

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 protect 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 for it by 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.

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.

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 which are more ~~restrictive~~ 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.
- (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 and City Council under the appeal process and payment of the appropriate appeal fee.
 - (b) All correspondence and inquiries related to this Code shall be directed to the City Administrator at the Adair Village Community Building, 6030 NE Wm. 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 and Public Works 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** and Variances, **Section 2.600** and Subdivisions Land Partitions, **Section 2.320** under the provisions of this Code.
- (4) **The City Council**, with recommendation from the Planning Commission, shall have the authority to review and approve all Subdivisions, **Section 2.320**, Planned Developments, **Section 7.200**; Annexations, **Section 2.800**, Vacations,

Section 2.900: Zone Change Map Amendments and Text Amendments Section 2.700 to this Code and the Comprehensive Plan.

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) Within ten (10) days 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 it, 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 herein 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 ~~\$1,000~~ \$750 may be imposed. Each day such violation continues beyond the ten (10) day Notice of Violation first provided by the City Administrator will be considered a separate offense.

SECTION 1.190 FEES

Application and review fees established by resolution of the City Council shall be paid to the City at the time of submitting an application 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 context thereof, the said heading shall not be deemed to affect the scope, meaning or intent of such context.
- (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 which affords only a secondary means of access to property.

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

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

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

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

Building: ~~Any~~ A structure used ~~or intended for supporting or sheltering~~ 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 resident 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.

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 out-patient 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 which is customarily carried on by a business.

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

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

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

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

Council: The City Council of the City of Adair Village, Oregon, which is the governing body of said 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: The City Administrator or designee, the City Planning Commission or City Council responsible for making a decision on an application.

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, which is occupied in whole or in part as a home, residence, or sleeping place, either permanently or temporarily by one (1) or more families.

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

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

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

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

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

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

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

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

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

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

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

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

Grade (Ground Level): The average elevation of the finished ground level at the centers 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 center 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 occupation carried on by a resident of a dwelling, where the occupation is secondary to the main use of the property as a residence provided the use does not alter the character of the dwelling, there is no exterior display of stock and no employees other than family members.

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

LCDC: Land Conservation and Development Commission.

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

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

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

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

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

OAR: The State of Oregon Administrative Rules.

Occupancy: The purpose for which a building, or part of a building, is used or intended to be used.

ORS: The State of Oregon Revised Statutes.

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

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

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

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

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

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

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

Property: A lot or parcel. A single unit or tract of land which, 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 which 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.
- (c) **Side Property Line:** Any lot or parcel line not a front or rear property line.
- (d) **Side Street Property line:** Any line adjacent to a street that is not a front property

Property Line Adjustment: The 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 right-of-ways.

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

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

Structure: That which is built or constructed, and 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 the Adair Village Development 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, right-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.