illustrative site plan would be instructive for visitors. A suitable site would be near the intersection of Pacific Highway 99 West and Arnold Way.

The City has saved two of the old Camp Adair Barracks and moved them to the City park area for restoration and utilization.

Section 9.820 Characteristics & Development Patterns

Due partly to its unique origin, the City of Adair Village differs from other communities in a number of ways. These differences have major implications for future urbanization in the area.

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Unlike many communities of its size, the City of Adair Village has substantial public facilities that were originally built as part of the S.A.G.E. Air Force Station. These facilities include an extensive public water system, sanitary sewers, storm drains, improved streets, sidewalks, curbs and gutters, street lighting and park facilities. In addition, the City has rural police and fire protection and is adjacent to a regional Benton County Park.

Adair Village consists of six primary districts:

1. The former S.A.G.E. Military Base now occupied by eight landowners.
2. Adair Meadows, the former military base housing area now Zoned R-1.
3. The Northern Residential Area located north of Bowers Slough and Zoned R-2.
4. The Southern Residential Area Zoned R-3 and E-1 Educational Recreation Area.
5. The Adair Village North Urban Growth Boundary.
6. The Adair Village Planning Area and Agreement with Benton County.

Most of the former S.A.G.E. Military Base is now utilized primarily for public and semi-public uses. Another difference between Adair Village and other communities is that the creation of the residential area, Adair Meadows, did not occur in the usual way. Normally individual lots are created and sold either with or without homes. In Adair's case all of the land and homes were in government ownership. After the residential development was sold, the developer created lots for each residential building.

In 2010, the City annexed 128 acres of land formally contained within an Urban Growth Boundary approved in 2008 located south of Arnold Avenue on property owned by the Santiam Christian School and the Dorothy A. Weigel Trust. This area includes 24 acres for expansion of the Santiam Christian School athletic facilities and 21 acres preserved for Parks and Open Space leaving 83 acres for residential development in the City's R-3 Residential Zone permitting an average density of 6.5 residential units per net residential area.

The City's Comprehensive Plan includes an analysis of all the lands within the Adair Planning Area to help identify those areas where potential future urban development could occur. With improvements to City municipal services the City will have the capacity to serve additional users. The Comprehensive Plan provides the framework for guiding decisions about service extensions and future growth directions. An Adair Village Urban Growth Area has been defined within which short-range growth can be accommodated.

Adair Village is also unique in that it is surrounded by public lands and areas that have been designated Exclusive Farm Use by Benton County. The Benton County Adair Regional Park, State Game Commission lands and McDonald State Forest border the City on the east, south and west. In addition, the E. E. Wilson Game Management Area forms the northern boundary of the North Urban Growth Area. The existence of these public lands is a major asset to Adair Village and they also define the City's urban expansion options.

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Section 9.830 Growth & Development Opportunities

Future growth and development options for the City of Adair Village is defined by the vacant areas within the City, the existing Northern UGB Area and the Southern Annexation Area. The City has adequate land available to address its needs to the year 2026.

It's apparent that alternative areas for long range future urban growth in the immediate vicinity of Adair Village is limited due to large blocks of public lands adjacent to the City leaving only the County's Exclusive Farm Use (EFU) lands located adjacent to the City on the south and northeast borders unless the City crosses Highway 99w to include areas zoned Rural Residential by Benton County.

City Limits Opportunities

The existing Adair Meadows residential housing R-1 Zone residential property standard is 10,000 sq. ft. minimum. There is limited buildable land for residential expansion in this 65-acre area. The Adair Meadows R-1 Zone also includes approximately 4.48 ac of Church Property and a 2.30 ac Playground.

The existing City R-2 Zone residential property standard is 8,000 sq. ft. minimum. There is also limited buildable land for residential expansion in this 32-acre area. Urban residential development in the Northern Residential R-2 Zone began in 2000 and contains 112 residential lots on 32 acres with 7 acres of undeveloped wetlands. Wm. R. Carr Avenue extends into this area connecting the R-1 and R-2 Residential Zones that are divided by Bowers Slough, a natural greenway that should be protected and maintained as open space.

The vacant developable land within the Adair Meadows R-1 Zone and the Northern Residential R-2 Zone is extremely limited but might accommodate little more than approximately 10 acres of developable vacant land. The City area north of Arnold Avenue has no outstanding hazards although there are wetland areas in the R-2 Zone that should be protected together with maintaining the natural greenway along Bowers Slough.

The projected population of 2,814 less the 2013 population of 845 results in an additional population of 1,969 by the year 2026. This population projection would require 716 additional housing units.

The Santiam Christian School property and a portion of Weigel Trust Property located south of Arnold Avenue contain 128 acres that was annexed into the Adair Village UGB on October 7, 2008 and annexed into the city limits on June 15, 2010. Of this total 25 acres are reserved for Athletic Fields in the E-1 Zone and 21 acres are reserved for Open Space and Wetlands resulting in 83 acres available for residential development in the City's R-3 Zone. With 25% reserved for roads and the specified average development of 6.5 Dwelling Units per net acre resulting in a housing potential for this area of 405 housing units.

The former S.A.G.E. Military Base now accommodates a number of non-residential uses in the City including the following:

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S.A.G.E. Base Utilization

The former non-residential Air Force Base is now occupied by the following landowners:

1. Benton County – Parks Department - Zone P-1	13.21 ac
2. OSWLTT Laborer's Training School - Zone E-1 Includes the Adair Rural Fire & Rescue Station	11.43 ac
3. Mennonite Church - Zone P-1	1.75 ac
4. Santiam Christian School – Zone E-1	18.54 ac
5. Oakcraft Furniture & Cabinet Shop - Zone M-1	1.56 ac
6. S.A.G.E. Block Building – Zone M-1	5.74 ac
7. City of Adair Village Community Building & Park - P-1	2.60 ac
8. AV Market, Restaurant and Coffee Shop. - C-1	<u>0.75 ac</u>
Total Area	55.58 ac
Total in City	42.37 ac

The Benton County Park property, Zone P-1; the Laborers Training School property, Zone E-1 and the Block Building, Zone M-1 provide excellent opportunity for non-residential community support facilities.

The City of Adair Village property on the west side of William R. Carr Avenue containing the City Hall, along with the Benton County property east of Carr has been planned for a community commercial, recreational and educational district that would function as a Civic Center for the City.

Urban Growth Boundary Opportunities

In response to the urban fringe problems posed by scattered low density "rural" developments, **Statewide Planning Goal 14** was adopted that reads: "To provide for an orderly and efficient transition from rural to urban land use".

The key requirement of this goal is the establishment of Urban Growth Boundaries to identify and separate urbanizable land from rural land.

The City has three Urban Growth Boundary Areas:

- **The Northern Residential Urban Growth Boundary Area**
- **The Benton County Park Urban Growth Boundary Area**
- **The Southern Residential Urban Growth Boundary Area**

Northern Urban Growth Boundary Area

The Northern City UGB is a County Residential Zone RR-5 that has eleven parcels abutting the City's R-2 Residential District on the north boundary. These small parcels range in size from one acre to three

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acres and contain a total area of 18 acres. The existing lots are too small for commercial agricultural use and have already been subdivided to suburban lot sizes.

Topography ranges from flat to gently sloping land. This area presently contains only 9 housing units on 11 lots. Further land divisions to a City R-2 standard upon annexation is possible but due to the existing lot sizes and configuration and the existing housing locations achieving the R-2 density standard for the area will be somewhat difficult. Approximately 18 additional units might be possible but would not achieve the maximum density of the R-2 Zone.

The large ODFW property on the north boundary of the City provides a northern limit to future City UGB expansion, unless the property becomes available for private acquisition. Only the agricultural parcels on the east boundary of the City offer any potential future expansion of this UGB area.

The Benton County Park Urban Growth Boundary Area

Two small areas of approximately 7 acres each, one on the west end and one on the east end of Educational Facilities District, E-1 south of Arnold Avenue are within the Adair Village UGB and Zoned P-1. The two areas are part of the Benton County Park system and little change in this public use is expected.

The area to the west consists of 7 acres bounded by Arnold Avenue, Vandenberg Avenue and Wm. R. Carr Avenue. The site is owned by Benton County and includes a ball field and a building used by the Benton County model railroad society. This site is located across William. R. Carr Avenue from the City property providing additional recreational areas for Adair Village.

The area immediately east of the present city limits consists of another seven acres owned by Benton County south of Arnold Avenue as part of the Adair Regional Park. This area also contains the former Officers' Mess, Building 257, which is now leased by Valley Catering.

Southern Urban Growth Boundary Area

The Southern City UGB area includes three large parcels; two owned by Santiam Christian Church and one by the Dorothy Weigel Trust. 42 acres were removed from the initial UGB expansion request and all this land was in the southern portion of the Weigel Trust property.

Topography ranges from sloping land north of Ryals Road to fairly flat south of Ryals Road. Santiam Christian School plans to retain 25 acres directly south of the school for a sports complex. There is a small wetlands area adjacent to Ryals Road near the intersection with Arnold and a annual water course that bisects the land south of Ryals Road. With these features, plus 25 percent of the total acreage needed for streets, there are 62 acres available for residential development. This area will be zoned R-3 and have a net residential development of approximately 405 houses (see Table 9.800 B below).

These Benton County Park facilities receive City sewer and water services and were part of the original Air Force Station. They were included in the UGB because the City street system provided a logical

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boundary that contained the previous S.A.G.E Military Base elements. However, the large Adair Regional Park located north of Arnold containing approximately 106 acres is excluded from the City's Urban Growth Boundary.

Table 9.800 A summarizes the City and the Urban Growth Boundary areas.

Table 9.800 A-- Adair Village Urban Growth Area

Area	Acres
City of Adair Village	267
Northern Residential City UGB Area	
Rural Residential – County Rural Zone RR-5	18
UGB Area South of Arnold Avenue	
Benton County Public/Recreation – Zone P-1	14
Total City and UGB Area	299

Table 9.800 B summarizes the land use allocation summary for the Adair Village Urban Growth Area. Of the total 267 acres inside the City only 93 net acres are available for additional residential development.

Table 9.800 B-- Adair Village Urban Growth Area Land Use Allocation Summary

Year 2013 Estimated Population	845 people
City & County Adopted Population Projection for Year 2026	2,814 people
Projected Population Increase	1,969 people
Estimated New Housing Need at 2.75 people/household	716 houses

Table 9.400 B

Existing City Housing	294 houses
Existing Northern UGB Housing	9 houses
Total Existing Housing	303 houses

Existing Housing & New Housing Need (303 + 716) 1,019 houses

Northern City Limits Residential Zones R-1 & R-2	95 acres
Less Developed and Committed Areas	85 acres
Buildable City Area	10 acres

Existing Northern UGB Area	18 acres
Less Developed and Committed Areas	9 acres
Buildable UGB Area	9 acres

Southern Annexed City Area in 2010 128 acres

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Less Athletic Fields & Parks & Open Space	<u>45 acres</u>
Residential Buildable Annexed City Zoned R-3	83 acres
Total Available Residential Area for Housing	102 acres
<u>Less Streets at 25%</u>	<u>26 acres</u>
Total Net Residential Land Available for Housing	76 acres
R-2 Zone & Northern UGB Housing Potential	78 Houses
Southern Annexed Area Housing Potential	405 Houses
Housing Density of 6.5 Units per Net Acre	483 Houses
Adopted by City Ordinance 08-01	
Projected 2026 Housing Need	716 Houses
Housing Need Shortage	233 Houses
Additional Acreage Needed	45 acres
Including Streets & Open Space	

[Section 9.840 Urban Growth Boundary Expansion Opportunities](#)

Adair Village is on the commuter fringe of both Albany and Corvallis and the Adair Village area is being impacted by an increase in rural residential development. This development has been taking place on both individual parcels and in formal subdivisions. Recent years have seen an increase in the number of rural residential parcels in the Tampico Road area, while south of the City, in the Calloway Drive area, a 51-lot suburban residential subdivision, Arbor Springs Estates, has been created with lots slightly over one acre. This fragmented development in the fringe area poses a number of problems for both the City and the County.

Low density rural land use is an inefficient use of land that rely on on-site water and sewer capacities. If these areas are ever annexed, the extension of needed public services and facilities is often costly and sometimes prohibitive. Rural development also sometimes occurs in hazardous or physically unsuitable areas with drainage, ponding, flooding, soil, or geologic problems. Finally, scattered rural residential development results in excessive transportation costs and excessive energy consumption.

Existing County zoning preclude the creation of many more lots in the surrounding area. Additional development in the Area, therefore, can only occur by annexation to the City and that can only occur if the City's facilities and services can accommodate the growth demand.

The City has included within the existing Urban Growth Boundary (UGB) only those properties that are immediately adjacent to the City and those that are capable of supporting urban development. The existing Northern UGB contains only 18 acres on 11 lots.

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There are only three areas immediately adjacent to the City that could efficiently accommodate future long-range urban expansion:

The First Area is the remaining 42 acres of the Weigel Trust Property located adjacent to the south boundary of the Annexed South UGB Area that was excluded from the UGB expansion but was identified for future expansion.

The Second Area contains 4 privately owned parcels on the east boundary of the existing North UGB containing 36 acres that are now within the Benton County EFU Zone.

The Third Area is the ODFW property on the south boundary of the City containing 44 acres on two lots. This property has been under consideration for acquisition by the City and/or the Santiam Christian School.

The First Area - Southern Agricultural Lands

The 42-acre Weigel Trust parcel of agricultural land abutting the City's R-3 Residential Zone on the south boundary. This area is part of Tax Lot 205 that was included in the City's Urban Growth Boundary proposal in 2008. This portion of the property was excluded from the City's UGB based on the need to limit the UGB area.

This area makes sense to be considered first for inclusion in the City's UGB expansion when the need for additional land can be justified since the area has already been planned for inclusion. This area could accommodate approximately 208 housing units with a population of approximately 572 people at the estimated 2.75 people per household within the City's R-3 Residential Zone.

The Second Area - Northeast Agricultural Lands

Approximately 36 acres of Exclusive Farm Use lands on 4 parcels are located immediately contiguous to the northeast boundary of the City. These parcels are already partially in the City and partially in the County and are located within the Adair Village Planning Area.

These parcels have not been included in the Urban Growth Boundary because they are designated EFU although the parcels are comparatively small for agricultural operations. These lands represent the only remaining lands east of Highway 99 West that could be urbanized without encroaching on the major parcels of agricultural land northeast, east and south of the City. Therefore, these parcels should be given early consideration for inclusion within the City's Urban Growth Boundary when expansion can be justified.

This area could accommodate approximately 147 housing units with a population of approximately 404 people at the estimated 2.75 people per household within the City's R-2 Residential Zone.

The Third Area – The Oregon Department of Fish and Wildlife Property

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The ODFW converted the former base engineering building into its district headquarters facility. In addition to offices, other space is used for storage. ODFW's property includes two contiguous parcels totaling 44 acres, most of which is open land. The open land itself is presently not intensively used for game management purposes. One lot, Tax Lot 1400, is divided by Ryals Avenue and contains 12 acres. The other contiguous lot, Tax Lot 1500, contains 32 acres and abuts the Adair village City Limits.

This property is contiguous to the City and is essentially vacant. In the event any portion of this property becomes available, this rolling hillside land contiguous to the City Limits, on the north, east, and south of the ODFW property, would make a desirable and efficient addition to the City. The City has initiated discussion with ODFW on the availability of these parcels.

This area could accommodate approximately 156 housing units with a population of approximately 429 people at the estimated 2.75 people per household within the City's R-3 Residential Zone. With the existing pond, these parcels would also make a great addition as park lands.

Section 9.850 Planning Area Opportunities

It is recognized that additional growth of Adair Village will require annexation of adjacent rural areas to the city. The Adair Village Planning Area was established by agreement between the City and Benton County to protect rural lands until annexation to the City occurs.

Statewide Planning Laws require that the establishment and change of the boundary shall be a cooperative process between the City and County. Accordingly, the City of Adair Village and Benton County have executed a management agreement for the City's Urban Growth Boundary, Planning Area and the Tampico Road Area of Concurrence.

The following sub-areas within the Adair Village Planning Area were analyzed for their potential for urban conversion in the future if needed. The first two of these areas are the only areas adjacent to the City that can economically be provided with water and sewer service from the City and are the only areas that are contiguous to the City that are not large tract Exclusive Farm Use areas or Public Lands. These areas are therefore identified for possible long-range urban conversion:

The Adair Planning Area is still basically rural in character. Urban growth in the Adair Planning Area is not imminent. However, there is a need to identify the areas most suitable for urban expansion should urban growth and services be needed. With adequate guidelines provided by the Comprehensive Plans of the City and County, the City should be able to assist in the planning and development of the Planning Area to insure compatibility with the future growth needs of the City and the County.

The City considers planning for the rural areas essential so eventual urban development can be accommodated in the most efficient, economical and orderly manner when and if urban development occurs.

There are two rural areas that have been developed to suburban standards that are not truly urban or rural:

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- **The Tampico Road Area**
- **The Arbor Springs Estates**

Tampico Road Area

The Tampico Road Area west of OR Highway 99, outside of the Urban Growth Boundary but within the Planning Area, includes some hazard areas, notably limited steep slopes on Poison Oak Hill and it contains substantial natural vegetative resources.

The Tampico Road area west of the OR Highway 99 W is a desirable area for hillside residential development because of the rolling hills and the natural vegetation that does not utilize prime farm land.

The Tampico Road area has been designated Rural Residential, RR-10 acre Planned Development" by Benton County for 142 acres and "Rural Residential, RR- 5 acre for 39 acres for a total area of 181 acres. County zoning will only permit a maximum of 3 additional parcels in the RR-10 Zone and 4 in the RR-5 Zone for a total of 7 potential new parcels in the entire 181-acre area of Tampico Road.

Even though 10-acre minimum zoning is designated for the RR-10 Zone, most of the parcels currently range in size from 1 to 5 acres and only 5 parcels are over 5 acres. In the RR-5 Zone 3 of the 4 parcels exceed 10 acres. This area should remain in the County Zoning until such time as individual property owners desire to further develop their property. It is apparent that little additional development can occur within the area without a change in County policy or annexation to the City of Adair Village.

The extension of urban development west of Highway 99 West does pose some potential access problems. However, Blake Drive and Earl Lane could become a public road and create an intersection with Arnold Avenue that would be preferred to the separated accesses to OR Highway 99 W that now exist. City water and sewer systems can be extended into the area.

Arbor Springs Estates

The Arbor Springs Estates subdivision contains 51 lots on 57 acres on the west side of the OR Highway 99 W directly across from the Adair Village R-3 Residential Zone. Arbor Springs Estates is developed at a suburban density of 1-acre lots. It was excluded from urban expansion consideration since the area is located across Highway 99 West.

Future urban growth in the Adair Village area will likely be determined by the availability of urban services, particularly sewer and water services. Until these facilities are improved and expanded, growth within the surrounding area will be limited by what the county development standards will allow, which is very little above the present level of development. Benton County land use controls will limit additional housing units within the Planning Area limiting potential rural growth to the Arbor Springs Development.

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Section 9.860 City/County Cooperation

As stated in sub-section 9.850, Adair Village and Benton County have executed a management agreement that includes the following provisions:

The City will be given the opportunity for review and recommendation on any land use variances, zone changes, or subdivision proposals submitted to the County within Urban Growth Boundary or Planning Area.

The Tampico Road Area of Concurrence adjacent to the Highway 99 West requires concurrence of the City and County for all land use changes. If the City and County disagree as to the proper action that should be taken, or if there is a need for clarification of issues, a meeting between the City Council and County Board of Commissioners will be held to resolve the issue.

Any change in the Urban Growth Boundary will be made in accordance with the statewide planning process for amending the Comprehensive Plan, including notice to affected parties, public hearings and findings of fact. Amendments to the Growth Boundary will be submitted for review by the North Benton Citizen Advisory Committee, the Benton County Planning Commission, and the Benton County Board of County Commissioners.

A proposal for annexation to the City for an area outside the Urban Growth Boundary will be considered as a request for an amendment to the Urban Growth Boundary and will be subject to the amendment procedures stated above.

Section 9.870 Energy Conservation

Statewide Planning Goal 13 reads: "To Conserve energy". To help achieve this goal, "Land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principals".

Energy Conservation Goals include:

1. Land use planning should help assure achievement of the maximum efficiency in energy utilization.
2. The allocation of land and permitted land uses should seek to minimize the depletion of non-renewable resources of energy.
3. Vacant land and energy inefficient land uses should be reused or recycled.
4. Higher population densities should be located near primary transportation corridors.
5. Maximum utilization of renewable energy sources (water, sunshine, wind, geothermal heat, and municipal, forest and farm wastes) should be encouraged.

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6. Energy efficient building and development patterns should be encouraged through the use of ordinance changes (by adoption of energy efficient zoning and building codes, for example).

The Comprehensive Plan will help assure energy conservation in a number of ways. The compact form of urban growth recommended in the Growth Management Section will result in a significant reduction of energy use for travel. The past pattern of scattered suburban and rural residential development is an unnecessary consumer of energy.

Private automobiles use approximately 25 percent of the total energy used in Oregon. The Plan includes recommendations that can result in transportation energy savings. The compact urban growth pattern is accompanied by a recommended street system to improve traffic flow. In addition, alternatives to the automobile are specifically encouraged including mass transit, bicycle and pedestrian paths.

The Land Use Element contains recommendations that will result in energy savings. The Plan and Zoning Ordinance encourages clustered residential development. Siting buildings to take advantage of solar energy is encouraged through the City's Development Code. Placement of trees in relation to housing, or siting housing in relation to trees can also have a beneficial effect on solar use.

The Subdivision Ordinance sets standards for local subdivision streets that can save energy in a number of ways. Narrow roadways permitted for local access streets save construction time and material, and therefore energy. They are also cheaper to maintain. Cluster development permitted by the Zoning Ordinance can reduce heating needs, allow for higher densities and permit more usable space. This allows a reduction in the number of streets that have to be built, reduces the cost of providing utilities and allows the features of the site to be preserved.

Future commercial development in Adair Village should be in a concentrated commercial center that is accessible to the community and the highway traveler in order to reduce travel for shopping needs.

Significant energy savings can be achieved through insulation and weatherization of homes. Space and water heating utilize a full 84.5 percent of all energy used in the home. Realizing this fact, the State Legislature authorized funding of household weatherization programs that provide incentives for homeowners and utilities to weatherize homes and implement energy conservation measures.

Section 9.890 Growth Management Goals & Policies

GOALS & OBJECTIVES

1. To provide for an orderly and efficient transition from rural to urban land use.
2. To provide conservation and development policies for the orderly and efficient development of the community.
3. To ensure that the overall plan, policies and recommendations help conserve energy.

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POLICIES & RECOMMENDATIONS

Historic Sites & Structures

1. The City shall assist local organizations or groups in preserving places of historic, cultural, or special significance.
2. The City should encourage suitable signs to indicate places of historic interest including the City itself.

Urban Growth

1. The City and County have established an Urban Growth Boundary for the City of Adair Village containing approximately 18 acres in the North UGB Area and 128 acres in the South UGB Area for a total of 146 acres as of 1/1/2013. This area accommodates the City's approved growth need that will support a population of 2,814 by the year 2026.
2. Property lines or section lines are utilized to clearly identify the Urban Growth Boundary and to facilitate management and site development procedures.
3. The Exclusive Farm Use parcels abutting the easterly Urban Growth Boundary shall be maintained until urban development occurs within the existing Urban Growth Area.
4. The remaining Rural Residential Area of Tampico Road that is within the Adair Village Planning Area should be maintained in the County's 10- and 5-acre minimum parcel size.
5. Oregon Department of Fish and Wildlife property abutting the southerly Urban Growth Boundary shall be given immediate consideration for inclusion within the Adair Village Urban Growth Boundary when this area undergoes an ownership change that may make it available for urban conversion. It is ideally located and suited for inclusion within the City's Urban Growth Boundary.
6. An urbanized development or annexation request outside the Urban Growth Boundary shall be considered a request for an amendment to the boundary and shall follow the procedures and requirements of the state wide Goals #2 and #14.

Urban Growth Management

1. The City and County shall utilize the Urban Growth Management Agreement for administration of land development within the Urban Growth Area and the Planning Area.
2. The City shall ensure an orderly and efficient transition from rural to urban land use within the Urban Growth Area.

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3. In order to provide for the efficient utilization of residential lands in the southern UGB annexed area the City shall provide for an overall density of 6.5 dwelling units per net acre or lot size with an average of 6,700 sq. ft.
4. The City shall ensure the Comprehensive Plan and implementing ordinances fully comply with all State growth management policies and rules.
5. The City shall maintain adequate land within its urban growth boundary to address a 20-year demand for housing and economic development.
6. The City's comprehensive plan shall reflect and build upon the community's unique identity and character.
7. Provide a Village Center that is the heart of the city's civic life that reflects a downtown character with development patterns appropriate to Adair Village. The Village Center should include the City Hall, Post Office and the major community retail and service uses. It should also include higher density residential uses that complement and support the civic and retail activity.
8. Provide for a network of arterial, collector and local streets that avoid reliance on the state highway for local trips. -The City shall plan for a local street network that is a complete and connected network of local and collector streets at a scale appropriate to the City of Adair Village that will provide the framework for long-term growth and enable residents to access important community destinations in a safe and direct manner and without relying on Hwy 99W for intra-city trips. The City shall consider the design of intersections at 99W to enhance the safety of motorists, especially turning movements, through signals, channelization or other design features.
9. Ensure efficient urban development through compact pedestrian friendly development within the natural environment that includes neighborhoods that with a mix of housing types and lot sizes.
10. Protect natural resources and avoid development in known hazard areas. As Adair Village grows, these natural features should be preserved to provide opportunities for passive recreation and scenic views and to protect water quality and wildlife habitat.
11. Utilize green infrastructure techniques for future utility and street improvements.
12. Encourage the City's large, significant institutional uses to be fully integrated with the community.

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Annexations

1. The City shall annex land only within the Urban Growth Boundary on the basis of findings that support the need for additional developable land in order to maintain an orderly compact growth pattern within the City's service capability.
2. Evidence of development feasibility shall be a condition for annexation to the City. A development plan shall be approved prior to a land division or development of annexed property.

Public Facilities Capability

1. The City shall ensure that adequate public facility capability exists, including adequate public water supply and sewage treatment capability, to handle all development proposals within its jurisdiction as part of the City's project review procedures.
2. A long-range financial Capital Improvement Program shall be maintained by the City to provide for the systematic expansion of needed community facilities, utilities and services in an efficient and timely manner.

Environmental Quality

1. The City shall strive for continual and substantial progress toward improving the quality of the local environment by supporting enforcement of applicable environmental quality standards and regulations in cooperation with county, state and federal agencies.
2. The City shall require development proposals within its jurisdiction to identify potential impacts on the air, water, and land resources of the area and shall ensure that proposals are within the safe carrying capacity of the environment through the City's project review procedures.
3. The City shall protect natural drainage channels and natural vegetation resources from disruption and, where possible, maintain them as an open space resource.

Hazardous Areas

1. The City shall limit uses within identified natural hazard areas and shall maintain and enforce development standards and review procedures within the Development Code for identified natural hazard areas.

Energy Conservation

1. The City shall support and encourage energy conservation and efficiency programs.

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2. The City shall consider energy concerns as part of its land use review criteria.

ARTICLE 10 MAPS & DIAGRAMS

Section 10.100 Zoning Related Maps

Maps prepared for the 2001 Adair Village Comprehensive Plan are contained in the Comprehensive Plan
All other Maps should be compiled and copies placed herein.

Section 10.200 Development Standard Diagrams

The existing Parking Diagram – DSD-1 & The existing Vision Clearance Diagram – DSD-2 should be placed
herein.