

ORDINANCE NO. 320

AN ORDINANCE AMENDING THE DRAIN LAND USE CODE

THE CITY OF DRAIN ORDAINS AS FOLLOWS:

Section 1. Sections 9.205, 9.210, 9.215, 9.220, 9.230 and 9.270 of the Drain Land Use Code are hereby amended to provide as follows:

9.205 Type I Procedure. An application for development processed through a Type I Procedure shall be processed as follows:

(1) The applicant shall submit the materials specified in Section 9.230 of this Code to the City Administrator. The City Administrator shall review the materials submitted for completeness and shall within thirty (30) days of receipt of the application, notify the applicant of any items missing. The applicant shall submit the missing items within 180 days.

(2) After the [applicant has submitted all the required materials,] application is deemed complete as defined in Code Section 9.232, the City Administrator shall review the application for compliance with this Code, the Comprehensive Plan and the Standards Document and shall refer it to any necessary agencies for review of compliance with state, federal or county requirements.

(3) Within thirty (30) days after the [applicant has submitted all required material to the City Administrator] application is deemed complete as defined in Code Section 9.232, the City Administrator shall grant or deny the development

permit. The City Administrator shall grant the permit if he or she finds that the applicable approvals by others have been granted and that the development conforms to the requirements of subsection (2) above; otherwise, the permit shall be denied.

(4) The City Administrator shall notify the applicant of his or her decision, and in case of a denial, shall state the reason for the denial and describe the applicant's available remedies.

(5) Upon notification of approval of an application for a minor partition with services installed or available, the applicant shall submit the information required by Code Section 9.220(12) except that the information required by Code Section 9.220(12)(d) need not be submitted. If this information is not submitted within 180 days, the approval is void.

9.210 Type II Procedure. An application for development or revocation of a permit or termination of a nonconforming use processed through a Type II Procedure shall be processed as follows:

(1) The applicant shall submit the materials specified in Section 9.230 of this Code to the City Administrator. The City Administrator shall review the materials submitted for completeness and shall within thirty (30) days of receipt of the application, notify the applicant of any items missing. The applicant shall submit the missing items within 180 days.

(2) After the [applicant has submitted all the required materials] application is deemed complete as defined in

Code Section 9.232 or when requested to do so by the Planning Commission, the City Administrator shall schedule a hearing on the application, revocation or termination before the Planning Commission and mail notice of the hearing to all persons materially affected by the proposed development, use, revocation or termination.

(3) The hearing shall be held within sixty (60) days after the [applicant has submitted all the required materials] application is deemed complete as defined in Code Section 9.232 or the Planning Commission has requested a hearing. At the hearing the applicant or owner and all interested persons may present information and arguments relevant to the proposal.

(4) The Planning Commission shall make a decision approving, conditionally approving or denying the application or proposed revocation or termination.

(5) The applicant or any person materially affected by the decision may appeal the decision to the City Council.

(6) If the decision of the Planning Commission is appealed, the City Administrator shall schedule a hearing before the City Council to be held within forty-five (45) days of the decision and shall mail notice of this appeal to all persons materially affected by the proposed development, use, revocation or termination. The decision of the City Council shall be made within 120 days from the date the application is deemed complete as defined in Code Section 9.232. This 120 day period may be extended for a reasonable period of time at the request of the

applicant.

(7) The Council shall make its decision on a review of the record of the Planning Commission hearing supplemented by such additional commentary or testimony as the Council may in its discretion allow.

(8) The City Council shall make a decision affirming, affirming with modifications, or reversing the decision of the Planning Commission.

(9) Upon notification of approval of an application for a minor partition without services installed or available, the applicant shall submit the information required by Code Section 9.220(12). If this information is not submitted within 180 days, the approval is void.

9.215 Type III Procedure. An application for development processed through a Type III procedure shall be processed as follows:

(1) The applicant shall submit the materials specified in Section 9.230 of this Code to the City Administrator. The City Administrator shall review the materials submitted for completeness and shall within thirty (30) days of receipt of the application, notify the applicant of any items missing. The applicant shall submit the missing items within 180 days.

(2) After the [applicant has submitted the required materials], application is deemed complete as defined in Code Section 9.232, the City Administrator shall transmit the relevant materials to the Planning Commission for its review. The

Planning Commission may also initiate a proposal on its own motion.

(3) Within sixty (60) days after the materials have been submitted to the Planning Commission or the Planning Commission has initiated a proposal, the Planning Commission shall make a recommendation to the City Council as to whether the application or proposal should be approved, approved with conditions or denied.

(4) The City Administrator shall schedule a hearing before the City Council to be held within thirty (30) days after the recommendation of the Planning Commission has been received.

(5) The City Administrator shall mail notice of the City Council hearing to all persons materially affected by the proposed development or use and shall publish and post the notice. For an application to rezone a mobile home park, notice shall also be mailed to each tenant at least twenty (20) days but not more than forty (40) days before the hearing.

(6) At the hearing, the applicant and all interested persons may present information and arguments relevant to the proposal.

(7) The City Council shall make a decision on the application or proposal by approving, conditionally approving, or denying the proposed development or use. For any decision wholly within the authority of the Council and not forwarded to the director of the Department of Land Conservation and Development as required by ORS 197.610(1) (post acknowledgment review), the

decision of the Council shall be made within 120 days of the receipt of the date the application is deemed complete as defined in Code Section 9.232. This 120 day period may be extended for a reasonable period of time at the request of the applicant.

(8) If the proposed development is a change in the Comprehensive Plan text and map as it pertains to the Urban Growth Area, the Urban Growth Boundary, the urbanization policies, a decision approving the development shall not become effective until the county also approves the proposal or the proposal is reviewed and approved by the Land Use Board of Appeals.

9.220 **Type IV Procedure.** An application for development processed through a Type IV Procedure shall be processed as follows:

(1) The applicant shall submit the materials specified in Section 9.230 of this Code and 10 copies of a tentative plan of the development for a subdivision or a tentative map of the development for a partition to the City Administrator. The City Administrator shall review the materials submitted for completeness and shall within thirty (30) days of receipt of the application, notify the applicant of any items missing. The applicant shall submit the missing items within 180 days.

(2) The tentative plan of a proposed subdivision shall be on a scale of 1" = 100' or as approved by the County Surveyor and shall include the following information either shown on the plan map itself or on supplementary documents:

(a) Proposed name of the subdivision. This name shall not duplicate nor resemble the name of another subdivision in the county or the city and shall be approved by the Planning Commission.

(b) Date, northpoint and scale of drawing.

(c) Appropriate identification of the drawing as a tentative plan.

(d) Location of the subdivision sufficient to define its location and boundaries and a legal description of the tract boundaries.

(e) Names and addresses of the owner, subdivider, and engineer or surveyor.

(f) The location, widths of rights-of-way or easement and pavement width, and names of both opened and unopened streets within or adjacent to the tract, together with other easements and other important features such as section lines, section corners, city boundary lines, and monuments.

(g) Contour lines related to some established bench mark or other datum approved by the City Engineer and having minimum intervals as follows:

(i) For slopes of less than five percent: show the direction of slope by means of arrows or other suitable symbols together with not less than four spot elevations per lot, evenly distributed.

(ii) For slopes of five percent to 15 percent: five feet.

(iii) For slopes of 15 percent to 20 percent: ten feet.

(iv) For slopes of over 20 percent: 20 feet.

(h) The location of at least one temporary bench mark within the subdivision boundaries.

(i) The location, size and direction of water courses and the location of areas subject to flooding, including standard project flood and other information required by Land Use Code Sections 9.700 to 9.785.

(j) Natural features such as rock outcroppings, marshes, wooded areas and isolated preservable trees.

(k) Existing uses of the property and location of

existing structures to remain on the property after platting.

(l) The location, width, names, approximate grades and radii of curves of proposed streets. The relationship of proposed streets to projected streets as shown on the Comprehensive Plan.

(m) The location, width and purpose of proposed easements.

(n) The location and approximate sizes and dimensions of proposed lots and the proposed lot and block numbers.

(o) Proposed sites, if any, allocated for purposes other than single family dwellings.

(p) A vicinity map showing existing subdivision and unsubdivided land ownerships adjacent to the proposed subdivision.

(q) Proposed deed restrictions, if any, in outline form.

(r) The location within the subdivision and in the adjoining streets and property of existing sewers, water-mains, culverts, streets, drain pipes and utility lines, and how they may be extended to connect to existing facilities.

(s) Approximate centerline profiles with extension for a reasonable distance beyond the limits of the proposed subdivision showing the finished grade of streets and the nature and extent of street construction.

(t) A plan for domestic water supply lines and related water service facilities.

(u) Proposals for sewage disposal, storm water drainage and flood control, including profiles of proposed drainage ways, if necessary.

(v) If lot areas are to be graded, a plan showing the nature of cuts and fills and information on the character of the soil.

(w) Proposals for other improvements such as electric utilities and sidewalks.

(x) 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 premises and all encumbrances, covenants,

and other restrictions pertaining to the subject property.

(y) For areas within or directly adjacent to areas identified as "unstable" on the Comprehensive Plan, Slope, Floodplain and Geology Map, an evaluation by a licensed geologist or licensed engineer stating whether or not each proposed lot is stable and suitable for their intended use.

(z) For areas with slopes greater than 25%, an evaluation by a licensed geologist or licensed engineer stating the capability of each proposed lot to support structures and with what types of conditions.

(3) The tentative map of a proposed partition shall be 15 x 18 inches in size and shall include the following information, either shown on the map itself or in supplementary documents:

(a) The date, northpoint and scale of drawing.

(b) Appropriate identification of the drawing as a tentative map.

(c) Location of the partition sufficient to define its location and boundaries and a legal description of the tract boundaries.

(d) The name and address of the person who prepared the map.

(e) Approximate acreage of the parcel to be partitioned.

(f) For land adjacent to and within the parcel to be partitioned, locations, names and widths of existing rights-of-way and streets, widths of improvements, locations, width and purpose of all existing easements, location and size of sewer and water lines, drainage ways and base flood elevation data and other information required by Land Use Code Sections 9.700 - 9.785.

(g) For areas within or directly adjacent to areas identified as "unstable" on the Comprehensive Plan, Slope, Floodplain, and Geology Map, an evaluation by a licensed geologist or licensed engineer stating whether or not each proposed parcel is stable and suitable for their intended use is required.

(h) For areas with slopes greater than 25%, an

evaluation by a licensed geologist or licensed engineer stating the capability of each proposed lot to support structures and with what types of conditions.

(i) Outline and location of existing buildings to remain in place.

(j) Parcel layout showing size and relationship to existing or proposed streets and easements.

(k) 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 premises.

(4) After the [applicant has submitted the required materials], application is deemed complete as defined in Code Section 9.232, the City Administrator shall submit the relevant materials to the Planning Commission, county, state and federal agencies and special districts for their review and comment.

(5) The City Administrator shall schedule a hearing before the Planning Commission to be held within fifty (50) days after the [materials have been submitted] application is deemed complete as defined in Code Section 9.232 and shall mail notice of the hearing to the applicant and all persons materially affected by the proposed development or use. This notice shall also be published and posted.

(6) At the hearing, the applicant and all interested persons may present information and arguments relevant to the proposal.

(7) The Planning Commission shall make a decision approving, conditionally approving, or denying the application.

(8) The applicant or any person aggrieved by the decision may appeal the decision of the Planning Commission.

(9) If the decision of the Planning Commission is appealed, the City Administrator shall schedule a hearing before the City Council to be held within sixty (60) days of the decision and shall mail notice of this hearing to all persons materially affected by the proposed development and shall publish and post the notice. The decision of the council shall be made within 120 days from the date the application is deemed complete as defined in Code Section 9.232. This 120 day period may be extended for a reasonable period of time at the request of the applicant.

(10) At the City Council hearing, the Planning Commission shall present its findings and conclusions and all interested persons may present information and arguments relevant to the proposal.

(11) The City Council shall make a decision approving, conditionally approving, or denying the application.

(12) Unless an extension is granted in accordance with subsection (14) below, within one (1) year after the effective date of the approval of the tentative plan for a subdivision, or within 180 days after the effective date of approval of a tentative map for a partition, the applicant shall submit the final plat for a subdivision or final map for a partition, and the following additional materials to the City Administrator:

- (a) The required fee.
- (b) Five copies of the final plat map.
- (c) All information required by the Standards Document.

(d) Improvement plans prepared by a registered civil engineer, an executed agreement for improvements and security for improvements.

(e) An undated title report.

(f) A copy of any deed restrictions applicable to the subdivision and a description of the boundaries of the restrictions.

(g) Land parcels to be dedicated for any purpose, public or private, to be distinguished from lots intended for sale.

(h) Written proof that all taxes and assessments on the tract are to be paid to date.

(i) The name and signature of the licensed surveyor who prepared the plan or map and written certification of the surveyor serving the City that the plan or map complies with applicable survey laws.

(j) Written approval from the board of directors of any special district if the subdivision is within such district.

(k) Traverse data, including the coordinates of the boundary of the partition and ties to section corners and donation land claim corners and showing the error of closure which shall not exceed one foot in 10,000 feet.

(l) Computation of all distances, angles and courses shown on the final plat or map.

(m) Monumentation as specified by the county surveyor.

(n) Ties to existing monuments, proposed monuments, adjacent subdivisions, street corners, a section, quarter section, or donated land corner and state highway stationing.

(13) The final plat shall include the following information:

(a) The name of the subdivision, date, scale, north-point (generally point up), legend, and controlling topography such as creeks, highways and railroads.

(b) Legal description of the tract boundaries.

(c) Name and address of the owner(s), subdivider, and

surveyor.

(d) Referenced points of existing surveys identified, related to the plat by distances and bearings, and referenced to a field book or map as follows:

(i) All stakes, monuments, or other evidence found on the ground and used to determine the boundaries of the subdivision.

(ii) A tie to a government corner, quarter corner, or donation land claim corner, and adjoining corners of all adjoining subdivisions.

(iii) Township, range, section and donation land claim lines within or adjacent to the plat.

(iv) Whenever the city has established the center line of a street adjacent to or within the proposed subdivision, the location of this line and monuments found or reset.

(v) All other monuments found and the location, material and size of all monuments established in making the survey of the subdivision or required to be installed by provisions of this ordinance or by the County or City Surveyor. Specifications and procedures for monumentation shall be as required by the County Surveyor.

(e) Tract boundary lines, right-of-way lines, and centerlines of streets; lot and block lines with dimensions, bearings, or deflection angles and radii, arcs, points of curvature, and tangent bearings. Tract boundaries and street bearings shall be shown to the nearest ten seconds with basis of bearings. All distances shall be shown to the nearest 0.01 feet. Error of closure shall be within the limit of one foot in 10,000 feet. No ditto marks shall be used. Lots containing one acre or more shall show total acreage to nearest hundredth.

(f) The width of the portion of streets being dedicated, the width of any existing right-of-way and the widths each side of the centerline. For streets on curvature, all curve data shall be based on the street centerline and in addition to centerline dimensions shall indicate thereon the radius and central angle.

(g) All easements denoted by fine dotted lines, clearly identified and, if already of record, its recorded reference. If any easement is not definitely located of record, a statement of such easement. The widths of the

easement and the lengths and bearings of the lines thereof and sufficient ties thereto to definitely locate the easement with respect to the subdivision must be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificate of dedication.

(h) Lot numbers beginning with the number "1" in each block.

(i) Block numbers beginning with the number "1" and continuing consecutively without omission or duplication throughout the subdivision. The numbers shall be solid, of sufficient size and thickness to stand out and so placed as not to obliterate any figure. Block numbers in addition to a subdivision of the same name shall be a continuation of the numbering in the original subdivision.

(j) Land parcels to be dedicated for any purpose, public, or private, to be distinguishable from lots intended for sale.

(k) Building setback lines, if any, are to be made a part of the subdivision restriction.

(l) The zoning classification.

(m) The following certificates which may be combined where appropriate:

(i) A certificate signed and acknowledged by all parties having any record title interest in the land subdivided, consenting to the preparation and recordation of said map.

(ii) A certificate signed and acknowledged as above, offering for dedication all parcels of land shown on the final map intended for any public use except those parcels which are intended for the exclusive use of the lot owners in the subdivision, their licenses, visitors, tenants and servants.

(iii) A certificate signed by the surveyor responsible for the survey and final map. The signature of such surveyor to be accompanied by his seal.

(iv) Provisions for all other certifications now or hereafter required by law.

(v) Space for date and signature of (1) Board of Commissioners, (2) County Surveyor, (3) County Assessor, and (4) Mayor.

(14) Prior to the expiration of one year from approval of a tentative plan for a subdivision or within six months from the approval of tentative map for a major partition, the applicant may request, in writing, an extension of six months to submit the final plat or map. The Planning Commission shall determine whether the request will be granted.

(15) Within forty (40) days after receipt of the documents specified in subsection (12) above, the City Administrator and City Engineer shall determine whether the final plat or map and improvements plans conform to the tentative plan or map, this Code and the Standards Document. If there is a failure to conform, the applicant shall be advised and afforded an opportunity to make corrections. When the plat or map is found to conform, it shall be submitted to the City Council for approval and signature by the Mayor. The City Council shall approve the final plat or map if a subdivision agreement has been executed and approved and security has been posted as required by the Standards Document. Approval by the Council of the final plat or map shall not be deemed to constitute or effect an acceptance by the public of any improvements or of the dedication of any street or easement shown on the plat or map.

(16) The City Administrator shall deliver the approved final plat or map and accompanying documents to the county records for recording and notify the applicant of this action.

9.230 Application for Permit.

(1) Except as excluded herein, all applicants for

development permits processed under Type I-IV procedures shall submit the following materials to the City Administrator:

- (a) A completed permit application form.
- (b) A statement of the nature of the development and the reasons therefor.
- (c) All information required by the Standards Document.
- (d) Proof that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has the consent of all partners in ownership of the affected property.
- (e) Legal description of the property affected by the application.
- (f) The application fee.
- (g) A list of the property owners or other persons affected by the proposed development or use to receive notice of hearing.

(2) The information required by subsection (g) above need not be submitted by an applicant for a development permit processed under a Type I procedure.

(3) An applicant for one development project may at one time apply for all necessary permits for this project and have all of these applications processed concurrently.

9.270 Ex Parte Contacts. All members of the Planning Commission or City Council shall reveal the content of any significant prehearing or ex parte contacts with regard to any matter set for public hearing at the commencement of the public hearing on the matter. The member shall decide whether these contacts have impaired the member's impartiality or ability to vote on the matter, and if so, shall abstain in accordance

with Section 9.280 of this Code. Any party to such contact shall be given opportunity for rebuttal of the substance of the communication.

Section 2. The Drain Land Use Code is hereby amended to add Section 9.232 to provide as follows:

9.232 Completion of Application. An application is deemed complete for purposes of this Code in the following circumstances:

(1) If the City Administrator finds the initial application to be complete, the application shall be deemed complete on the 31st day after submission.

(2) If the City Administrator requires the submission of missing items and the applicant refuses, in writing, to submit these items, the application shall be deemed complete on the 31st day after initial submission.

(3) If the City Administrator requires the submission of missing items and the applicant submits these items within 180 days, the application shall be deemed complete on the date of receipt of these items.

(4) If the City Administrator requires the submission of the missing items and the applicant does not furnish these items within 180 days, the application shall be deemed complete on the 181st day after the applicant was notified to submit the missing items.

Passed and adopted by the Council of the City of Drain,

State of Oregon, on the 13th day of October, 1986.

ATTEST:

Bill Ewing

Approved by the Mayor this 13th day of October,

1986.

Grant S. Levins
Grant S. Levins, Mayor