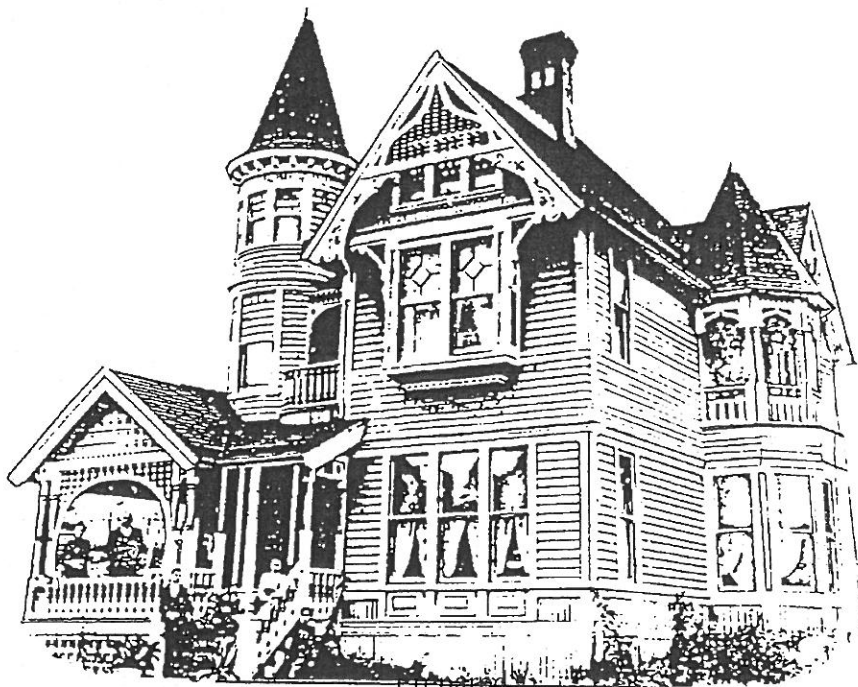


City of Drain
Drain Development Ordinance
(Includes amendments through June 30, 1997)



Prepared

by

Umpqua Regional Council of Governments

Table of Contents

Article I - General Provisions	5
9.100 Purpose.....	5
9.105 Definitions.....	5
9.110 Scope and Compliance.....	7
9.115 Consistency with Plan and Laws.....	8
9.120 Development Permit Required.....	8
9.121 Site Plan Review.....	8
9.125 Exclusions from Development Permit Requirement.....	9
9.126 Temporary Permit for Emergency and Short Term Housing.....	10
9.127 Temporary Permit for Additional Dwelling Unit for Family Hardship.....	11
9.130 Use of a Development.....	13
9.131 Occupancy Permits.....	14
9.135 Nonconforming Uses.....	14
9.150 Temporary Use Permits.....	17
Article II - Procedures for Decision Making	19
9.200 Applicable Procedures.....	19
9.205 Type I Procedure.....	21
9.210 Type II Procedure.....	21
9.215 Type III Procedure.....	23
9.220 Type IV Procedure.....	24
9.225 Type V Procedure.....	32
9.230 Application for Permit.....	33
9.232 Completion of Application.....	34
9.240 Contents of Notice.....	35
9.245 Mailing of Notice.....	35
9.250 Posted or Published Notice.....	36
9.255 Time of Notice.....	36
9.260 Participation by Planning Commission or City Council Members.....	36
9.265 Participation by Interested Officers or Employees.....	37
9.270 Ex Parte Contacts.....	37
9.280 Abstention or Disqualification.....	37
9.285 Findings and Order.....	37
9.290 Notice of Decision.....	38
9.295 Record of Proceedings.....	38
9.300 Method of Appeal.....	39
9.305 Attendance at Hearings.....	39
Article III - Criteria for Decision Making	39

9.325	Building Permits, Sign Permits, Excavation in the Right of Way and Home Occupation.	39
9.330	Change in Use Where Rezoning Not Required.	40
9.335	Minor Partition.	40
9.337	Lot Line Adjustment.	40
9.340	Conditional Use.	41
9.345	Variance.	41
9.350	Revocation of Permit.	42
9.355	Rezoning.	42
9.360	Comprehensive Plan Change.	42
9.365	Subdivision and Minor Partition.	42
9.370	Annexation.	43
9.375	Vacation.	43
9.380	Conditions Imposed When Development Allowed.	44
Article IV - Establishment of Zones		44
9.500	Classification of Zones.	44
9.505	Location of Zones.	44
9.510	Low Density Residential (R-1). Uses Permitted Outright.	45
9.515	Low Density Residential (R-1). Accessory Uses Permitted Outright.	45
9.520	Low Density Residential (R-1). Conditional Uses.	45
9.525	Multi-Family Residential (R-2). Uses Permitted Outright.	46
9.530	Multi-Family Residential (R-2). Accessory Uses Permitted Outright.	46
9.535	Multi-Residential (R-2). Conditional Uses.	47
9.540	Commercial-Residential (C-R). Uses Permitted Outright.	47
9.545	Commercial-Residential (C-R). Accessory Uses Permitted Outright.	48
9.550	Commercial-Residential (C-R). Conditional Uses.	48
9.555	General Commercial (C-1). Uses Permitted Outright.	48
9.560	General Commercial (C-1). Conditional Uses.	49
9.565	General Industrial (M-1). Uses Permitted Outright.	50
9.570	General Industrial (M-1). Conditional Uses.	50
9.580	Accessory and Conditional Uses in all Zones.	50
9.585	Woodland-Open Space-Agricultural District (WOA).	51
9.590	Woodland-Open Space-Agricultural District (WOA). Uses Permitted Conditionally	51
9.595	Rural Residential (RR-2)	52
9.596	Rural Residential (RR-2) Uses Permitted Conditionally	53
9.600	Minimum Lot Size.	53
9.605	Setbacks.	55
9.610	Maximum Structure Height.	57
9.615	Maximum Lot Coverage.	59
9.620	Requirements for New Construction.	60

Article V - Flood Hazards..... 60

- 9.700 Definitions..... 60
- 9.705 Lands to Which this Ordinance Applies..... 61
- 9.710 Basis for Establishing the Areas of Special Flood Hazard..... 62
- 9.715 Establishment of Development Permit..... 62
- 9.720 Implementation of Flood Hazard Provisions..... 62
- 9.725 Permit Review..... 62
- 9.730 Use of Other Base Flood Data..... 62
- 9.735 Information to be Obtained and Maintained..... 63
- 9.740 Alteration of Watercourses..... 63
- 9.745 Interpretation of "FIRM" Boundaries..... 63
- 9.750 Appeal to City Council..... 63
- 9.755 Variances..... 65
- 9.760 Anchoring..... 66
- 9.765 Construction Materials and Methods..... 67
- 9.770 Utilities..... 67
- 9.775 Subdivision Proposals..... 67
- 9.780 Building Permits..... 68
- 9.785 Floodways..... 68

Article VI - Planning Commission..... 69

- 9.800 Creation of Planning Commission..... 69
- 9.805 Quorum..... 70
- 9.810 Meetings..... 70
- 9.815 Employment of Staff..... 70
- 9.820 Powers and Duties Generally..... 70

Article VII - Abatement and Penalty..... 71

9.990 Abatement and Penalty 71

Article I General Provisions

9.100 Purpose.

The purpose of the City of Drain's Land Use Code is to coordinate city regulations governing the development and use of land and to implement the City of Drain's Comprehensive Plan and to promote the public health, safety and welfare.

9.105 Definitions.

As used in this Land Use Code the following words and phrases shall have the following meanings:

Adjacent. The sharing of a common boundary with another property, the property line. A common boundary does not refer to a property line abutting a street.

Building Department. The Douglas County Building Department and its agents and inspectors.

City Administrator. The person employed by the Council to act as City Administrator and any person to whom the City Administrator may delegate his or her duties under this Code.

Code. The City of Drain's Land Use Code.

Comprehensive Plan. The "Comprehensive Plan, Drain, Oregon" adopted by the City Council on May 20, 1980, and any amendments thereto.

Conditional Use. A conditional use is a use which is not permitted outright in a zone but which may be permitted through the procedure specified in section 9.210 of this Code if the criteria specified in section 9.340 of this Code are satisfied.

Farm Use. The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting, and selling crops, or by feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honey bees or for dairying and the sale of dairy products for any agricultural or horticultural use or animal husbandry or any combination thereof. Farm Use includes the preparation and storage of the products raised on such land for man's use and animal use and disposal by marketing or otherwise. Farm Use also includes the propagation, cultivation, maintenance, and harvesting of aquatic species.

It does not include the use of the land subject to the provisions of ORS 321 (timber taxation), except land used exclusively for growing cultured Christmas trees as defined by ORS 215.203 (3).

Current employment of land for farm use includes: (a) land subject to any farm-related government program; (b) land lying fallow for one year as a normal and regular requirement of

good agricultural husbandry; (c) land planted in orchards or other perennial, other than land specified in subparagraph (d) of this paragraph, prior to maturity; (d) land not in the Agricultural/Open Space zone which has not been eligible for assessment at special farm use value in the year prior to planting the current crop and has been planted in orchards, cultured Christmas trees or vineyards for at least three years; (e) any land constituting a woodlot of less than 20 acres contiguous to and owned by the owner of land specially assessed at true cash value for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use; (f) wasteland, in the Agricultural/Open Space zone, dry or covered with water, lying in or adjacent to and in common ownership with a farm use land and which is not currently being used any economic farm use; (g) land under dwellings customarily provided in conjunction with the farm use in the Agricultural/Open Space zone; (h) land under buildings supporting accepted farm practices; (I) water impoundments lying in or adjacent to and in common ownership with farm use land; and (j) farm use land does not include feedlots.

Forest Management. The current employment of lands, along with accessory buildings and uses, for the growing, harvesting and management of forest products, including primary processing facilities.

Home Occupation. Any lawful profession, craft, or service activity carried on within a dwelling. However, the following are not considered home occupations requiring a home occupation permit:

- (a) newspaper delivery by individuals younger than eighteen years of age;
- (b) babysitting, not exceeding five (5) children on a regular basis;
- (c) door to door salespersons taking orders for later delivery, for example, representatives of Avon, Fuller Brush, Amway;
- (d) wood cutters;
- (e) invitational house parties, for example, Tupperware and Stanley;
- (f) part-time or minor service work not exceeding forty (40) hours per month, for example, sewing alterations, music lessons, home tutoring;
- (g) yard sales; and
- (h) independent truckers with only one truck.

Land Division. A lot or parcel of land created through the process of dividing land.

LCDC Goals and Guidelines. The goals and guidelines adopted by the Land Conservation and Development Commission pursuant to ORS 197.005 et. seq.

Lot Line Adjustment. The relocation of a common boundary between lots or parcels or the elimination of a common boundary between lots or parcels.

Major Partition. The partition of land as defined in ORS 92.010 that includes the creation of a road or street.

Minor Partition. The partition of land as defined in ORS 92.010 that does not include the creation of a road or street.

Manufactured Home. Structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulation in effect at the time of construction.

Nonconforming Development or Use. A development or use lawfully existing at the time this ordinance became applicable to the development by being in compliance with the standards applicable to it at the time it came into existence, but that would not be lawful except for its pre-existence.

Owner. Where used in relationship to real property, "owner" means the legal owner of record or, where there is a recorded land sales contract in force, the purchaser thereunder.

Standards Document. The document providing construction and design standards for development adopted by reference in section 9.110 of this Code.

9.110 Scope and Compliance.

- (1) Land may be used, developed by land division or otherwise, and a structure may be used or developed by construction, reconstruction, alteration, occupancy or otherwise only as this ordinance permits. In addition to complying with the criteria and other provisions within this Code, each development and use shall comply with the applicable standards set forth in the Standards Document for the City of Drain which is hereby adopted by reference. A copy of the Standards Document shall be kept on file in the office of the City Administrator.
- (2) The requirements of this ordinance apply to the person undertaking a development or the user of a development and to the person's successors in interest.

9.115 Consistency with Plan and Laws.

Actions initiated under this Code shall be consistent with the Comprehensive Plan and applicable state and federal laws and regulations as these plans, laws and regulations may now or hereafter provide.

9.120 Development Permit Required.

Except as excluded by Section 9.125 of this Code, no person shall engage in or cause to occur a development or change in the use of land for which a development permit has not been issued.

9.121 Site Plan Review. It is the purpose of this Section to ensure that the development of property in the Drain Urban Area is commensurate with the character and physical limitations of the land; to promote and protect the public health, safety and welfare of the community; to enhance aesthetic values; to assure development which is suitably related to its environment; to prevent both extremes of monotonous uniformity and substantial dissimilarity; and, to conform with the adopted goals, objectives and policies of the Drain Comprehensive Plan.

- (1) When a Site Plan Review Required. No lot or parcel in any Zoning District established under the provisions of this Ordinance shall hereafter be developed or physically altered, and no building or structure hereafter shall be erected, enlarged or structurally altered until site development plans have been approved in accordance with the provisions of this Article. Without limiting the foregoing or any other provision of this Ordinance, no installation of 3,000 square feet or more of asphalt or other impervious surfaces shall be made until site development plans have been approved in accordance with the provisions of this Article. Those activities described in Section 9.125 do not require site review.

To the extent possible, site plan review shall be coordinated with any other plan review required by this Ordinance. Where other provisions of this Ordinance require plan review, such other review shall serve to meet the requirements of this Section; provided, however, that when the standards of this Section are more restrictive than comparable standards imposed by other provisions of this Ordinance, the standards of this Section shall govern.

- (2) Authority. The City Administrator shall review all site development plans required by this Section. The City Administrator's authority shall be limited to that necessary to accomplish the provisions of this Article and the provisions of this Ordinance.

The City Administrator may:

- (a) Approve the submitted plans;
- (b) Approve the submitted plans with additions, modification, or changes; or
- (c) Deny the submitted plans.

- (3) Application. The applicant for site plan review shall submit to the City Administrator plans consisting of maps, drawings, written descriptions or other materials necessary and appropriate for the Administrator to determine that the proposed development will conform with the general requirements of this Ordinance.
- (4) Appeal. Any administrative action by the City Administrator with respect to approval, modification or denial of site plan review may be appealed by the applicant, as provided for in 9.300 of this Ordinance.

9.125 Exclusions from Development Permit Requirement.

An activity of development listed below is excluded from the requirement for a development permit. Exclusion from the permit requirement does not exempt the development or its use from applicable requirements of this ordinance.

- (1) Landscaping or other treatment or use of the land surface not involving a structure. *Need sign permits*
- (2) A change internal to a building or other structure that does not substantially affect the use of the structure or a sign that is accessory to a structure or use and that does not require a building permit.
- (3) An emergency measure necessary for the safety or protection of property.
- (4) Erection of a tent or similar portable structure temporarily. *define temporary*
- (5) Farming.
- (6) The propagation or management of timber or the cutting of timber for other purposes such as erosion control or personal use.
- (7) An alteration that does not substantially affect the use or appearance of land or a structure. *review*

9.126 Temporary Permit for Emergency and Short Term Housing.

In the event a home is made uninhabitable by accident, fire or natural disaster, the occupants may seek permission to locate a travel trailer, motor home, recreational vehicle or other temporary shelter on the property through a temporary permit process as described in this section. In

addition, permission for short term stay at a commercial or industrial site or at the site of new construction where a night watchman is needed may be sought under this section. This section does not allow occupancy of a travel trailer, motor home, recreational vehicle, or other temporary shelter as a place of residence apart from the short term or emergency conditions described above.

(1) **Permitted Temporary Uses.** Temporary occupancy of travel trailers, motor homes, recreational vehicles or other temporary shelter structures, may be permitted on authority of the City Administrator using a Type I procedure as described in Section 9.205. Temporary permits may be issued as necessary to provide for emergency or short term housing in the event of accident, fire, or natural disaster or for the purpose of providing shelter for a night watchman at a commercial or industrial site or the site of new construction.

(2) **Criteria for Decision.** No temporary permits shall be issued except upon a finding that the temporary occupancy 1) would not adversely impact neighboring residences; and 2) would not cause a public health, safety or sanitation hazard as assessed by the City Administrator.

(3) **Conditions relative to the issuance of Temporary Permits.**

(a) Reasonable conditions may be imposed by the City Administrator in connection with the temporary permit to minimize the potential impact of the proposed temporary occupancy to other uses in the vicinity. Guarantees and evidence may be required that such conditions will be or are being complied with. Such conditions may include, but are not limited to, the following:

- (i) Maintenance of the grounds.
- (ii) Control of noise, odors or other nuisances.
- (iii) Limitation of time for occupancy.
- (iv) Location of the shelter on the property.
- (v) Limitations placed on activities allowed on the site.
- (vi) Assurance that sanitation facilities available to residents are adequate.

(b) Any temporary permit shall clearly set forth the conditions under which the permit is granted, and shall clearly indicate the time period for which the permit is issued. No temporary permit shall be transferrable to any other owner or occupant, but may be renewable through the administrative action process.

(4) **Time Limits and Renewals for Temporary Permits.**

- (a) Temporary permits shall be issued for the period specified by the approving authority. No permit shall be granted for more than 21 days. Permits may be renewable upon expiration by an administrative action if all applicable conditions can again be met.
- (b) Renewal of a temporary permit shall follow the same procedure as the initial application.

9.127 Temporary Permit for Additional Dwelling Unit for Family Hardship.

When a family hardship exists because a medical condition which relates to and is caused by handicap or infirmity or relates to a person otherwise incapable of maintaining a separate residence, the hearings body may authorize the placement of a mobile home on a lot in addition to a principal residence. Such authorizations shall be considered similar to Conditional Use Permits and the Planning Commission shall attach conditions to approval as it may deem necessary to assure minimization of adverse impact on neighboring properties.

- (1) **Application.** Requests for a temporary mobile home permit must be submitted on a completed Planning Department application form which shall include the names and addresses, and telephone numbers of the property owner, the resident if different from the owner, the applicant if different from the owner or resident, the proposed occupant of the mobile home and their relationship to the resident, and the estimated period of time that the hardship will necessitate the use of the mobile home. Property information and a site plan will also be required.

The applicant is also required to file with the permit application a written statement describing any infirmity, debility or other reason why the additional dwelling is necessary. Reasons for not utilizing the existing residence for such accommodation must be included. The applicant must arrange for a physician to submit a written statement detailing the medical necessity for such an accommodation and stating why the person with the handicap or infirmity is incapable of maintaining a separate residence.

The hearings body may require the applicant to provide other such evidence deemed necessary for just consideration of the request.

- (2) **Expiration and Reapplication**

- (a) The temporary permit shall expire upon termination of the hardship or one year from the date of issuance, whichever comes first. Renewals of the permit will require reapplication two months prior to the expiration date.
 - (b) For reapplication or where the City Administrator has reason to believe the terms of the permit have been violated or there are other adverse impacts to the neighborhood, notice shall be sent to property owners as specified in Section 9.210. If:
 - (I) Written objections are received;
 - (ii) The City Administrator or the applicant so desire, or
 - (iii) Three years have elapsed since the last hearing, the matter shall be scheduled for public hearing before the Planning Commission as a permit renewal and shall be considered a Type II procedure similar to that of a Conditional Use Permit.
 - (c) The permits are not transferrable. If ownership of the property is transferred or the occupant changes, the permit is void. If the person who is the subject of the hardship relocates, the permit is void and a new application must be submitted for any new hardship or any new location.
 - (d) The mobile home must be removed within 30 days of the expiration of the permit.
- (3) Standards and Conditions
- (a) The person(s) residing in the additional dwelling shall be member(s) of the immediate family of the resident(s) of the permanent residence.
 - (b) There shall be no compensation involved in the hardship case.
 - (c) The mobile home shall:
 - (i) Meet the requirements of and be approved by the Building Department;
 - (ii) Be connected to the public sewer and water systems as directed by the Director of Public Works and shall pay fees for such connections as required by City Ordinance;

- (iii) Have a permanent electrical installation;
 - (iv) Meet all setbacks and coverage requirements pertaining to the zone and shall be a minimum of six feet from the main building and all other buildings;
 - (v) Be manufactured after June 15, 1976, and exhibit the "Oregon Department of Commerce Insignia of Compliance";
 - (vi) Not be structurally connected to the principal residence;
 - (vii) Have skirting as required by the Drain Manufactured Home Ordinance No. 349.
 - (viii) The mobile home and accessory building foundations, pads, and support blocking shall be sufficient strength to support the required live-loads and actual dead-loads imposed by the mobile home and any attached or supported structure based on accepted engineering design standards. Foundations, tie-downs or other supports shall be provided to withstand the specified horizontal, up-lift and overturning and wind forces on the mobile home and any attached or supported structures based on accepted engineering design standards.
- (4) Permit to Be a Deed Restriction. The requirements of this Article and any conditions imposed by the hearings body shall be recorded with the County Clerk and made a deed restriction. This shall be required prior to installation of the additional dwelling.

9.130 Use of a Development.

A development may be used only for a use that is not prohibited by law and for which the development is designed, arranged and intended or which is nonconforming.

9.131 Occupancy Permits

The City of Drain contracts with the Douglas County Building Department (Building Department) for building inspection services and for the issuance of occupancy permits. No lot

or parcel in any zoning district established under the provisions of this Ordinance shall hereafter be occupied or used, and no building or structure hereafter shall be used or occupied until an occupancy permit is issued therefor by the Building Department, except as otherwise exempted from the requirements of this section.

- (1) Exceptions. The provisions of this section shall not apply to a dwelling where such dwelling is a permitted use in the applicable zoning district and the use of the dwelling is for residential purposes, nor shall the provisions of this section apply to agricultural and resource management activities where the applicable district permits such activities. Uses and activities which lawfully exist at the time this Ordinance becomes effective shall be exempt from the provisions of this section until such time as a change in use or occupancy occurs as specified in this section.
- (2) Applications. Application for an occupancy permit for a new use, a change in land use, for a new building or structure, or for an existing building or structure shall be made to the Building Department before any such building, structure or land is occupied or used.
- (3) Issuance. An occupancy permit shall be issued within five (5) working days after:
 - (a) Written notice is received by the Building Department that the premises are ready for use or occupancy; and
 - (b) Inspection by the Building Department indicates that the building or use is in conformity with this Ordinance and other applicable laws and regulations of the jurisdiction and the State of Oregon.
- (4) Records. The Building Department shall maintain a current record of all occupancy permits issued under the provisions of this section.

9.135 Nonconforming Uses.

Except as is hereinafter provided by this Ordinance, the lawful use of a building or structure or of any land or premises lawfully existing at the time of the effective date of this Ordinance or at the time of a change in the official zoning maps may be continued, although such use does not conform with the provisions of this Ordinance.

- (1) Changes in Nonconforming Uses. A nonconforming use may be changed only to a use conforming to the zone in which it is located. Once changed to a conforming use no building or land shall be permitted to revert to a nonconforming use.

- (2) Increase of Nonconforming Use. A nonconforming use shall not be increased, except that permission to extend the use to any portion of a building or lot which portion was arranged or designed for such nonconforming use at the time of the passage of this Ordinance may be granted by the City Administrator subject to the provisions of this Ordinance.
- (3) Vested Right. Nothing contained in this Ordinance shall require any change in the plans, construction, alteration or designated use of a structure on which construction has physically, lawfully and substantially 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 (2) years from the time construction was commenced.
- (4) Discontinuance of Nonconforming Use. When a nonconforming use of a structure or property is discontinued for a period in excess of one (1) year, the structure or property shall not thereafter be used except in conformance with the zone in which it is located. When the nonconforming use is a sign pertaining to a business product or service and thirty (30) days have transpired since the business product or service has been offered to the public at the location of the sign, the use shall be discontinued.
- (5) Unlawful Use Not a Nonconforming Use. No unlawful use of property existing at the time of passage of this Ordinance shall be deemed a nonconforming use.
- (6) Restoration of Nonconforming Building or Structure
 - (a) A nonconforming building or structure which is damaged by fire, flood, wind, earthquake or other calamity or act of God or the public enemy, to an extent not greater than eighty percent (80%) of the market value contained in the records of the Douglas County Assessor, may be restored and the occupancy or use of such building or structure or part thereof, which existed at the time of such partial destruction may be resumed, provided that the restoration is commenced within a period of one (1) year and is diligently prosecuted to completion.
 - (b) The restoration or reconstruction of a nonconforming building or structure may not increase the floor area or create a greater nonconformance than existed at the time of damage or destruction.
- (7) Conveyance of Nonconforming Use. Nothing in this Ordinance shall be construed to limit the sale, transfer or other conveyance of property on which exists a nonconforming building, structure or use, so long as such sale, transfer or other conveyance does not otherwise violate the provisions of this Ordinance.

- (8) Restoration of Conforming Use on Non-conforming Lot. Nothing in this Ordinance shall be construed to prevent the reconstruction or replacement of a pre-existing building or structure conforming as to use on a nonconforming lot, so long as such lot did not become nonconforming in violation of the provisions of this Ordinance.
- (9) Application for Alterations or Repairs. Alterations or repairs of a nonconforming use may be permitted to continue the use in a reasonable manner subject to the provisions of Section 9.120 of this Ordinance. Application for alteration or repair is a Type II procedure as listed in Section 9.200 of this Ordinance and shall be processed according to the process described in Section 9.210.
- (10) Conditions of Approval for Alterations or Repairs
- (a) The value of alteration shall not exceed 50% of the assessed value of the structure or sign as determined by the Douglas County Assessor's Office.
 - (b) The land covered by the structure shall not be increased.
 - (c) Alterations shall be permitted when necessary to comply with any lawful requirement for alteration in the use.
 - (d) To assure compatibility of a proposed alteration or repair with the surrounding area, additional conditions for approval may be required. Such conditions may include, but are not limited to, the following:
 - (i) Special yards and spaces.
 - (ii) Fences and walls.
 - (iii) Special parking and/or loading provisions.
 - (iv) Street dedication and improvements or bonds in lieu of improvements.
 - (v) Control of points of vehicular ingress and egress.
 - (vi) Special provisions for signs.
 - (vii) Landscaping and the maintenance of grounds.
 - (viii) Control of noise, vibration, odors or other similar nuisances.
 - (ix) Limitation of time for certain activities.
 - (x) A time period in which a proposed use shall be developed.
 - (xi) A limit of total duration of use.
- (11) General Exceptions to Lot Size Requirements. If a lot of record or series of contiguous units of land existing in a single ownership were created in compliance with all applicable laws and ordinances in effect at the time of their

creation and have an area or dimension which does not meet the lot size requirements of the zone in which the property is located, the holding(s) may be occupied by a use permitted in the zone subject to other requirements of this Ordinance. Nothing in this Ordinance shall be interpreted to limit the sale, transfer or other conveyance of any such single lot of record or unit of land.

- (12) General Exception for Approved Subdivision. Nothing in this Ordinance shall be deemed to prohibit construction of conforming uses on nonconforming lots or the sale of said lots within subdivisions or land partitions approved prior to the adoption of this Ordinance, subject to other requirements of this Ordinance

9.150 Temporary Use Permits

A temporary use permit may be approved by the City Administrator to allow uses and activities which are temporary or seasonal in nature and do not conflict with the zoning district in which they are located. No temporary use permit shall be issued which would have the effect of permanently rezoning or granting a special privilege not shared by other properties in the same zoning district.

- (1) Permitted Temporary Uses Temporary structures, activities or uses may be permitted on authority of the City Administrator using a Type I procedure as described in Section 9.205. Temporary permits may be issued as necessary to provide for housing of personnel, storage and use of supplies and equipment, or to provide for temporary sales offices for uses permitted in the zoning district. Other uses may include temporary signs, outdoor gatherings, short-term uses, roadside stands, or other uses not specified in this Ordinance and not so recurrent as to require a specific or general regulation to control them.
- (2) Criteria for Decision No temporary permits shall be issued except upon a finding that the proposed structure, activity or use would not permit the permanent establishment within a zoning district of any use which is not permitted within the zoning district, or any use for which a conditional use permit is required.
- (3) Conditions Relative to the Issuance of Temporary Permits
 - (a) Reasonable conditions may be imposed by the City Administrator in connection with the temporary permit to minimize the potential impact of the proposed use to other uses in the vicinity. Guarantees and evidence may be required that such conditions will be or are being complied with. Such conditions may include, but are not limited to, the following:
 - (i) Special yards and spaces.
 - (ii) Fences or walls.

- (iii) Control of points of vehicular ingress and egress.
 - (iv) Special provisions on signs.
 - (v) Landscaping and maintenance thereof.
 - (vi) Maintenance of the grounds.
 - (vii) Control of noise, odors or other nuisances.
 - (viii) Limitation of time for certain activities.
- (b) Any temporary permit shall clearly set forth the conditions under which the permit is granted, and shall clearly indicate the time period for which the permit is issued. No temporary permit shall be transferrable to any other owner or occupant, but may be renewable through the administrative action process.
- (c) All structures for which a temporary permit is issued:
- (i) Shall meet all other requirements of the zoning district in which they are located;
 - (ii) Shall meet all applicable health and sanitation requirements;
 - (iii) Shall meet all applicable building code requirements;
 - (iv) Shall be removed upon expiration of the temporary permit unless renewed by the Administrator or converted to a permitted use.
- (4) Time Limits and Renewals for Temporary Permits
- (a) Temporary permits shall be issued for the time period specified by the approving authority, but may be renewable upon expiration by an administrative action if all applicable conditions can again be met. In no case shall a temporary permit be issued for a period exceeding one (1) year, unless the temporary permit is renewed.
 - (b) Renewal of a temporary permit shall follow the same procedure as the initial application.

Article II Procedures for Decision Making

9.200 Applicable Procedures.

- (1) The following types of applications for land use and development decisions shall be processed under the following procedures (*see table below*) unless the City Administrator determines that another procedure is appropriate under the conditions set forth in subsection (4) below:
- (2) Annexation requests shall be processed under the procedure set forth in Chapter 222 of the Oregon Revised Statutes.
- (3) Vacation requests shall be processed under the procedure set forth in Chapter 271 of the Oregon Revised Statutes.
- (4) The City Administrator may require that an application be processed under a more complex (higher type) procedure than set forth in Subsection (1) above. The procedure required shall not affect or change in the substantive decision-making criteria used to determine whether the development will be permitted. The City Administrator shall acquaint the applicant with the substantive and procedural requirements of this code.

Applications and Procedures

Application	Type of Procedure
Excavation Permit for work in the public right-of-way	Type I

Building Permit	
Sign Permit	
Minor Land Partition with services installed or available.	
Lot Line Adjustment	
Changes in use where rezoning is not required	
Temporary Permit for Emergency and Short Term Housing	
Temporary Use Permits	
Permit for mobile home	
Minor Land Partition without services installed or available.	Type II
Conditional Use	
Variance	
Change (alteration or repair) or termination of non-conforming uses.	
Revocation of Permit	
When Quasi Judicial in Nature: Rezoning	Type III.
Comprehensive Plan Change	
Subdivision	Type IV.
Major Land Partition	
When Legislative in Nature: Rezoning	Type V.
Comprehensive Plan Change	
Amendments to the Land Use Code	

9.205 Type I Procedure.

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

120
100 day rule

- (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 [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 days 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 applications, 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 days 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 names 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, northpoint (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 bearing. 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.

9.225 Type V Procedure.

Land use actions determined to involve such a substantial area and number of property owners or such broad public policy changes that processing as a quasi-judicial decision would be inappropriate shall be processed as follows unless different or additional procedures are required by state statute or the Comprehensive Plan:

- (1) The proposed action shall be referred to the Planning Commission for its recommendation. The Planning Commission may also initiate a proposal on its own motion.
- (2) All Planning Commission meetings at which the subject is considered shall be open for public comment and such participation as the Commission may deem appropriate.
- (3) In preparing its recommendation, the Planning Commission shall do the following:
 - (a) Review the nature of the proposal and describe whether the proposal warrants processing as a legislative matter.
 - (b) Identify the provisions of the Comprehensive Plan that govern the decision and prepare findings describing how the proposal complies or fails to comply with these plan provisions.
 - (c) State reasons for the recommendations and make the recommendations. Recommendations may include policy advice of the Planning Commission in addition to determinations described in (a) and (b) above.

- (4) After receiving the Planning Commission recommendation, the City Council may schedule a public hearing.
- (5) The City Council shall publish an appropriate notice of public hearing if one is scheduled.
- (6) At the hearing, the City Council shall afford interested persons the opportunity to submit oral and written comments on the proposed action.
- (7) After the hearing, the City Council may enact or defeat an ordinance, decide to have the matter processed under Type I-IV Procedures, refer the matter back to the Planning Commission for further consideration, or dismiss the matter without any action.
- (8) If the decision of the City Council amends the Comprehensive Plan text or map as it pertains to the Urban Growth Area, the Urban Growth Boundary, and urbanization policies, or amends the text of this Code which is applicable to the Urban Growth Area, the decision 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.

9.230 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.

9.232 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.

120
180

9.240 Contents of Notice.

When notice is required to be given by any provision in this Code, it shall contain the following information:

- (1) The date, time and place of the hearing.

- (2) A description reasonably calculated to inform a person of the location of the property for which a development permit or other action is pending including the address of the property in question or its nearest cross streets.
- (3) The nature of the issue up for hearing.
- (4) A description of the parties that have standing to appear and be heard.
- (5) The sections of the ordinance that are pertinent to the hearing procedure.
- (6) Where information may be examined and when and how written comments addressing findings required for a decision by the hearing body may be submitted.

9.245 Mailing of Notice.

- (1) Notice required to be given to all persons materially affected by a proposed development or use shall be mailed at a minimum to the applicant and all owners of property located within 300 feet of the proposed development or use.
- (2) Unless otherwise provided, addresses for a mailed notice required by this ordinance shall be obtained from the county's real property tax records. Unless the address is on file with the City Administrator, a person whose name is not in the tax records at the time of filing of an application, or of initiating other action not based on an application, need not be furnished mailed notice. The failure of a property owner to receive notice shall not invalidate an action if a good faith attempt was made to comply with the requirements of this ordinance for notice.

9.250 Posted or Published Notice.

- (1) If posted notice is required, it shall be posted in at least (two) conspicuous places within the area containing affected property and in additional places if the distance between notices exceeds (500) feet.

*City hall
outside*

- (2) If published notice is required, it shall be published in a newspaper of general circulation.

9.255 Time of Notice.

- (1) Unless otherwise provided, notice required by this Code shall be mailed, posted and/or first published not less than ~~(10)~~ ²⁰ days prior to the hearing requiring the notice.

9.260 Participation by Planning Commission or City Council Members.

Except for Type V hearings conducted by the governing body, no member of the Planning Commission or City Council shall participate in a discussion of the proposal or vote on the proposal when any of the following conditions exist:

- (1) Any of the following have a direct or substantial financial interest in the proposal: the hearing body member or the member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, any business in which the member is then serving or had served within the previous two years, or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment.
- (2) The member owns property within the area entitled to receive notice of the public hearing.
- (3) The member has a direct private interest in the proposal.
- (4) For any other valid reason, the member has determined that participation in the hearing and decision cannot be in an impartial manner.

9.265 Participation by Interested Officers or Employees.

No officer or employee of the City who has a financial or other private interest in a proposal shall participate in discussion with or give an official opinion to the hearing body on the proposal without first declaring for the record the nature and extent of such interest.

9.270 Ex Parte Contacts.

All members of the Planning Commission or City Council shall reveal the content of any significant pre-hearing 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 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.

9.280 Abstention or Disqualification.

- (1) Any member of the Planning Commission or City Council who feels that he or she cannot make an impartial decision on a matter shall abstain from participation and voting and state the reason for the abstention on the records.
- (2) If any member's qualifications to participate in a hearing and decision have been challenged and the member has not abstained from participation and voting, a majority of the members of the hearing body present and voting may disqualify the challenged member. The challenged member may not vote on the motion to disqualify.
- (3) An abstaining or disqualified member may be counted for purposes of forming a quorum.
- (4) If all members of a hearing body abstain or are disqualified, they shall nevertheless proceed to resolve the issues.

9.285 Findings and Order.

Whenever a decision is made, the hearing body shall prepare findings of fact and an order which shall include:

- (1) A statement of the applicable criteria and standards against which the proposal was tested, and of the hearing body's interpretation of what would be required to achieve compliance with the criteria and standards.
- (2) A statement of the facts which the hearing body found establishing compliance or noncompliance with each applicable criteria and assurance of compliance with applicable standards.
- (3) The reasons for conclusion to approve or deny.

- (4) The decision to deny or approve the proposed change with or without conditions.

9.290 Notice of Decision.

Whenever a decision is made, the City Administrator shall mail notice of the decision to the applicant and all parties of record who have requested such notice within two days of the date of the decision.

9.295 Record of Proceedings.

- (1) The Planning Commission and City Council shall cause all hearings to be recorded stenographically or electronically.
- (2) Testimony shall be transcribed if required for judicial review or if ordered by the hearing body.
- (3) The hearing body shall, where practicable, retain as part of the hearing record each item of physical or documentary evidence presented and shall have the items marked to show the identify of the person offering the same and whether presented on behalf of a proponent or opponent. Exhibits received into evidence shall be retained in the hearing file until after the applicable appeal period has expired, at which time the exhibits may be released to the person identified thereon, or otherwise disposed of.
- (4) The findings and order shall be included in the record.
- (5) A person shall have access to the record of the proceedings at reasonable times, places and circumstances. A person shall be entitled to make copies of the record at the person's own expense.

9.300 Method of Appeal.

- (1) Any person aggrieved by a decision on the issuance of a development permit may initiate an appeal provided for in this Code by filing a notice of appeal with the City Administrator within fifteen (15) days of the date of the decision, except, in the case of a Type IV proceeding in which case the notice shall be filed within thirty (30) days of the date of decision, and by paying the required appeal fee.
- (2) The notice of the appeal shall contain:

- (a) An identification of the decision sought to be reviewed, including the date of the decision.
 - (b) A statement of the interest of the person seeking review and whether or not he or she was a party to the initial proceedings.
 - (c) The specific grounds relied upon for review.
 - (d) Whether the person seeks to present additional testimony or other new evidence is requested, and if so, the nature of this evidence and the reason it was not presented previously.
- (3) The filing of a notice of appeal shall stay all proceedings in furtherance of the decision appealed from unless the decision-making body shall include in its decision a finding that such a stay would cause imminent peril to life or property.

9.305 Attendance at Hearings.

Where a member of a hearing body has not been present at the entire hearing of a matter, the member may still participate in the decision if the member reviews the record of the proceeding prior to the decision.

Article III - Criteria for Decision Making

9.325 Building Permits, Sign Permits, Excavation in the Right of Way and Home Occupation.

A development permit allowing excavation in the right of way, development of a structure, accessing structure or sign or allowing a home occupation shall be granted if the proposed development will comply with this Code, the Standards Document and all other rules and regulations pertaining to construction of a structure, accessory structure, sign or home occupation.

9.330 Change in Use Where Rezoning Not Required.

A development permit allowing a change in use where a rezoning is not required shall be granted if the proposed change will comply with this Code and the Standards Document.

9.335 Minor Partition.

- (1) A development permit allowing a minor land partition where services are installed or available shall be granted if the proposed partition will comply with this Code and the Standards Document.
- (2) A development permit allowing a minor land partition where services are not installed or available may be granted if the following criteria are met:
 - (a) the proposed partition will comply with this Code, the Standards Document and the Comprehensive Plan;
 - (b) the property owner enters into an agreement to install required services at or before the time of further development of the land and an agreement consenting to future improvement of the land through the use of an improvement district.

9.337 Lot Line Adjustment.

- (1) A lot line adjustment may be granted if the proposal complies with the Standards Document and the following criteria are met:
 - (a) All adjusted lots will be no more non-conforming than the original lots with respect to minimum lot area, dimensions, and building setback requirements for the given zone;
 - (b) No additional unit of land is created;
 - (c) All adjustments are within a given zone and not among differing zones;
 - (d) The adjustment will not affect or impede the public right-of-way or any recorded easement; and
 - (e) A survey has established monuments to mark the adjusted boundary line or a survey map has been prepared that complies with ORS 209.250.

9.340 Conditional Use.

- (1) A development permit allowing a conditional use may be granted if the following criteria are met:

- (a) The use is compatible with the surrounding neighborhood and will have minimal impact on the liability or appropriate development of surrounding properties.
- (b) There are no detrimental effects upon the neighborhood or community.
- (c) The use is consistent with and promotes the objectives of this code, the Standards Document and the Comprehensive plan.
- (d) The use will conserve and stabilize the value of adjacent property, encourage the most appropriate use of land, present an attractive appearance that is consistent with adjacent properties, and is similar to existing permitted uses in the immediate vicinity.

9.345 Variance.

- (1) A development permit allowing a variance in the requirements of this Code or the Standards Document may be granted if the following criteria are met:
 - (a) The property owner is unable to enjoy substantial property rights enjoyed by others in same zoning classification.
 - (b) The application of rules and regulations would cause an undue or unnecessary practical difficulty or physical hardship.
 - (c) The variance will not be materially detrimental to the purposes of this Code or property in the same zone or vicinity in which the property is located.
 - (d) The variance is consistent with and promotes the objectives of the Comprehensive Plan.
 - (e) The variance granted is the minimum variance that would alleviate the hardship.
- (2) A variance shall not be utilized to permit a use not allowed in the applicable zone.

9.350 Revocation of Permit.

A permit may be revoked if development or use is not being used for the purpose or in the manner for which the development permit was granted or if the development or use is prohibited by law.

This ordinance shall not affect any development permitted before this ordinance is enacted or any application for a development permit pending at the time this ordinance is enacted.

9.355 Rezoning.

- (1) A development permit allowing a change in use where a new zone designation is required and where this change is determined to be quasi-judicial in nature may be granted if the following criteria are met:
 - (a) The change is consistent with and promotes the objectives of the Comprehensive Plan.
 - (b) The change is consistent with and promotes the objectives of this code and the Standards Document.

9.360 Comprehensive Plan Change.

A development permit allowing a change in the Comprehensive Plan may be granted if the change is consistent with and promotes the objectives of state statute including but not limited to LCDC Goals and Guidelines.

9.365 Subdivision and Minor Partition

- (1) A development permit allowing subdivision or major partition may be granted if the following criteria are met:
 - (a) The proposed development is consistent with and promotes the objectives of the Comprehensive Plan.
 - (b) The proposed development is consistent with and promotes the objectives of this Code and the Standards Document.

9.370 Annexation.

A request for annexation determined to be quasi-judicial in nature may be granted if the following criteria are met:

- (1) The land is contiguous with the city limits and located within the City's urban growth boundary as designated in the Comprehensive Plan.
- (2) The annexation is consistent with and promotes the Comprehensive Plan.
- (3) The annexation is consistent with and promotes the objectives of all other provisions of this Code and the Standards Document.
- (4) The development of the land to be annexed is compatible with the rational and logical extension of utilities and roads to the surrounding area.
- (5) Adequate public facilities and services can reasonably be made available to the annexed property without negatively impacting existing systems and the City's ability to adequately serve all areas within the existing city limits and an agreement has been reached as to how the provision of facilities or services will be financed.

9.375 Vacation.

A development permit allowing a vacation determined to be quasi-judicial in nature may be granted if the following criteria are met:

- (1) The consent of the owners of the requisite area has been obtained.
- (2) Notice has been given.
- (3) The public interest will not be prejudiced by the vacation.
- (4) The vacation is consistent with and promotes the objectives of the comprehensive Plan, this Code and the Standards Document.

9.380 Conditions Imposed When Development Allowed.

When a nonresidential Type II, III, or IV development is allowed, conditions other than or in addition to those set forth in this Code or the Standards Document may be imposed upon the development to insure consistency with this Code, the Standards Document and the Comprehensive Plan. Such conditions shall be to make the use as compatible as feasible with its surroundings, conserve and stabilize the value of adjacent property, encourage the most appropriate use of land, present an attractive appearance that is

consistent with adjacent properties, and is similar to existing permitted uses in the immediate vicinity.

Article IV- Establishment of Zones

9.500 Classification of Zones.

For the purposes of this Code, the following zones are hereby established:

Zone Classifications

ZONE DESIGNATION	ABBREVIATION
Low Density Residential	R-1
Multi-Family Residential	
Commercial-Residential	R-2
Rural Residential	
General Commercial	C-R
General Industrial	
Woodland-Open Space-Agricultural	RR-2
	C-1
	M-1
	WOA

9.505 Location of Zones.

The boundaries for the zones listed in this Code are indicated on the Drain zoning map together with any amendments therefore which zoning map is hereby adopted by reference, a copy of which shall be maintained in the office of the City Administrator. Zoning designations on the zoning map shall be interpreted to be extensions of lot lines to the center of creeks, channels, other water bodies, or rights-of-way.

9.510 Low Density Residential (R-1). Uses Permitted Outright.

In an R-1 zone, the following uses are permitted outright when located on a single lot or parcel:

- (1) One single family dwelling.

- (2) One two-family dwelling or duplex.
- (3) Manufactured home

9.515 Low Density Residential (R-1). Accessory Uses Permitted Outright.

In an R-1 zone, the following uses are permitted outright only in conjunction with any of the uses specified in section 9.510 of this Code:

- (1) Home gardens and orchards.
- (2) Sheds or other storage facilities for appurtenant storage.
- (3) One guest house without cooking facilities.
- (4) A home occupation, as provided in the standards document.
- (5) Swimming pools subject to the Standards Document.

9.520 Low Density Residential (R-1). Conditional Uses.

In an R-1 zone, the following uses are permitted if the criteria set forth in section 9.340 of this Code have been met:

- (1) Public and semi-public uses including churches, community buildings, governmental uses, rest homes, nursing homes, schools, day care centers, bed and breakfast home stays and utility structures.
- (2) Uses of the same general type as those permitted in sections 9.515 and 9.520 of this Code, provided, however, that uses specifically allowed outright in another zone or of the same general type as those specifically allowed outright in another zone shall not be permitted.

9.525 Multi-Family Residential (R-2). Uses Permitted Outright.

In an R-2 zone, the following uses are permitted outright.

- (1) One Single Family dwelling.
- (2) One Two-Family Dwelling or Duplex
- (3) Triplexes
- (4) Quadplexes

- (5) Multi-Plexes
- (6) Manufactured home

9.530 Multi-Family Residential (R-2). Accessory Uses Permitted Outright.

In an R-2 zone, the following uses are permitted outright only in conjunction with any of the uses specified in section 9.524 of this Code:

- (1) Home gardens and orchards.
- (2) Sheds or other storage facilities for appurtenant storage.
- (3) One guest house without cooking facilities.
- (4) A home occupation as provided in the Standards Document.
- (5) Crop cultivation.
- (6) Sheds or other storage facilities for appurtenant storage.
- (7) Swimming pool subject to the Standards Document.

9.535 Multi-Residential (R-2). Conditional Uses.

In an R-2 zone, the following uses are permitted if the criteria set forth in section 9.340 of this Code have been met:

- (1) Public and semi-public uses including churches, community buildings, governmental uses, rest homes, nursing homes, schools, day care center, bed and breakfast home stays and utility structures.
- (2) Uses of the same general type as those permitted in sections 9.530 and 9.535 of this Code, provided, however that uses specifically allowed outright in another zone or of the same general type as those specifically allowed outright in another zone shall not be permitted.

9.540 Commercial-Residential (C-R). Uses Permitted Outright.

In a C-R zone, the following uses are permitted outright:

- (1) One single-family dwelling.
- (2) One two-family dwelling or duplex.
- (3) Residential use of second or third floors of building of which the ground floor function is noted in Section 9.540 (4)(5)(6).
- (4) Bed and breakfast home stays and motels.
- (5) Retail uses within a building including apparel and accessory stores, bicycle stores, bookstores, cameras and photographic supplies, gift, novelty and souvenir stores, jewelry stores, optical goods stores, radio and television repair stores, record stores, sporting goods, stores, stationary stores, retail bakery, drug stores and restaurants.
- (6) Offices, including business offices, professional offices, studios, utility offices.
- (7) Service uses within a building: Barber shops, beauty parlors, electrical and appliance repair services, watch, clock and jewelry repair services, shoe repair.
- (8) Both commercial and residential uses may be located on one lot or parcel.
- (9) Manufactured home

9.545 Commercial-Residential (C-R). Accessory Uses Permitted Outright.

In a C-R zone, the following uses are permitted outright only in conjunction with any of the uses specified in section 9.540 of this Code:

- (1) Sheds or other storage facilities for appurtenant storage.
- (2) One guest house without cooking facilities.
- (3) Swimming pools subject to the Standards Document.

9.550 Commercial-Residential (C-R). Conditional Uses.

In a C-R zone, the following uses are permitted if the criteria set forth in section 9.340 of this Code have been met:

- (1) Public and semi-public uses including churches, community buildings, governmental uses, rest homes, nursing homes, schools, day care centers and utility structures.
- (2) Uses of the same general type as those permitted in sections 9.540, 9.545 and 9.550 of this Code, provided, however that uses specifically allowed outright in another zone or of the same general type as those specifically allowed outright in another zone shall not be permitted.

9.555 General Commercial (C-1). Uses Permitted Outright.

In a C-1 zone, the following uses are permitted outright:

- (1) Retail uses within a building including apparel and accessory stores, bicycle stores, bookstores, cameras and photographic supplies, department stores, florists, furniture and home furnishing stores, general stores, gift, novelty and souvenir stores, antique and collectable stores, jewelry stores, optical goods stores, radio and television repair stores, record stores, sporting goods stores, stationary stores, variety stores, bakeries - retail or manufacturing, drug stores, food stores, hardware stores, restaurants, hotels and motels.
- (2) Office Uses: Banks, business offices, professional offices, studios, utility offices.
- (3) Service uses within a building: Barber shops, beauty parlors, electrical and appliances repair services, self-service laundries, laundry and dry cleaning outlets, photo-finishing, printing shops, theaters, water, clock and jewelry repair services, shoe repair.

9.560 General Commercial (C-1). Conditional Uses.

In a C-1 zone, the following uses are permitted if the criteria set forth in Section 9.340 of this Code have been met:

- (1) Public and semi-public uses including churches, community buildings, governmental uses, rest homes, nursing homes, schools, day care centers, and utility structures.

- (2) Service uses inside or outside a building: auto repair, auto sales, boat sales, car wash, gasoline sales, nursery, outdoor market, plumbing and heating service, recreation facility, second hand sales, veterinary clinic.
- (3) Light manufacturing enclosed wholly within a building, with limited freight delivery, and not located within 400 feet of another light manufacturing use. The use must not be objectionable due to odor, dust, smoke, noise vibration or appearance. Off-street parking for workers, company vehicles, and freight deliveries must be provided, as required in the Development Standards, Section 2. Any use must comply with all local, state and federal regulations.
- (4) Uses of the same general type as those permitted in Sections 9.555 and 9.560 of this Code, provided, however, that uses specifically allowed outright in another zone or of the same general type as those specifically allowed outright in another zone shall not be permitted.
- (5) One single family dwelling in a building constructed for that purpose. Excepting, such may be resided in by senior citizens over 60 years of age as a permitted use without need for a conditional use permit. All single family dwellings allowed in this zone shall comply with the minimum lot size and setbacks established for residential uses in a Commercial Residential (C-R) zone (Sections 9.600 and 9.605).
- (6) Residential use of second and third floors of a building in which the ground floor function is noted in Section 9.540(4-6)

9.565 General Industrial (M-1). Uses Permitted Outright.

In an M-1 zone, the following uses are permitted outright:

- (1) Building materials, contractors yard, feed or fuel yard.
- (2) Electronics plants.
- (3) Machine shops.
- (4) Light manufacturing within a building.
- (5) Outside storage and storage yards.

- (6) Retail sales of products manufactured on the premises.

9.570 General Industrial (M-1). Conditional Uses.

In an M-1 zone, the following uses are permitted if the criteria set forth in section 9.340 of this Code have been met:

- (1) Public and semi-public uses, including governmental uses, and utility structures
- (2) Heavy manufacturing, manufacturing which produces noise audible at the property line, excessively bright light, odors detectable at the property line, or entail a fire or safety hazard.
- (3) Residence for security guards.
- (4) Uses of the same general type as those permitted outright in sections 9.565 and 9.570 of this Code, provided, however, that uses specifically allowed outright in another zone or for the same general type as those specifically allowed outright in another zone may not be permitted.

9.580 Accessory and Conditional Uses in all Zones.

Accessory and conditional uses shall comply with all requirements and standards for primary uses within that zone unless otherwise provided to the contrary.

9.585 Woodland-Open Space-Agricultural District (WOA).

Intent: This district is intended for application to areas within the city or urban growth boundary (UGB) which are not planned at present for urban levels of development, but which may be rezoned for and planned for urban levels of development.

Uses Permitted Outright: In the WOA zone, the following uses and activities and their accessory buildings and uses are permitted subject to the general provisions and exceptions set forth by this ordinance:

- (1) Forest management;
- (2) Farm use;
- (3) Fish and wildlife management;

- (4) Fire prevention, detection, and suppression facilities;
- (5) Nursery for the growing, sale and display of trees, shrubs and flowers;
- (6) Water impoundments with less than 1000 acre feet of storage capacity, in conjunction with beneficial uses of water customarily associated with farm or forest uses or as a source of water for domestic or municipal use, provided the necessary state and federal permits have been issued.
- (7) Residential facility, residential care center, or residential home where there is an existing residential use which is non-conforming solely due to the zone in which the residential use is located.
- (8) Home occupations.

9.590. Woodland-Open Space-Agricultural District (WOA). Uses Permitted Conditionally

In the WOA zone, the following uses and activities are permitted, subject to the provisions of
Article III- Criteria for Decision Making:

- (1) Single family dwelling customarily provided in conjunction with a use permitted in this classification, providing residence for landowner or immediate family member, providing that a minimum average density of five acres per dwelling shall be maintained;
- (2) Winery;
- (3) Kennels;
- (4) Golf Course;
- (5) Roadside stand;
- (6) Bed and Breakfast home or facility where there is an existing residential use which is non-conforming solely due to the zone in which the residential unit is located;

- (7) Public and semi-public uses and activities essential to the physical, social, and economic welfare of the area, including, but not limited to fire stations, schools, granges, community halls and churches;
- (8) Publicly owned parks, playgrounds, campgrounds, boating facilities, lodges, camps, and other such recreational facilities;
- (9) Utility structures;
- (10) Other uses later deemed by the Planning Commission to be conditional.

9.595 Rural Residential (RR-2)

Intent: To allow low density residential home sites in areas of steep slopes or areas within the UGB which are committed lands. The RR zone is also intended to provide transition from more intense residential development to the WOA uses.

Uses Permitted Outright: In the RR zone, the following uses and activities and their accessory buildings and uses are permitted subject to the general provisions and exceptions set forth by this ordinance:

- (1) Single family dwellings, including manufactured homes, manufactured home parks and subdivisions.
- (2) Residential facility, residential care center, or residential home;
- (3) Home occupations;
- (4) Forest management
- (5) Farm use
- (6) Fish and wildlife management;
- (7) Fire prevention, detection and suppression facilities;
- (8) Water impoundments with less than 1000 acre feet of storage capacity, in conjunction with beneficial uses of water customarily associated with farm or forest uses or as a source of water for domestic or municipal use, provided the necessary state and federal permits have been issued.

9.596 Rural Residential (RR-2) Uses Permitted Conditionally

In the RR zone, the following uses and activities are permitted, subject to the provisions of Article III- Criteria for Decision Making:

- (1) Public and semi-public uses and activities essential to the physical, social and economic welfare of the area, including but not limited to fire stations, schools, granges, community halls and churches;
- (2) Nursery for the growing, sale and display of trees, shrubs and flowers;
- (3) Publicly owned parks, playgrounds, campgrounds, boating facilities, lodges, camps, and other such recreational facilities;
- (4) Utility structures;
- (5) Other uses later deemed by the Planning Commission to be conditional.

9.600 Minimum Lot Size.

- (1) The minimum lot sizes and shapes for the following uses shall be as follows:

Minimum Lot Size

Zone	Number of Units	Minimum Lot Size (sq. ft. unless otherwise noted)	Minimum Width at Street Frontage (ft)**	Minimum Length (ft.)
WOA	1	5 acres	60	85
RR-2	1	87,200	60	85
R-1	1	6,000 (corner lot 7,000)	60 (corner lot 70)	85
R-1	Duplex	10,000	100	85

check w/ DLCD

	# Units	Min. Lot Size	Min. St. Width	Min Length
R-2	3	9,000	80	100
R-2	4	11,000	80	100
R-2	5	14,000	80	100
R-2	6	17,000	100	100
R-2	7	20,000	100	100
R-2	8	22,000	100	100
R-2	9	25,000	100	100
R-2	10	28,000	100	100
R-2	12	30,000	100	100
R-2	13	33,000	100	100
R-2	14	36,000	100	100
R-2	15	39,000	100	100
R-2	16	41,000	100	100
R-2		44,000	100	100
C-R	Single Family Residence	6,000 (corner lot 7,000)	60 (corner lot 70)	85
C-R	Duplex	10,000	100	85
C-R	Commercial	6,500	65	100
Zone	Number of Units	Minimum Lot Size (sq ft. unless otherwise noted)	Minimum Width at Street Minimum Width	Minimum Length (ft.)
C-1	Commercial	6,500 (corner lot 7,000)	65 (corner lot 70)	100
M-1	Industrial	20,000	100	100

**Except where the lot is located on a cul de sac in which case minimum width at street frontage shall be 40' for all uses.

9.605 Setbacks.

- (1) The following minimum setbacks shall be maintained:

Minimum Setbacks

Zone	Yard	Main Building and Guest House (Setback in Feet)	Required Off-Street Parking (Setback in feet)	Accessory Building (Setback in feet)
WOA	Front	20	20	20
WOA	Side Where No Street	10	10	10
WOA	Side Adjacent to Street- Corner Lot	20	20	20
WOA	Rear	20	20	20
RR-2	Front	20	20	20
RR-2	Side Where No Street	10	10	10
RR-2	Side Adjacent to Street- Corner Lot	20	20	20
RR-2	Rear	20	20	20
R-1	Front	20	20	20
R-1	Side Where No Street	5	5	5
R-1	Side Adjacent to Street- Corner Lot	10	10	10
R-1	Rear	10	1	10
R-2	Front	20	20	20
R-2	Side Where No Street	5 (1 story) 10 (2 story)	5	5
R-2	Side Adjacent to	10	5	10

Zone	Yard	Main Building and Guest House (Setback in Feet)	Required Off-Street Parking (Setback in feet)	Accessory Building (Setback in feet)
	Street- Corner Lot			
R-2	Rear	10	5	10
C-R	Same as R-2	Same as R-2	Same as R-2	Same as R-2
C-1	Front	0	0	0
C-1	Side	0	0	0
C-1	Side Adjacent to Residential Zone or Use	5	5	0
C-1	Rear- Except as Noted Below	0	0	0
C-1	Rear Adjacent to Residential Zone or Use	15	5	0
M-1	Front	0	0	0
M-1	Side- Except as Noted Below	0	0	0
M-1	Side Adjacent to Zone or Use	20	5	10
M-1	Rear Adjacent to Residential Zone or Use	25	5	15

- (2) Additional setbacks may be required where a permit is required prior to development as a condition of the development.
- (3) Additional setbacks may be required where necessary to maintain a vision clearance and on corner lots.

- (4) Open, uncovered porches, fireplaces, cornices, and eaves and undetachable mobile home drawbar or hitches, may project up to two feet into the required setback, provided the setback is not less than three feet.

9.610 Maximum Structure Height.

The maximum structure height for the following uses shall be as follows:

Maximum Structure Height

Zone	Structure	Maximum Height in Feet
WOA	All	45' Except fences which shall be no greater than 6' in height.
RR-2	Main Building	40'
RR-2	Energy Apparatus on Main Bldg.	5' above Main Bldg.
RR-2	Accessory Building	15' if less than 5' from side property line, 25' elsewhere
RR-2	Antennas, spires, etc.	75'
RR-2	Fences and Hedges	3' if less than 20' from the from property line, or less than 10' from street side property line of a corner lot; 6' elsewhere.
R-1	Main Building	30'
R-1	Energy Apparatus on Main Bldg.	5' above Main Bldg.
R-1	Accessory Building	15' if less than 5' from side property line, 25' elsewhere
R-1	Antennas, spires, etc.	75'
R-1	Fences and Hedges	3' if less than 20' from the from property line, or less than 10' from street side

Zone	Structure	Maximum Height in Feet
		property line of a corner lot; 6' elsewhere.
R-2	Main Building	30'
R-2	Energy Apparatus on Main Bldg.	5' above Main Bldg.
R-2	Accessory Building	15' if less than 10' from side property line where adjacent to residential zone; 25' elsewhere.
R-2	Antennas, spires, etc.	75'
R-2	Fences and Hedges	3' if less than 20' from the from property line, or less than 10' from street side property line of a corner lot; 6' elsewhere.
C-R	Main Building	30'
C-R	Energy Apparatus on Main Bldg.	5' above Main Bldg.
C-R	Accessory Building	15' if less than 5' from side property line; 25' elsewhere.
C-R	Fences and Hedges	3' if less than 20' from the from property line, or less than 10' from street side property line of a corner lot; 6' elsewhere.
C-1	Main Building	50'
C-1	Accessory Building	25'
M-1	Antennas, spires, etc.	75'

9.615 Maximum Lot Coverage.

The maximum lot coverage including all structures, driveways and parking areas for the following uses shall not exceed the following percent of total lot area:

Maximum Lot Coverage

Zone	Percent of Total Lot Area
WOA	Not more than 40% of the area shall be covered by all buildings located thereon.
RR-2	Same as WOA
R-1	70%
R-2	70%
C-R Residential	70%
C-R Commercial	95%
C-1	95%
M-1	100%

9.620. Requirements for New Construction.

All new construction must comply with all other provisions of this Code, with City specifications, and with the standards and conditions set forth in the Standards Document.

Article V - Flood Hazards

9.700 Definitions

For the purposes of sections 9.700 to 9.785 of this Code, the following words shall have their assigned meaning:

- (1) Area of Special Flood Hazard means the land in the flood plain subject to a one percent chance of flooding in any given year.
- (2) Base Flood means the flood having a one percent chance of being equaled or exceeded in any given year.

- (3) Development means human-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations located within the area of special flood hazard.
- (4) Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from (1) overflow of inland or tidal waters and/or (2) the unusual and rapid accumulation of runoff of surface waters from any source.
- (5) Flood Insurance Rate Map (FIRM) means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
- (6) Flood Insurance Study means the official report provided by Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.
- (7) Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- (8) Mobile Home means a structure that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.
- (9) New Construction means structures for which the "start of construction" commenced on or after the effective date of this ordinance (June 12, 1979).
- (10) Start of Construction means the first placement of permanent construction or a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways, nor does it include the excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure.

- (11) Structure means a walled and roofed building or mobile home that is principally above ground.
- (12) Substantial Improvement means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:
 - (a) before the improvement or repair is started, or
 - (b) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

9.705 Lands to Which this Ordinance Applies.

Sections 9.700 to 9.785 are applicable to all areas of special flood hazards within the jurisdiction of the City of Drain.

9.710 Basis for Establishing the Areas of Special Flood Hazard

update

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of Drain" dated February 1979 with accompanying Flood Insurance Maps is hereby adopted by reference and declared to be a part of this Code. The Flood Insurance Study is on file at the City Administrator's Office, City Hall, Drain, Oregon.

9.715 Establishment of Development Permit.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in section 9.710. The permit shall be for all "structures" including "mobile homes," and for all other "development" including fill and other activities, all as defined in section 9.700 of this Code.

9.720 Implementation of Flood Hazard Provisions.

The Planning Commission of the City of Drain is hereby appointed to administer and implement sections 9.700 to 9.785 of this Code by granting or denying development permit applications in accordance with this Code.

9.725 Permit Review

The Planning Commission shall have the following duties and responsibilities:

- (1) Review all development permits to determine that the permit requirements of this Code have been satisfied.
- (2) Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.
- (3) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure the encroachment provisions of section 9.785 (1) are met.

9.730 Use of Other Base Flood Data

When base flood elevation data has not been provided in accordance with section 9.710, the Planning Commission shall obtain, review, and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer section 9.780.

9.735 Information to be Obtained and Maintained

The Planning Commission shall:

- (1) Obtain and record actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- (2) For all new or substantially improved flood proofed structures:
 - (a) verify and record the actual elevation (in relation to mean sea level), and
 - (b) maintain the flood proofing certifications required in section 9.780(2)(b)(3).

9.740 Alteration of Watercourses

The Planning Commission shall:

- (1) Notify adjacent communities and the Water Resources Department prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

9.745 Interpretation of "FIRM" Boundaries

The Planning Commission shall make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in section 9.750 of this Code.

9.750 Appeal to City Council.

- (1) The city council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the planning commission in the enforcement or administration of sections 9.700 to 9.785 of the Code.
- (2) In passing upon such applications, the city council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Code, and:
 - (a) The danger that other materials may be swept onto other lands to the injury of others;
 - (b) The danger to life and property due to flooding or erosion damage.
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) The importance of the services provided by the proposed facility to the community;

- (e) The necessity to the facility of a waterfront location, where applicable;
 - (f) The availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage;
 - (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
 - (k) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (3) The planning commission shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

9.755 Variances.

- (1) The planning commission shall hear and decide requests for variances from the requirements of sections 9.700 to 9.875 of this Code.
- (2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this sections.
- (3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

- (4) Variances shall not be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Variances shall only be issued upon:
 - (a) A showing of good and sufficient cause;
 - (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public upon consideration of the factors identified in section 9.750 (2) of this Code, or conflict with existing local laws or ordinances.
- (6) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (a-k) in section 9.750 have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (7) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest flood elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (8) The Planning Commission shall maintain records of all variances granted and report them to the Federal Insurance Administration upon request.
- (9) Any party aggrieved by the planning commission's denial of a request for a variance may appeal this decision to the city council as provided in section 9.750 of this Code.

9.760 Anchoring.

In all areas of special flood hazards, the following anchoring standards are required.

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) All mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:
 - (a) Over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, with mobile homes less than 50 feet long requiring one additional tie per side;
 - (b) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with mobile homes less than 50 feet long requiring four additional ties per side;
 - (c) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and,
 - (d) any additions to the mobile home be similarly anchored.
- (3) An alternative method of anchoring may involve a system designed to withstand a wind force of 90 miles per hour or greater. Certification must be provided to the planning commission that this standard has been met.

9.765 Construction Materials and Methods.

In all areas of special flood hazards, the following construction materials and methods standards are required:

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

9.770 Utilities.

In all areas of special flood hazards, the following utility standards are required:

- (1) All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

9.775 Subdivision Proposals.

In all areas of special flood hazards the following standards are division proposals:

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage;
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or five acres (whichever is less).

9.780 Building Permits.

In all areas of special flood hazards the following standards are required for all building permits.

- (1) Proposed construction shall be reasonably safe from flooding. The test of reasonableness is local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available.
- (2) Proposed construction shall also comply with the following specific standards:
 - (a) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to one (1) foot above base flood elevation.

- (b) New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest flood, including basement, elevated to one foot above the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
 - (i) be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - (ii) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
 - (iii) be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the planning commission as set forth in section 9.73 of this Code.
 - (iv) For new mobile home parks and mobile home subdivision; for expansions to existing mobile home parks and mobile home subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds 50 percent of value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced; and for mobile homes not placed in a mobile home park or mobile home subdivision, require that:
 - (1) stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be elevated to one foot above the base flood level;
 - (2) adequate surface drainage and access for a hauler are provided; and
 - (3) in the instance of elevation on pilings, that:
 - lots are large enough to permit steps,
 - pilings foundations are placed in stable soil no more than ten feet apart, and;
 - reinforcement is provided for piling more than six feet above the ground level.

- (v) No mobile home shall be placed in a floodway except in an existing mobile home park or existing mobile home subdivision.

9.785 Floodways.

In all floodways within areas of special flood hazards, the following standards are required.

- (1) Encroachments, including fill, new construction, substantial improvements, and other development are prohibited unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) If subsection (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of sections 9.760 to 9.780 of this Code.
- (3) The placement of any mobile homes, except in an existing mobile home park or existing mobile home subdivision is prohibited.

Article VI - Planning Commission

9.800 Creation of Planning Commission.

- (1) There is hereby created the Planning Commission of the City of Drain.
- (2) The Planning Commission shall consist of ^{three} five members appointed by the City Council for terms of three years, said terms to be staggered in such a manner that at least one position shall be appointed in each year of three consecutive years.
- (3) No member shall be an employee or officer of the City, but the City Administrator shall serve as an ex officio non-voting member.
- (4) All members shall be residents of the City of Drain.
- (5) The Commission shall elect a chairperson and such other officers as it deems necessary.

9.805 Quorum.

A majority of the Planning Commission shall constitute a quorum.

9.810 Meetings

The Planning Commission shall meet at least once each month at a regular time and place fixed by the Commission. Special meetings may be called at any time by the chairperson or by three members provided that notice of such meetings shall be given as provided in Section 2.105 of the City of Drain's Administrative Code.

9.815 Employment of Staff

The City Planning Commission, upon the approval of the City Council, shall have power and authority to employ consulting advisors on municipal problems, a secretary and such clerks as may be necessary, and to pay for their services and for such other expenses as such Commission may lawfully incur, including the necessary disbursements incurred by its members in the performance of their duties as members of said Commission, out of such funds as are therefore placed at the disposal of the Commission by the City Council.

9.820 Powers and Duties Generally

It shall be the duty of the City Planning Commission, and they shall have the power, except as otherwise provided by law, to recommend and make suggestions to the City Council as to all other public authorities concerning the development and use of land in and around the city and to take all action necessary or proper to carry out the provisions of this Code and the responsibilities specified in this Code.

Article VII - Abatement and Penalty

9.990 Abatement and Penalty.

- (1) In addition to penalties provided by state law, a person who violates or fails to comply with a provision of the ordinance shall, upon conviction, be punished by imprisonment for not more than one hundred (100) days or by fine of not more than Five Hundred Dollars (\$500) 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.