

## ARTICLE 7

## PUBLIC IMPROVEMENT REQUIREMENTS

### SECTION 7.100 IMPROVEMENT PROCEDURES

Development in conformance with **Section 4.141** for EFU lands and subdivision or partitioning of EFU lands are exempt from the off-site improvement requirements of this Code.

All other developments requiring public improvements or connections to public facilities and all land divisions 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. As defined by State law and this code, a division of land is considered development. As used in this section, the terms developer and land divider are used interchangeably, and include the property owner. In the event that the person making application for a land division or development is not the owner of record, a signed and notarized authorization must be provided by the owner, authorizing the applicant to act in their behalf.

- (1) Improvement work shall not be commenced until plans and specifications have been reviewed and approved by the City. To the extent necessary for evaluation of an Application, the plans may be required before approval of a Site Plan or Land Division Tentative Plan.
- (2) All required improvements shall be provided and approved by the City prior to approval of the final Plat unless an agreement is executed in conformance with **Section 7.510** and a form of Security provided in conformance with **Section 7.520**, subject to acceptance by the City.
- (3) A Pre-construction Conference in conformance with the **Tangent Public Works Design Standards, TPWDS 1.12** shall be scheduled before issuance of a public utility permit. The Developer shall be responsible for notification to all public and private utility providers.
- (4) Improvement work shall not commence until after the City is notified, and if work is discontinued for more than 7 working days for any reason, it shall not be resumed until after the City is notified.
- (5) Improvements shall be constructed under the inspection of the City. The City may require changes in the design and construction in the public interest, or if unusual conditions arise during construction to warrant a change. The cost of City inspections shall be paid by the developer.
- (6) Underground utilities, water lines, 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. These must be submitted within 60 days of completion of the improvement.

- (8) In the event the City determines it is not currently necessary to provide some of the required improvements, the City may authorize an agreement to pay for future improvements in the form of a Waiver of Remonstrance and an Agreement to pay a fair share of the required improvements when they are provided, or the improvements may be installed in the area under special assessment financing or other facility extension policies of the City. Deed covenants shall be attached to the deed of each property specifying this commitment as an obligation perpetually attached to each property, regardless of sale or ownership.

#### **SECTION 7.200 SPECIFICATIONS FOR IMPROVEMENTS**

**Tangent Public Works Design Standards** have been adopted by the City of Tangent although they may not address each situation. The developer 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. Specifications shall be prepared for the design and construction of all required public improvements and such other public facilities the developer installs. Public Improvements shall also comply with **Section 7.700, Adopted Standards**.

#### **SECTION 7.300 REQUIRED PUBLIC 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. However, if the Planning Commission finds that conditions make installation of some improvements unnecessary at the time of development or land division of the property, the Planning Commission may defer those improvements by requesting a Waiver of Remonstrance and deed covenant agreement to pay for future improvements benefiting the property, consistent with **Section 7.100(8)**, above. In lieu of deferring an improvement, the Planning Commission may recommend to the City Council 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 to City standards. 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 unless an equitable means of cost distribution is approved by the City.
- (3) **Street Name Signs:** Street name signs shall be installed at all street intersections to City standards.
- (4) **Street Lights:** Street lights shall be installed to City or State standards, as applicable, 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, the signals shall be provided by the developer and the costs shall be borne by the developer 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 mail box structures shall be placed adjacent to roadway curbs as directed by the Post Office and shall be noted on the Site Plan. The cost shall be borne by the developer.
- (7) **Surface Drainage & Storm Sewer System:** Drainage facilities shall be provided within the development or land division and connected to drainage ways or storm sewers outside the land division. Design of drainage within a development area shall accommodate the capacity and grade necessary to maintain unrestricted flow from areas draining through the property and shall accommodate extension of the drainage system beyond the property.
- (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 storm water impacts from the proposed development on the City's 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 shall 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 utilizing the standards specified in **Section 3.10** of the **Tangent Public Works Design Standards**.
- (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 Delineation and Mitigation Plan shall be required for identified wetlands and shall be provided by the Applicant prior to building permit approval. Refer to the **Tangent Local Wetlands & Riparian Area Inventory** and **Section 5.118** for Wetland Regulations and Development Standards.
1. No development shall be permitted within designated wetlands unless a permit has been acquired from DSL and any other regulatory agency having jurisdiction.

- (8) **Sanitary Sewers:** Sanitary sewers shall be installed to serve the development or land division and to connect the properties to existing mains. Connection to City mains may entail installation of pump stations and larger mains to serve the proposed development at the developer's expense. System design shall provide increased size and grades to accommodate extension of the system beyond the property or land division. If required sewer facilities will, without further sewer construction, directly serve property outside the subdivision, the following arrangements may be made to equitably distribute the cost:
- (a) If the area outside the property to be directly served by the sewer line has reached a state of development to justify sewer installation at the same time as the proposed development or land division, the Planning Commission 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 developer to assure financing of their share of construction costs. If the developer does not agree to a joint assessment project, the sanitary sewer for the proposed development or land division shall be installed by the developer at the developer's or land divider's expense.
  - (b) If the area outside the property to be directly served by the sewer line has not reached a state of development to justify installation at the same time as the proposed development or land division, a stub for future service connection shall be provided consistent with **Section 7.100(6)** to prevent the necessity for disturbing the street improvements when service connections are made.
  - (c) In the event it is impractical to connect the development or land division to the City sewer system, the City may authorize the use of on-site wastewater systems if the property area and soil characteristics are adequate. An agreement to pay for future improvements and connections shall be provided in the form of deed covenants attached to the deed of each property.
- (9) **Water System:** Individual or community water systems are required to serve each building site.
- (10) **Sidewalks:** Consistent with the **TTSP Policies** to provide extension of existing or planned pedestrian routes, sidewalks may be 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, or with sidewalks on one side of the street only, if it can be determined that sidewalks to full standards are not practical or appropriate for the development.
- (11) **Bicycle routes:** Consistent with the **TTSP Policies** to provide extension of existing or planned bicycle routes, the Planning Commission may require the installation of separate bicycle lanes within proposed developments. Bicycle routes may be located on proposed internal streets or abutting streets, or may be located on separate bicycle paths that extend through the development.

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

**SECTION 7.400 PUBLIC USE DEDICATIONS**

- (1) Within or adjacent to a residential subdivision, a parcel of land of not less than 10 percent of the gross area of the subdivision shall be set aside and dedicated to the public by the subdivider for park or open space use to serve the residents of the proposed development. The parcel shall be approved by the Planning Commission as being suitable and adaptable for park and open space uses. In the event no such area is suitable for park and open space purposes, the subdivider shall, in lieu of setting aside land, pay into a public land acquisition and park development fund a sum of money equal to 100 percent of the Real Market Value of the developed property which would otherwise be dedicated for park use. The sums so contributed shall be used to aid in securing suitable areas for park and open space purposes or to develop and maintain existing nearby parks to serve the area containing the subdivision. If the nature of the subdivision is such that over 34 per cent of the tract to be subdivided is being dedicated to the public for streets and other public purposes, the requirements of this section shall be reduced so that the total obligation of the subdivider does not exceed 40 per cent.
- (2) If the City or other public agency indicates it desires to acquire, for a public purpose, a portion of a proposed land division not already dedicated as a condition of approval, and there is reasonable assurance that steps will be taken to acquire the land, then the Planning Commission may require that portion of a land division be reserved for public acquisition.

**SECTION 7.510 IMPROVEMENTS AGREEMENT**

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

- (1) Repair of existing streets and other public facilities damaged during the specified construction shall be a part of any Improvement Agreement.
- (2) The agreement shall also provide for reimbursement of the City's cost of inspection in accordance with **Section 7.100 (5)**.

**SECTION 7.520 SECURITY**

- (1) Concurrent with the agreement required under **Section 7.510**, the developer shall file a form of financial security acceptable to the City Attorney, to assure full and faithful performance of agreed upon improvements.
- (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.

- (3) The security shall only be released upon authorization of the City Manager.
- (4) The performance guarantee and security shall remain in effect for one year after the improvements have been installed and accepted by the City, to correct any defects that may have occurred in that time.

**SECTION 7.600 NONCOMPLIANCE PROVISIONS**

- (1) If the developer fails to carry out provisions of the agreement required under Section 7.510, the City shall provide written notice to the developer and the surety specifying the details of noncompliance. Unless the City allows more time for compliance because of circumstances beyond the developer's control, within 30 days after receiving the notice, the developer or the surety shall make substantial efforts to comply with the agreement.
- (2) If the developer or the surety does not make substantial efforts to comply within the 30 days or the additional time allowed by the City, or compliance is not completed within the time specified in granting the land division approval, the City may take the following action:
  - (a) Notify the developer and the surety of the developer's failure to perform as required by this Code and the agreement.
  - (b) Demand payment from the developer or the developer's surety for the unfulfilled obligation.
  - (c) Enter upon the site and carry out the obligation in accordance with the provisions of the approval and agreement.
  - (d) Void all approvals granted in reliance on the agreement.
- (3) If the 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 with the City Manager 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 security to compensate the City fully for the expense of the fulfillment of the obligation, and allege the developer'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 7.700                    ADOPTED STANDARDS**

**SECTION 7.710                    CITY OF TANGENT STANDARDS**

The City of Tangent has adopted the **Tangent Public Works Design Standards** for all public improvements within the City of Tangent including, but not limited to, improvements and extensions of a water system, sanitary sewer system, storm sewer system, and streets, sidewalks, and driveways. The Tangent City Manager will maintain a current copy of the design and construction standards together with all amendments and/or addendums published by the City and those permanent modifications made in accordance with **Section 7.720 (2)** below.

**SECTION 7.720                    MODIFICATIONS PERMITTED**

The Tangent City Manager & City Engineer are authorized to review and approve modifications to the adopted design and construction standards for Public Improvements within the incorporated boundaries of the City of Tangent. Such modifications may be made upon written request from a developer or contractor designing and/or constructing public improvements within the City of Tangent. Modifications may be approved on a one-time basis or may be approved as a permanent modification to City Standards. Permanent modifications require the further approval of the City Council.

- (1) **One-time Modifications:** The City Manager may approve one-time modifications for a particular public improvement upon written request if, in the opinion of the City Engineer, the requested modification would work better in the existing situation and would not adversely impact safety, life span, maintenance and repair requirements of the improvement.
  
- (2) **Permanent Modifications:** If, in the opinion of the City Engineer, a requested construction standard modification is superior to that specified in the **Tangent Public Works Construction Standards**, the standard may be approved as a One-time Modification for a particular project as an addendum to the project specifications and may be permanently adopted into the Tangent Public Works Construction Standards with the concurrence of the City Manager and the City Council. Once a permanent modification has been approved, it shall be adopted into the **Tangent Public Works Design Standards** by amendment.

**SECTION 7.730                    APPLICABILITY OF LINN COUNTY STANDARDS**

For public improvements that are constructed within the public rights-of-way owned and controlled by Linn County, coordination is required with Linn County Road Department and the required Linn County permits must be obtained. In the event of a conflict between the City of Tangent's adopted design and construction standards with those of Linn County, Linn County standards will take precedence within Linn County rights-of-ways unless jointly agreed otherwise by Linn County and the City of Tangent.

**SECTION 7.740                    APPLICABILITY OF ODOT STANDARDS**

For public improvements that are constructed within the public rights-of-way owned and controlled by the Oregon Department of Transportation, access coordination and permitting is required from the Oregon State Highway Division. Uses, that propose to utilize either Old or New Highway 34 (until such time as the State of Oregon no longer owns Old Highway 34) or

Highway 99E as access shall submit for City approval a Traffic Assessment in conformance with **Section 5.122 (5)**.

**SECTION 7.800                    ADOPTED REGULATIONS**

**SECTION 7.810                    CITY CHARTER PROVISIONS**

The Tangent City Charter provides for implementing public improvements. **Chapter IX, Public Improvements, Section 50 & 51.**

**SECTION 7.820                    CITY ORDINANCE PROVISIONS**

**Ordinance 86-01** specifies procedures for the implementation and administration of "Local Improvement Districts" that include parcels of land within a defined area of the City that are benefited by the provision of specified public improvements. **Ordinance 86-01** provides for special assessments to be levied to pay for local improvements and for the creation and enforcement of assessment liens.

**City of Tangent Ordinance \_\_\_\_\_ and Resolution(s) \_\_\_\_\_** specify procedures for the implementation and administration of "System Development Charges", which impose fees upon developments that create increased demands on public facilities. These fees are designed to be commensurate with the cost of meeting these increased demands to serve the development with sanitary sewers, drainage, streets, and parks.