

ORDINANCE NO. 355

AN ORDINANCE AMENDING ORDINANCE NO. 325, PROVIDING FOR
SUBDIVISION STANDARDS AND PROCEDURES
AND DECLARING AN EMERGENCY

WHEREAS, the City of Brookings did enact Ordinance No. 325 pertaining to subdivision standards and procedures within the City of Brookings on December 17, 1979, effective January 16, 1980; and

WHEREAS, it has been determined that said Ordinance be revised in certain particulars, including additional provisions relating to procedures necessary for major and minor partitioning,

NOW THEREFORE, the City of Brookings Ordains as follows:

GENERAL

(A) The amendments, additions and deletions herein contained shall supercede and replace any prior terms or provisions of Ordinance 325 where such are inconsistent with these present enactments; and further, where not so inconsistent said present enactments hereincontained shall augment, reinforce and be interpreted in conjunction with said prior terms and provisions of Ordinance No. 325.

(B) The provisions of this Ordinance are severable. If any section, sentence, clause or other phrase of this Ordinance is judged by a Court of competent jurisdiction to be invalid, said decision shall not effect the validity of the remaining portions of this Ordinance.

(C) All other terms and provisions of Ordinance No. 325 not eluded to herein shall be and remain in full force and effect; and further, all of said provisions shall apply fully to the enactments hereincontained, including the administrative and penalty provisions of Ordinance No. 325.

The additions, alterations, amendments and deletions pertaining to Ordinance No. 325 shall be and are as follows:

ARTICLE I. INTRODUCTORY PROVISIONS

Section 1.030 (14) Amended: Street or Road. A public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining or agricultural purposes.

Section 1.030 (15) Revised: Subdivide land. To divide any tract or registered parcel or plat of land into four (4) or more units or lots for the purpose, whether immediate or future, of transfer of ownership or for building development, including all changes in street and lot lines.

Section 1.030 Add: (19) Major partition. A partition which includes the creation of a road or street.

Section 1.030 Add: (20) Parcel. A unit of land that is created by a partitioning of land.

Section 1.030 Add: (21) Partition land. To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. "Partition land" does not include divisions of land resulting from lien foreclosures, division of land resulting from the creation of cemetary lots; and division of land made pursuant to a court order, including but not limited to court orders in proceedings involving testate or intestate succession; and "partition land" does not include any adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by any applicable zoning ordinance.

Section 1.030 Add: (22) Flag lot. A lot which is connected to a street by a narrow strip of land which is used or can be used as access to the major portion of the lot and which is part of the lot.

ARTICLE 2. PLAT APPROVAL PROCEDURE

Section 2.060. Delete. Replace as follows:

Section 2.060. Subdivision Construction.

(1) The subdivider shall not proceed with construction of the subdivision or subdivision improvements until after preliminary plat approval and after the City Council has approved all of the subdivider's construction plans and particulars of procedures to be used for all phases of work upon the subdivision real estate from initial clearing, grading, excavation and site preparation to and including all construction of improvements necessary for the completion of the subdivision; and further, all of said review of said matters by the City Council shall be based upon construction, engineering and such other related standards as shall be set by and within the exclusive discretion of the City Council. All such required submittals of documentation and procedures required hereunder of the subdivider shall be submitted as a complete package for review by the City Manager and engineering staff and approval by the City Council.

(2) Approval of improvement construction plans shall not constitute or imply the issuance of building, electrical or mechanical permits, or any other permit required prior to the initiation of construction.

(3) Prior to receiving final City Council approval to start work upon the subdivision real estate or construction of improvements thereon,

as hereinabove provided for, the subdivider shall pay to the City such funds as are set forth in a schedule promulgated by the City Council for plan checking, construction inspection, engineering, legal expenses, and other such costs associated with the construction of a subdivision and subdivision improvements. Said schedule may from time to time be amended and updated by the City Council by resolution.

(4) If at any time during the construction of the subdivision or subdivision improvements by the subdivider, the City Council determines that its prior approvals have not or are not being followed by the subdivider, then the City Council may authorize the City Manager or City Attorney to forthwith issue a stop work order halting the subdivider's activities upon the subdivision. After a stop work order has been issued the subdivider shall not recommence work upon the subdivision until such time as he has deposited with the City an amount of money as determined by the City Council to cover additional costs to the City for construction inspection, engineering, legal expenses and other such costs associated with the issuance of the stop work order and any future activities or anticipated problems connected therewith in the continuing construction of the subdivision. The City Council may waive this requirement of a deposit, but in any event the City shall be reimbursed for its above-referred costs and expenses necessitated by the issuance of the stop work order.

(5) Utility services from buildings shall not be connected until utility lines are completed and approved and accepted by the City Council.

Section 2.110. Delete. Replace as follows:

Section 2.110. Bond

(1) The subdivider shall file with the agreement, to assure his full and faithful performance thereof, one of the following:

- (a) An irrevocable letter of credit payable to the City in the event the agreement for improvements is not performed.
- (b) A surety bond executed by a surety company authorized to transact business in the state.
- (c) Cash.

(2) Such assurance of full and faithful performance shall be for a sum approved by the City Engineer as sufficient to cover the cost of said improvements, engineering, inspection, and incidental expenses, and to cover replacement and repair of existing streets and other public improvements damaged in the development of the subdivision and must be approved by the City Engineer as to form.

(3) In the event the subdivider fails to complete all improvement work in accordance with the provisions of this Title, and the City has completed same, or if the subdivider fails to reimburse the City for the cost of inspection, engineering, and incidental expenses, and to

cover cost of replacement and repair of existing streets or other improvements damaged in the development of the subdivision, the City shall call on the surety for reimbursement, or shall appropriate from any cash deposits funds for reimbursement. In any such case, if the amount of surety bond or cash deposit exceeds all cost and expense incurred by the City, it shall release the remainder of such bond or cash deposit, and if the amount of the surety bond or cash deposit is less than the cost and expense incurred by the City, the subdivider shall be liable to the City for such difference.

Section 2.130 Add as follows:

Section 2.130 Major Partitioning Procedure

(1) All major partitions shall follow all approval procedures described in Sections 2.010 through 2.050 for preliminary plat approval of a subdivision except that where the word "plat" is referred to, the word "plan" will be substituted. Upon recommendation of the City Manager to the Planning Commission that the construction plans and procedures for work upon and improvements to the partitioned parcel be submitted to the City Council pursuant to Section 2.060, the Planning Commission may so refer the matter to the City Council for prior approval of construction and if so submitted to the City Council no work by the partitioner upon the premises shall commence until after the requirements of Section 2.060 are fulfilled.

(2) Within twelve (12) months after approval of the preliminary plan for a major partition, the partitioner shall prepare a final map in conformance with the approved preliminary plan and the provisions of this ordinance.

(3) If the partitioner wishes to proceed with the major partition after the expiration of the 12-month period following approval of the preliminary plan of the major partition by the planning commission, he must resubmit his preliminary plan to the planning commission and make any revisions considered necessary to meet changed conditions.

(4) The major partition final map shall be reviewed through the same procedures as final plat is reviewed in Sections 2.080 and 2.090.

(5) The major partition final map shall be recorded with the County Clerk and Recorder within 30 days after the last required signature is obtained. Approval of the final map shall be null and void if the 30-day period is exceeded.

Section 2.140 Add as follows:

Section 2.140 Minor Partition Procedure

(1) The partitioner shall submit a sketch plan of the proposed minor partition to the City Manager for review. The City Manager will review the sketch plan and suggest changes as necessary to meet the appropriate zoning ordinance and comprehensive plan requirements.

(2) After initial review of the sketch plan, the partitioner shall draw a tentative plan on a reproducible mylar film which contains the following information:

- (a) The date, northpoint, scale and sufficient description to define the location and boundaries of the parcel to be partitioned.
- (b) Name and address of the record owner(s) and of who prepared the plan.
- (c) Approximate acreage of the parcel under a single ownership or, if more than one ownership is involved, the total contiguous acreage of all landowners directly involved in the minor partitioning.
- (d) For land adjacent to and within the parcel to be partitioned, the locations, names, and existing widths of all streets and easements of way; location, width and purpose of all other existing easements; and location and size of sewer and water lines and drainage ways and the location of power poles.
- (e) Outline and location of existing buildings to remain in place.
- (f) Lot layout, showing size and relationship to existing or proposed streets and utility easements.
- (g) Proposed building site, if partitioning occurs, area considered geologically hazardous in comprehensive plan.

(3) The tentative plan will then be submitted to the Planning Commission for final review and approval or denial within thirty (30) days of submission. The Planning Commission will review the tentative plan for conformance with the City's comprehensive plan, zoning ordinance, street plan and any approved capital improvement plan. The City Manager will ensure that the appropriate utility companies be notified. The Planning Commission may require the dedication of easements or right-

of-ways, if said dedication is in conformance with an adopted capital improvements plan and/or street plan. The Planning Commission shall make findings of fact for all decisions made relevant to the application.

(4) Upon approval of the tentative plan, the partitioner shall submit surveyed tentative plan to the City Recorder for signature. One signed copy of the reproducible mylar and findings of fact shall be kept by the City Recorder.

(5) Should the applicant wish to appeal the decision of the Planning Commission, the appeal shall be made pursuant to the procedures in Section 9.010 of this ordinance.

ARTICLE 3. INFORMATION ON PRELIMINARY PLAT

Sections 3.030 and 3.050 Change as follows:

Change the word "Partitioning" to "Division".

ARTICLE 4. INFORMATION ON CONSTRUCTION PLANS

Section 4.030 Specific Information Add the following:

(6) Grading, clearing and excavation of street right-of-ways, lot areas, and real estate parcels, when required by the Planning Commission or the City Council, shall be under the supervision of an engineer or geologist who is knowledgeable and skilled in the treatment of soils, soil stabilization and soil erosion. Due consideration shall be given to the existing terrain, cross-slope and vegetation. Approval of the grading, clearing and excavation plan by the City Engineer and the City Council shall be given prior to any construction or work upon the premises.

ARTICLE 5. INFORMATION ON FINAL PLAT

Section 5.040 Add as follows:

Section 5.040 Major Partition Final Map

(1) A major partition final map shall meet all general information requirements outlined in Section 5.020 on a scale of not less than one (1) inch equals 50 feet.

ARTICLE 7. DESIGN STANDARDS

Section 7.010 Streets. Amend (2) in the following particulars only, to-wit:

<u>Type of Street</u>	<u>Minimum Right-of-Way Width</u>	<u>Minimum Width Face of Curb to Face of Curb</u>
Major Arterial (Highway 101) (1) with median (2) without median	100'	40'
Arterial	80'	44'
Residential	50'	36'
Cul-de-sac Radius	50'	36'
Commercial/Industrial	60'-80'	44'
Alley	20'	

Section 7.010 Add: (16) Major Arterial. Major arterials without medians, shall be designed so that separate acceleration and deceleration lanes of a minimum width of 12 feet will be provided.

Section 7.030 Add: (5) Flag lots. Flag lots shall be prohibited unless there is no other way of providing access to property. The narrow strip of land which provides access to the major portion of the lot from the street shall be at least 20 feet in width, shall not exceed 100 feet in length, and shall not be used in determining lot size, lot width or setback requirements.

ARTICLE 10. EMERGENCY CLAUSE

It is hereby determined that it is in the interest of public welfare, peace and safety of the City of Brookings that this ordinance be immediately adopted because existing conditions necessitate the submittal of the City of Brookings Comprehensive Plan forthwith to the Land Conservation.

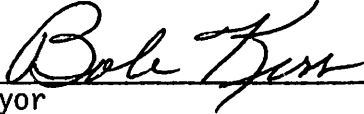
and Development Commission to which this ordinance is a vital component thereto, and therefore an emergency is declared to exist, and that this ordinance shall be in full force and effect from and after the date of its passage.

First Reading: September 22, 1981

Second Reading: September 22, 1981

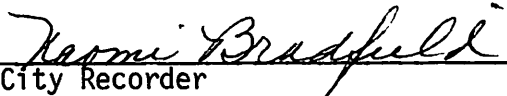
Passage: September 22, 1981

Signed by me in authentication of its passage this 22nd day of September, 1981.



Mayor

ATTEST:



City Recorder