

ORDINANCE NO. 231

AN ORDINANCE PROVIDING FOR THE
ESTABLISHMENT OF ZONING REGULATIONS
FOR THE CITY OF DRAIN, OREGON.

The City of Drain, Oregon, ordains as follows:

ARTICLE 1. INTRODUCTORY PROVISIONS

Section 1.10. Title. This ordinance shall be known as the City of Drain Zoning Ordinance of 1973.

Section 1.20. Definitions. As used in this ordinance the following words and phrases shall mean:

(1) Access. The right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.

(2) Accessory use or accessory structure. A use or structure incidental and subordinate to the main use of the property and located on the same lot as the main use.

(3) Alley. A street which affords only a secondary means of access to property.

(4) Building. A structure, but not a mobile home, built for the support, shelter or enclosure of person, animals, chattels or property of any kind and having a fixed base on or fixed connection to the ground.

(5) Dwelling, multi-family. A building or portion thereof, designed for occupancy by three or more families living independently of each other.

(6) Dwelling, single-family. A detached building containing one dwelling unit and designed for occupancy by one family only.

(7) Dwelling, two-family. A detached building containing two dwelling units and designed for occupancy by two families.

(8) Dwelling unit. One or more rooms in a building that are designed for occupancy by one family and that have not more than one cooking facility, but not including space in a mobile home or in a structure or vehicle designed for camping or other temporary occupancy such as a tent or vacation vehicle.

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

(10) Grade, ground level. The average elevation of the finished ground elevation at the centers of all walls of a building, except that if a wall is parallel to and within five feet of a sidewalk, the sidewalk elevation nearest the center of the wall shall constitute the ground elevation.

(11) Height of Building. The vertical distance from the grade to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the center height between the highest and lowest points of other types of roofs.

(12) Home occupation. A lawful occupation carried on by a resident of a dwelling as an accessory use within the same dwelling.

(13) Livestock. Domestic animals of types customarily raised or kept on farms for profit or other purposes.

(14) Lot. A parcel or tract of land.

(15) Lot area. The total horizontal area within the lot lines of a lot exclusive of streets and easements of access to other property.

(16) Lot, corner. A lot abutting on two or more streets other than an alley, at their intersection.

(17) Lot line. The property line bounding a lot.

(18) Lot line, front. The lot line separating the lot from the street other than an alley. In the case of a corner lot, the front lot line is the shortest lot line along a street other than an alley. In the case of a through lot, each street has a front lot line.

(19) Lot line, rear. The lot line which is opposite and most distant from the front lot line. In the case of an irregular, triangular or other shaped lot, a line 10 feet in length within the lot parallel to and at a maximum distance from the front lot line.

(20) Lot line, side. Any lot line not a front or rear lot line.

(21) Lot width. The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.

(22) Mobile home. A vehicular or portable structure which is constructed for movement on the public highways; which is designed for use as a residence but which has not been demonstrated to conform to the requirements of the building code for other residences.

(23) Mobile home park. A place where two or more mobile homes are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person.

(24) Nonconforming structure or use. A lawful existing structure or use at the time this ordinance or any amendment thereto becomes effective, which does not conform to the requirements of

the zone in which it is located.

(25) Owner. An owner of property or the authorized agent of an owner.

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

(27) Recreation vehicle. A vacation trailer or other vehicular or portable unit which is either self-propelled or towed or is carried by a motor vehicle; which is intended for human occupancy and is designed for vacation or recreation purposes but not residential use.

(28) Recreation vehicle park. A lot which is operated on a fee or other basis as a place for the parking of occupied recreation vehicles.

(29) Sign. An identification, description, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land, and which directs attention to a product, place, activity, person, institution or business.

(30) Street. A public right-of-way for vehicular and pedestrian traffic.

(31) Structure. Something constructed or built, or a piece of work artificially built up or composed of parts joined together in some definite manner.

(32) Structural alteration. A change to the supporting members of a structure including foundations, bearing walls or partitions, columns, beams, girders, or any structural change in the roof or in the exterior walls.

(33) Trailer park. A lot which is operated on a fee or other basis as a place for the parking or siting of two or more occupied mobile homes or recreation vehicles.

(34) Use. The purpose for which land or a structure is designed, arranged or intended, or for which it is occupied or maintained.

(35) Yard. An open space on a lot which is unobstructed from the ground upward except as otherwise provided in this ordinance.

(36) Yard, front. A yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of building or other structure.

(37) Yard, rear. A yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a building or other structure.

(38) Yard, side. A yard between the front and rear yard measured horizontally at right angles from the side lot line to the nearest point of a building or other structure.

(39) Yard, street side. A yard adjacent to a street between the front yard and rear yard and rear lot line measured horizontally and at right angles from the side lot line to the nearest point of a building or other structure.

Section 1.30. Compliance with Ordinance. Land may be used and a structure or part of a structure may be constructed, reconstructed, altered, occupied or used only as this ordinance permits.

ARTICLE 2. ESTABLISHMENT OF ZONES

Section 2.010. Classification of Zones. For the purposes of this ordinance the following zones are hereby established.

<u>ZONE</u>	<u>ABBREVIATED DESIGNATION</u>
Residential	R
Commercial-Residential	CR
Commercial	C
Industrial	I

Section 2.020. Location of Zones. The boundaries for the zones listed in this ordinance are indicated on the Drain Zoning Map which is hereby adopted by reference. The boundaries shall be modified in accordance with zoning map amendments which shall be adopted by reference.

Section 2.030. Zoning Map. A zoning map or zoning map amendment adopted by Section 4.0 of this ordinance or by an amendment thereto shall be prepared by authority of the City Council or be a modification by the City Council of a map or map amendment so prepared. The map or map amendment 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 ordinance remains in effect.

Section 2.040 Zone Boundaries. Unless otherwise specified, zone boundaries are section lines; subdivision lines; lot lines; center lines of street or railroad right-of-ways; or such lines extended.

Section 2.050. Zoning of Annexed Areas. Unzoned area annexed to the city shall be in the R zone until the city zones it otherwise.

ARTICLE 3. USE ZONES

Section 3.210. Uses Permitted Outright in a Residential Zone, R.

In a R zone the following uses and their accessory uses are permitted outright.

- (1) Dwelling
- (2) Crop cultivation including farm, truck garden or plant

nursery.

Section 3.211. Dimensional Standards in a R Zone. In a R zone the following dimensional standards shall apply.

(1) The front yard shall be a minimum of 20 feet.

(2) Each side yard shall be a minimum of 5 feet, except that on a corner lot the side yard on the street side shall be a minimum of 20 feet.

(3) The rear yard shall be a minimum of 20 feet.

(4) The lot area shall be a minimum of 5,000 square feet and shall exceed the minimum by 1,000 square feet for each dwelling unit over two.

(5) The lot width at the front building line shall be a minimum of 50 feet.

(6) The lot depth shall be a minimum of 80 feet.

(7) Building height shall be a maximum of 50 feet.

(8) Not more than 50 percent of the lot area shall be covered by buildings.

Section 3.212. Uses Permitted Outright in a Commercial-Residential Zone, CR. In a CR zone the following uses and their accessory uses are permitted outright.

(1) A use permitted outright in the R zone.

(2) Trailer park.

- (3) Retail or wholesale trade establishment.
- (4) Repair and maintenance service.
- (5) Office.
- (6) Personal or business service establishment.
- (7) Eating or drinking establishment.
- (8) Financial institution.
- (9) Sign.
- (10) Amusement establishment.

Section 3.213. Dimensional Standards in a CR zone. In a CR zone the dimensional standards of the R zone shall apply to a lot or a structure used for a dwelling or mobile home.

Section 3.214. Uses Permitted outright in a Commercial Zone C.

In a C zone the following uses and their accessory uses are permitted outright.

- (1) Retail & wholesale trade.
- (2) Repair and maintenance service.
- (3) Office.
- (4) Personal or business service establishment.
- (5) Eating or drinking establishment.
- (6) Financial institution.
- (7) Signs (flashing).
- (8) Amusement establishment.

Section 3.215. Dimensional Standards in a C Zone.

- (1) Minimum lot frontage 25 feet.
- (2) Maximum lot coverage 100 per cent including parking and buffer zones.
- (3) Maximum building height 50 feet.

Section 3.216. Uses Permitted in an Industrial Zone.

- (1) Any use permitted in a C. Zone.
- (2) Manufacturing.
- (3) Warehouses, storage and shipping.

ARTICLE 4. SUPPLEMENTARY PROVISIONS

Section 4.010. Maintenance of Minimum Ordinance Requirements.

No lot area, yard or other open space existing on or after the effective date of this ordinance shall be reduced below the minimum required for it by this ordinance, and no lot area, yard or other open space which is required by this ordinance for one use shall be used as the required lot area, yard or other open space for another use.

Section 4.020. Access. Every lot shall abut a street, other than an alley, for at least 25 feet.

Section 4.030. General Provisions Regarding Accessory Uses. An accessory use shall comply with the requirements for a principal use, except as this ordinance specifically allows to the contrary.

Section 4.040. Fences. A fence or hedge within a front yard or a street side yard shall not exceed an elevation two feet above the street curb elevation.

ARTICLE 5. EXCEPTIONS AND VARIANCES

Section 5.010. Nonconforming Uses.

(1) A nonconforming use or structure may be continued but may not be altered or extended. The extension of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use at the time of passage of this ordinance is not an enlargement or expansion of nonconforming use. A nonconforming structure which conforms with respect to use may be altered or extended if the alteration or extension does not cause the structure to deviate further from the standards of this ordinance.

(2) If a nonconforming use is discontinued for a period of one year, further use of the property shall conform to this ordinance.

(3) If a nonconforming use is replaced by another use, the new use shall conform to this ordinance.

(4) If a nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to an extent exceeding 80 percent of its fair market value as indicated by the records of the county assessor, a future structure or use on the site shall conform to this ordinance.

(5) Nothing contained in this ordinance shall require any change in the plans, construction, alteration or designated use of a structure for which a permit has been issued by the city and construction has commenced prior to the adoption of this ordinance, provided the structure, if nonconforming or intended for a nonconforming use, is completed and in use within two years from the time the permit is issued.

Section 5.020. General Exceptions to Lot Size Requirements. If a property ownership, consisting of the entire contiguous land holdings held in a single ownership at the time of passage of this ordinance, 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, provided that 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 density requirement of the zone. The record of ownership as recorded in the office of the county clerk at the time of passage of this ordinance shall

be the basis for application of this exception unless the owner submits proof that a different ownership existed at the time the provisions of this ordinance became applicable to the land concerned.

Section 5.030. General Exception to Building Height Limitations.

Vertical projections such as chimneys, spires, domes, elevator shaft housings, towers, aerials, flagpoles and similar objects not used for human occupancy are not subject to the building height limitations of this ordinance.

Section 5.040. Projections from Buildings. Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys and flues shall not project more than 24 inches into a required yard.

Section 5.050. Authorization to Grant to Deny Variances. The City Council may authorize a variance from the requirements of this ordinance where it can be shown that owing to special and unusual circumstances related to a specific lot, strict application of the ordinance would cause an undue or unnecessary hardship. No variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. In granting a variance, the City Council may attach conditions which it finds necessary to protect the best interests of the surrounding property or vicinity and otherwise achieve the purposes of this ordinance.

Section 5.100. Circumstances for Granting a Variance. A variance may be granted only in the event that all of the following circumstances exist.

(1) Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, topography or

other circumstances over which the owners of property since enactment of this ordinance have had no control.

(2) The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess.

(3) The variance would not be materially detrimental to the purpose of this ordinance, or to property in the same zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city plan or policy.

(4) The variance requested is the minimum variance which would alleviate the hardship.

Section 5.110. Procedure for Taking Action on a Variance Application.

The procedure for taking action on an application for a variance shall be as follows.

(1) A property owner may initiate a request for a variance by filing an application with the City Recorder, using forms prescribed pursuant to Section 9.040.

(2) Before the City Council may act on a variance application, it shall hold a public hearing thereon, following procedure as established in Section 9.060.

(3) Within five days after a decision has been rendered with reference to a variance application, the City Recorder shall provide the applicant with written notice of the decision of the City Council.

Section 5.120. Time Limit on a Permit for a Variance. Authorization of a variance shall be void after one year unless substantial construction has taken place. However, the City Council may extend authorization for an additional period not to exceed one year, on

request.

ARTICLE 6. CONDITIONAL USES.

Section 6.010. Conditional Uses Permitted in any Zone. In any zone the following uses and their accessory uses are permitted when authorized in accordance with this article.

- (1) Church
- (2) Community Building
- (3) Governmental Use.
- (4) Hospital, sanitarium, rest home, nursing or convalescent home.
- (5) Mobile Home.
- (6) Mobile home park.
- (7) Schools and Kindergartens
- (8) Childrens' day care centers.
- (9) Utility structure.

Section 6.020. Authorization to Grant or Deny Conditional Uses.

A conditional use listed in this ordinance may be permitted, enlarged or altered upon authorization of the City Council in accordance with the standards and procedures of this article.

(1) In permitting a new conditional use or the alteration of an existing conditional use the City Council may impose, in addition to those standards and requirements expressly specified by this and other ordinances, additional conditions which the City Council considers necessary to protect the best interests of the surrounding area or the city as a whole. These conditions may include but are not limited to the following.

- (a) Increasing the required lot size or yard dimension.
- (b) Limiting the height, size or location of buildings.

(c) Controlling the location and number of vehicle access points.

(d) Increasing the street width.

(e) Increasing the number of required off-street parking spaces.

(f) Limiting the number, size, location and lighting of signs.

(g) Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.

(h) Designating sites for open space.

(2) In the case of a use existing prior to the effective date of this ordinance and classified in this ordinance as a conditional use, any change in the use or in lot area, or an alteration of structure shall conform with the requirements for conditional use.

Section 6.030. Standards Governing Conditional Uses. In addition to the standards of the zone in which the conditional use is located and the other standards of this ordinance, a conditional use shall meet the following standards.

Section 6.040. Mobile Home Park Conditional Use Standards. In addition to the standards of the zone in which the conditional use is located and the other standards of this ordinance, a mobile home park approved as a conditional use shall meet the following standards.

(1) Conditional use must comply with specifications of the trailer house ordinance in effect for the City.

Section 6.050. Procedure for Taking Action on a Conditional Use Application. The procedure for taking action on a conditional use application shall be as follows.

(1) A property owner may initiate a request for a conditional

use by filing an application with the City Recorder.

(2) Before the City Council may act on a conditional use application it shall hold a public hearing thereon, following procedure as established in Section 9.060.

(3) Within five days after a decision has been rendered with reference to a conditional use application, the City Recorder shall provide the applicant with written notice of the decision of the City Council.

Section 6.100. Time Limit on a Permit for a Conditional Use.

Authorization of a conditional use shall be void after one year or such lesser time as the authorization may specify unless substantial construction has taken place. However, the City Council may extend authorization for an additional period not to exceed one year, on request.

ARTICLE 7. RESERVED FOR PLANNED UNIT DEVELOPMENT

ARTICLE 8. AMENDMENTS

Section 8.010. Authorization to Initiate Amendments. An amendment to the text of this ordinance or to a zone boundary may be initiated by the City Council or by application of a property owner. The request by a property owner for an amendment shall be accomplished by filing an application with the City Recorder.

Section 8.020. Public Hearings on Amendments. The City Council shall conduct a public hearing on the proposed amendment at its earliest practicable meeting after the amendment is proposed and shall, within 40 days after the hearing, approve, disapprove or modify approval of the proposed amendment.

Section 8.030. Record of Amendments. The City Recorder shall maintain records of amendments to the text and zoning map of the ordinance.

Section 8.040. Limitation on Reapplications. No application of a property owner for an amendment to the text of this ordinance or to a zone boundary shall be considered by the City Council within the one-year period immediately following a previous denial of such request, except the City Council may permit a new application if new evidence or a change of circumstances warrant it.

ARTICLE 9. ADMINISTRATIVE PROVISIONS

Section 9.020. Building Permits. No permit shall be issued by the building official for the construction, reconstruction, alteration or change of use of a structure or lot that does not conform to the requirements of this ordinance.

Section 9.030. Appeals.

(1) An appeal from a ruling of a city administrative officer regarding a requirement of the ordinance may be made only to the City Council.

Section 9.040. Form of Petitions, Applications and Appeals. Petitions, applications and appeals provided for in this ordinance shall be made on forms prescribed by the city. Applications shall be accompanied by plans and specifications, drawn to scale, showing the actual shape and dimensions of the lot to be built upon; the sizes and locations on the lot of existing and proposed structures; the intended use of each structure; the number of families, if any, to be accommodated thereon; the relationship of the property to the surrounding area; and such other information as is needed to determine conformance with this ordinance.

Section 9.050. Filing Fees. The following fees shall be paid to the City Recorder upon filing of an application. Such fees shall not be refundable.

(1) Amendment proposed by property owner \$5.00

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|-----------------------------|--------|
| (2) Conditional use request | \$5.00 |
| (3) Variance request | \$5.00 |

Section 9.060. Public Hearings.

(1) Each notice of hearing authorized by this ordinance shall be published in a newspaper of general circulation in the city at least 10 days prior to the date of hearing.

(2) In addition, a notice of hearing on a conditional use, a variance or an amendment to a zone boundary shall be mailed to owners of property within 250 feet of the property for which the variance, conditional use or zone boundary amendment has been requested. The notice of hearing shall be mailed at least 10 days prior to the date of the hearing. If a proposed zone boundary amendment has been initiated and is declared by the City Council to be a major reclassification, the mailing of individual notice is not required but such additional means of informing the public as may be specified by the council shall be observed.

(3) Failure of a person to receive the notice prescribed in this section shall not impair the validity of the hearing.

(4) The City Council may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to be resumed shall be announced.

Section 9.070. Authorization of Similar Uses. The City Council may permit in a particular zone a use not listed in this ordinance, provided the use is of the same general type as the uses permitted there by this ordinance. However, this section does not authorize the inclusion in a zone where it is not listed of a use specifically

listed in another zone or which is of the same general type and is similar to a use specifically listed in another zone.

ARTICLE 10. GENERAL PROVISIONS

Section 10.010. Interpretation. Where a provision of this ordinance is less restrictive than another ordinance or requirement of the city, the provision or requirement which is more restrictive shall govern.

Section 10.020. Severability. The provisions of this ordinance are severable. If a section, sentence, clause or phrase of this ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this ordinance.

Section 10.030. Abatement and Penalty.

(1) A person violating a provision of the ordinance shall, upon conviction, be punished by imprisonment for not more than 30 days or by fine of not more than \$250.00 or both. A violation of this ordinance shall be considered a separate offense for each day the violation continues.

(2) In case a building or other structure is or is proposed to be located, constructed, maintained, required, altered or used, or land is or is proposed to be used, in violation of this ordinance, the building or land thus in violation shall constitute a nuisance and the city may, as an alternative to other remedies that are legally available for enforcing this ordinance, institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin temporarily or permanently, abate or remove the unlawful location, construction, maintenance, repair, alteration or use.

PASSED BY THE COMMON COUNCIL this 8th day of May, 1973.
APPROVED by the Mayor this 8th day of May, 1973.

APPROVED

Charles R. Miller

Mayor

ATTEST:

V. R. [Signature]

City Recorder