

# City of North Plains

## Agenda

**City Council - REGULAR Session Meeting**  
**Monday, June 4, 2018 @ 7:00 PM**  
**North Plains Senior Center**  
**31450 NW Commercial Street**

Page

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. CONSENT AGENDA:  
(The items on the Consent Agenda are normally considered in a single motion. Any item may be removed for separate consideration upon request by any member of the Council.)
  - A. Approval of June 4, 2018 City Council Regular Session Agenda
  - B. Approval of May 21, 2018 City Council Minutes. 3 - 7
    - [City Council - REGULAR Session - 21 May 2018 - Minutes](#)
5. PUBLIC COMMENT:  
(Persons wishing to speak on matters not on the agenda may be recognized at this time. Speakers must complete a "Public Comment Registration form" on the information table and return it to the City Recorder. You are not required to give your address when speaking to the City Council, only your name. Presentations are limited to five minutes.)
6. PRESENTATION
7. STAFF REPORTS  
Staff Reports are given at the second meeting of each month
8. PUBLIC HEARING:
  - A. **Resolution No. 2008 adopting 2018-2019 Budget** 8 - 10
    - [18-19 City Budget Staff Report 06.04](#)
    - [Resolution No 2008 City Budget 2018-19](#)
  - B. **Resolution No. 2009 to Receive State Shared Revenues** 11 - 12
    - [State Shared Revenues Budget Staff Report 06.04](#)
    - [Resolution No 2009 to Receive State Shared Revenues](#)
  - C. **Resolution No. 2010 Certifying State Revenue Sharing Qualifications** 13
    - [Resolution No 2010 Certifying State Revenue Sharing Qualifications](#)
9. NEW BUSINESS:
  - A. **2018-2019 Master Fee Schedule** 14 - 28
    - [Master Fee Staff Report 06.04](#)
    - [NP Planning Fee Analysis-2018-05-07](#)

- [Resolution No 2012 Master Fee 05.31.18 \(00629767xB8084\)](#)

10. UNFINISHED BUSINESS:

- A. **Resolution No. 2004 - IGA with Hillsboro School District for Fiber Project** 29 - 53
- [Res 2004 HSB Fiber IGA Staff Report 06.04](#)
  - [Resolution No 2004 NP-HSD Telecom IGA Approval 06.04.18 \(00626453xB8084\)](#)

11. ORDINANCES:

- A. **Second Reading** 54 - 161
- Ordinance No. 451 Zoning Code Update
- [2018 Zoning Code Updates- Staff Report to CC 06.01.18 - av](#)
  - [18-032 Signed PC Recommendation](#)
  - [Ordinance 451 - 18-032 Zoning Code Update](#)

12. CITY MANAGER REPORT

- A. □ [City Manager Staff Report 06.04.18](#) 162 - 166

13. COUNCIL REPORTS

- A. Council reports will be provided by the Mayor and City Councilors on meetings attended and other items
- B. Review June 2018 Council Calendar 167 - 168
- [2018 Calendar of NP City Meetings](#)
  - [2018 June Calendar all Meetings](#)

14. ADVICE/INFORMATION ITEMS:

15. ADJOURNMENT:

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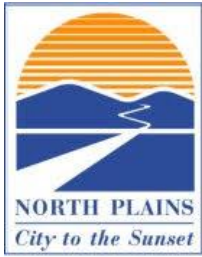
North Plains City Council meetings are accessible for disabled individuals. The City will also endeavor to provide services for persons with impaired hearing or vision and other services, if requested, at least 48 hours prior to the meeting. To obtain services, please call City Hall at [\(503\) 647-5555](tel:5036475555)

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**The following City Council Meetings are scheduled to be held at the North Plains Senior Center,  
31450 NW Commercial Street, North Plains, Oregon.**

**The meetings will be held on the following dates at 7:00 p.m.:**

Monday, June 18, 2018      Monday, July 2, 2018      Monday, July 16, 2018



## **MINUTES**

### **City Council - REGULAR Session Meeting**

**Monday, May 21, 2018 North Plains Senior Center 7:00 PM**

#### **COUNCIL MEMBERS:**

Mayor Teri Lenahan; Council President Sherrie Simmons;  
Councilors: Garth Eimers, Larry Gonzales, Robert Kindel, Jr.,  
Cameron Martinez, Russ Sheldon,

#### **STAFF PRESENT:**

City Manager Andy Varner, City Recorder Lori Lesmeister, Library  
Director Will Worthey, Police Chief Jesse Baker, Public Works  
Director Blake Boyles, City Planner Heather Austin

#### **OTHER:**

#### **1 CALL TO ORDER**

Mayor Lenahan called the Regular Session of the City Council to order at 7:00 PM

#### **2 PLEDGE OF ALLEGIANCE**

#### **3 ROLL CALL**

- a) All Councilors in attendance  
Planning Commissioner Lonnie Knodel also in attendance

#### **4 CONSENT AGENDA:**

(The items on the Consent Agenda are normally considered in a single motion. Any item may be removed for separate consideration upon request by any member of the Council.)

- a) Approval of May 21, 2018 City Council Regular Session Agenda
- b) Approval of May 7, 2018 City Council Minutes.

*Motion to approve the Consent Agenda.*

Moved by Councilor Eimers. Second by Councilor Simmons.

Motion was approved unanimously.

#### **5 PUBLIC COMMENT:**

- a) A letter from Briana & Drew Van Roekel that was dropped off at City Hall on May 18, 2018 was read into the record. The letter asked for clarification on beekeeping within the city limits. The Van Roekel's were in attendance and spoke of their experience with beehives at their previous address outside the city limits. Questions and discussion ensued. City Manager Varner stated that there is nothing in the city code specifically relating to keeping honey bees within the city limits. Briana Van Roekel stated that they would talk to their neighbors to get consent from them prior to putting a hive in. They will be attending the May 29, 2018 Tualatin Bee Keepers meeting at Jessie Mays to get more information from them. It was requested that City Manager

Varner ask other cities in the area, including Forest Grove and Hillsboro, what their regulations are and report back at a future council meeting.

## **6 PRESENTATION**

### **a) TVF&R Update**

Kim Haughn, Public Affairs Officer with Tualatin Valley Fire & Rescue gave a brief news update and provided an opportunity for Council to ask questions. She said now that they have a full year of data under their belt they can provide accurate numbers on a yearly basis. TVF&R responded to over 200 calls within the North Plains city limits over the past 12 months. Of those calls, 65% of them were medical calls. Haughn also reported on updates done at the Fire Station that included a new mag key card entry system into the building, as well as updating on events that are coming up that they will be involved in. These include the Ice Cream Social, the car show on June 30th, the 4th of July parade and fireworks, the Garlic Festival, and National Night Out.

## **7 STAFF REPORTS**

### **a) Library Director's Monthly Department Report**

Library Director Will Worthey stated that he has requested approval from City Manager Varner to open the Library at noon on Tuesday, May 29, 2018 so that they can hold Staff Training/Team Building. Worthey was asked about how members on the Teen Council that are seniors will be replaced on the Council. Worthey stated that the by-laws of Teen Council include a transition plan that allows for those seniors to be recruiting replacements for their vacancies. Councilor Gonzales reminded people of the Teen Council funding challenge. There is a fund raiser that is done through the Friends of the Library that will generate funds for events that they would like to have. Donations can be made directly to the Friends of the Library and will then be transferred to the Teen Council for use.

### **b) Chief of Police Monthly Department Report**

Chief Baker stated that April is historically the slowest month for calls. He stated that the department has received several complaints about construction noise on the east side. He has worked with Public Works Director Blake Boyles to contact builders and remind them of the hours for the city noise ordinance. Chief Baker also spoke about a gathering of cars that has been happening in town on Friday evenings. There have been issues with cars that are attending from out of town not following the posted speed limits in the area. He stated that he met with the business owner where the gathering is happening and they are willing to work with police to inform attendees that police are keeping an eye on the event and will write citations if necessary.

### **c) Public Works Director's Monthly Department Report**

### **d) Land use applications for the previous month**

### **e) Finance Report**

**8 PUBLIC HEARING:**

**a) Proposed Zoning Code Changes**

Public Hearing opened at 7:46 pm. City Planner went through the staff report and gave an overview of the priority items with regards to the proposed code changes. Questions and discussion ensued. Councilor Eimers said that the NC-1 table on page 68 of 165 in the packet has incorrect math on the first two lines. Austin agreed. Discussion ensued, with Austin explaining how the minimum side setback of "0" can work. Regarding 16.045.020, page 64 of 165, Item D, Eimers feels that the item should not specifically call out the "North Expansion Area". Austin explained the Planning Commission's reasoning for this, in that this item would not include future areas in the Urban Growth Boundary. The Planning Commission wanted a higher level of certainty that this would be in place for the North Expansion area. Eimers feels that this should be done during the master planning process.

Lonnie Knodel - North Plains Planning Commissioner, explained the thought process of the Planning Commission behind the minimum two acre reserved area.

Laurie Verboort - North Plains resident, With regards to 16.135.020 - Subdivision Open Space Requirements, Ms. Verboort feels that if you own a parcel of less than five acres there should not be the 400 square feet of park space requirement because it reduces the value of the property. She feels that it is fair to require the park space if the parcel of property is over five acres. Austin said that the city would be gaining such a small amount of park space on parcels that are only one or two acres, that the fee in lieu is an option in those cases, which would allow the funds to be applied to another park space. Austin ran the numbers on a one acre parcel where 10 homes could be built. Using the NC Zone requirements (400 sq ft per rooftop) would mean 4,000 square feet of park area would be required versus using the proposed subdivision code that requires 5% of the net parcel which would require 1,960 square feet of park area. Austin did the same with a three acre parcel where it would be 12,000 square feet of park area under the NC Zone, and 5,880 square feet using the proposed code. Councilor Gonzales asked how many parcels inside the city fit the description of five acres or less. Brief recess at 8:47 pm to get the answer to the question. Resumed session at 8:53 pm. Austin calculated that there are approximately six lots in the residential zoning districts that are one or more acre in North Plains at this time. Of those six lots, three of them were between one and two acres in size and three were two acres or above, and none that were more than five acres. Austin says the three options are: 1) keep the language as proposed, 2) revise to apply the NC standards, 3) remove the proposed language due to the small number of lots affected.

Rudy Kadlub 14350 SE Industrial Way, Clackamas, OR. Mr. Kadlub represents the land owners on the north side of North Avenue and has been involved with this code update process for the past several months attending the work sessions and regular Planning Commission meetings. He is pleased with the recommendations that the Planning Commission has presented to Council and thanked them for their hard work.

Councilor Eimers asked why there is a difference in requirement of single level homes between R-5/R-7 and the NC zones; NC zone is one in 10 homes be single level, while it is one in four homes in the R-5 and R-7 zones. It was discussed that there is a demand for single level homes (even at higher costs) and that it would

keep subdivisions from having a 'cookie cutter' look. Austin stated that there is some flexibility in the numbers during the master planning. Kadlub said that the single level homes will fit only on the medium and large size lots, so the 10% requirement comes out of the total number of medium and large size lots, not the total number of all buildable lots in a subdivision.

Stacy Connery with Pacific Community Design, 12564 SW Main St., Tigard, OR stated that in the Sunset Ridge subdivision on the east end of town has 25 single family homes out of a total of 198 lots.

Discussion returned back to the NC-1 table on page 68 of 165. On the first line, the minimum lot width should be 28 sf and the minimum lot depth should be 66 sf with the side setback at 3 ft. On the second line where the minimum lot size is 3,800 the lot width minimum should be 38 sf and the minimum lot depth should be 80 sf with the side setback at 3.3 ft. And it was requested that a footnote be put in stating the minimum standards for alley loaded homes, front loaded homes and a three foot setback required on one side with zero foot setback on the other side be noted below the table. Austin doesn't feel that suggestions presented and discussed this evening would be in any way objectionable to the Planning Commission as it is just cleaning up some language, not changing any of the policies or anything else that has been recommended by the Planning Commission. She recommends adoption with the suggestions agreed upon this evening and be sure that the Planning Commission is aware of the suggested changes in case they do want the opportunity to open the discussion back up if they don't agree with any of them. With regards to the section 16.135.020 on required open spaces, return that section back to the Planning Commission for review with a brief description of why it is being returned to them and including the number of parcels in town that would be affected by it. With regards to 16.045.020 (page 64 of 165) removing the words "North Expansion Area" from Item D because there is no other available property at this time for development, and moving it under 16.045.030 Standards and Requirements for Master Plans as the new G and make the item that is now G, the new H. Planning Commissioner Knodel agreed with Austin's recommendation.

Public Hearing closed at 9:27 pm

*Move to approve City File #18-032 Zoning Code Update, and to approve Ordinance No. 451 with a first reading, with amendments on record from tonight's meeting.*

Moved by Councilor Sheldon. Second by Councilor Gonzales.

Motion was approved unanimously.

## **9 ORDINANCES:**

### **a) First Reading**

Ordinance No. 451 18-032 Zoning Code Update

*Move to approve Ordinance No. 451 for first reading, by title only*

Moved by Councilor Kindel. Second by Councilor Simmons.

Motion was approved unanimously.

## **10 NEW BUSINESS:**

**11 UNFINISHED BUSINESS:**

a) **Economic Opportunity Analysis Consultant recommendation and Resolution No. 2007**

After City Manager Varner went over the staff report questions and discussion ensued. Questions were asked about the line item 5.3 in the contract with regards to 'optional' tasks. Varner stated that we are not having PNW do any of the optional tasks listed at this time.

*Move to approve Resolution No. 2007 to authorize City Manager to enter into an agreement with PNW Economics and PR Land Use Strategies to update the Economic Opportunities Analysis*

Moved by Councilor Eimers. Second by Councilor Martinez.

Motion was approved unanimously.

b) **Newsletter Discussion Update**

City Manager gave the staff report with proposed fee increases for advertising in the city's monthly newsletter. Questions and discussion ensued.

*Move to adopt the revised fee schedule and tiered priority system for City newsletter advertising as presented by staff, effective July 1, 2018*

Moved by Councilor Gonzales. Second by Councilor Simmons.

Motion was approved unanimously.

**12 CITY MANAGER REPORT**

- a) City Manager Varner went over the items on his staff report. Brief questions and discussion ensued.

**13 COUNCIL REPORTS**

- a) **Council reports will be provided by the Mayor and City Councilors on meetings attended and other items**
- b) **Review June 2018 Council Calendar**

**14 ADVICE/INFORMATION ITEMS:**

**15 ADJOURNMENT:**

Mayor Lenahan adjourned the Regular Session of the City Council at 10:04 pm

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Teri Lenahan, Mayor

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Lori Lesmeister, City Recorder

Date Approved \_\_\_\_\_



## CITY OF NORTH PLAINS

31360 NW Commercial Street, North Plains, Oregon 97133

Date: June 4, 2018  
To: Mayor and City Council  
From: City Manager Andy Varner  
Subject: Resolution 2008: 2018/2019 City Budget Adoption

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**Request:** Adopt Resolution 2008 to adopt the budget, make appropriations, and declare ad valorem tax levy for fiscal year 2018-2019.

**Background:** The City Council must hold a public hearing and adopt the budget before July 1, 2018. The draft budget was released on April 6, and the Budget Committee held two meetings, on April 18 and May 2. Their recommended budget is reflected in this resolution.

**Fiscal Impact:** The budget for the next fiscal year is \$ 13,468,394, including all appropriations, future expenditures, and total unappropriated fund balances.

### **Environmental Issues:**

**Recommendation:** Adopt the resolution approving the 2018/2019 budget for the City of North Plains.

**Sample Motion:** I move to adopt Resolution 2008 to adopt the budget, make appropriations, and declare the ad valorem tax levy for fiscal year 2018-2019.



## RESOLUTION NO. 2008

### RESOLUTION OF THE CITY OF NORTH PLAINS, OREGON, ADOPTING THE BUDGET, MAKING APPROPRIATIONS AND DECLARING AD VALOREM TAX LEVY FOR FISCAL YEAR 2018-2019

**BE IT RESOLVED** that the City Council of the City of North Plains, Oregon, hereby adopts the budget for fiscal year 2018-2019 in the total of \$13,468,394. This budget is now on file at the North Plains City Hall, North Plains, Oregon.

#### Section 1: RESOLUTION MAKING APPROPRIATIONS

**BE IT RESOLVED** that the amounts for the fiscal year beginning July 1, 2018, and for the purposes shown, are hereby appropriated as follows:

<b>General Fund</b>		<b>Street Fund</b>	
<b>Organizational Unit:</b>		Street Department	261,536
General Government	276,052	Transfers Out	1,000
Police	486,416	Contingency	30,000
Library	392,877	<b>Total</b>	<b>292,536</b>
Culture & Recreation	18,750		
Parks	51,774	<b>Water SDC Fund</b>	
Planning	283,172	Capital Outlay	<b>390,914</b>
<b>Not allocated to</b>			
<b>Organizational Unit:</b>		<b>Parks Capital Fund</b>	
Transfers Out	29,855	Parks Capital	<b>975,000</b>
Contingency	100,000		
<b>Total</b>	<b>1,638,896</b>	<b>Traffic Impact Fee Fund</b>	
		Capital Outlay	<b>302,789</b>
<b>Water Fund</b>			
Water Department	1,273,341	<b>Vehicle/Equipment</b>	
Transfers Out	20,000	<b>Reserve Fund</b>	
Contingency	100,000	Vehicle/Equipment Outlay	<b>30,000</b>
<b>Total</b>	<b>1,393,341</b>		

<b>Total Appropriations, All Funds</b>	<b>5,023,476</b>
<b>Total Reserve for Future Expenditure, All Funds</b>	<b>7,744,918</b>
<b>Total Unappropriated Ending Fund Balance, All Funds</b>	<b>700,000</b>
<b>TOTAL ADOPTED BUDGET</b>	<b>13,468,394</b>

**Section 2:** That the City Council hereby imposes the taxes provided for in the budget, adopted in Section 1 of this resolution, at the permanent rate of 2.1712 per \$1,000 of assessed value for general fund operations, and that these taxes are hereby imposed and categorized for tax year 2018-2019 upon the assessed value of all taxable property within the City at 1:00 a.m. on January 1, 2018.

The taxes imposed are hereby allocated and categorized for purposes of and subject to the limits of Article XI, Section 11B of the Oregon Constitution as follows:

	General government limitation	Excluded from Limitation
General Fund (Rate)	\$2.1712/\$1,000	\$0
Local Option Levy	\$0	\$0
Bonded Debt Fund	\$0	\$0

**Section 3:** This Resolution shall become effective immediately upon adoption by the City Council.

**APPROVED AND DECLARED ADOPTED** this 4<sup>th</sup> day of June, 2018.

**CITY OF NORTH PLAINS, OREGON**

BY: \_\_\_\_\_  
Teri Lenahan, Mayor

ATTEST:

BY: \_\_\_\_\_  
Lori Lesmeister, City Recorder



## CITY OF NORTH PLAINS

31360 NW Commercial Street, North Plains, Oregon 97133

Date: June 4, 2018  
To: Mayor and City Council  
From: City Manager Andy Varner  
Subject: Resolutions 2009/2010: Related to State Shared Revenues

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**Request:** Adopt Resolutions 2009 and 2010 to elect to receive state shared revenues, and to certify the provision of municipal services that establish the eligibility of the City of North Plains to receive shared revenues for fiscal year 2018-2019.

**Background:** This staff report covers two separate resolutions, since they are linked in their substance. The City Council must adopt both resolutions to accept State of Oregon Shared Revenues. Resolution 2009 declares the City's election to receive said revenues, while Resolution 2010 certifies that the City provides the municipal services enumerated in ORS 221.760 to establish the eligibility of the City to receive state-shared revenues for fiscal year 2018 – 2019.

**Fiscal Impact:** The combined estimate in shared revenue for the 2018/19 budget is \$35,000.

### **Environmental Issues:**

**Recommendation:** Adopt the resolutions approving and certifying the state shared revenues for North Plains in the next fiscal year.

**Sample Motion:** I move to adopt Resolutions 2009 and 2010 to elect to receive state shared revenues, and to certify the provision of municipal services that establish the eligibility of the City of North Plains to receive shared revenues for fiscal year 2018-2019.

**RESOLUTION NO. 2009**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NORTH PLAINS,  
OREGON, DECLARING THE CITY'S ELECTION TO RECEIVE STATE SHARED  
REVENUES FOR FISCAL YEAR 2018 - 2019**

**WHEREAS**, pursuant to ORS 221.770, the City elects to receive state revenues for fiscal year 2018 - 2019.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF NORTH PLAINS, OREGON AS FOLLOWS:**

**Section 1.** That the City of North Plains hereby elects to receive state revenue for fiscal year 2018 - 2019.

**Section 2.** This Resolution shall become effective immediately upon adoption by the City Council.

**INTRODUCED AND ADOPTED** this 4th day of June, 2018.

**CITY OF NORTH PLAINS, OREGON**

**BY:** \_\_\_\_\_  
Teri Lenahan, Mayor

**ATTEST:**

**BY:** \_\_\_\_\_  
Lori Lesmeister, City Recorder

I certify that a public hearing before the Budget Committee was held on April 18, 2018, and a public hearing before the City Council on June 4, 2018, giving citizens an opportunity to comment on the use of State Revenue Sharing.

\_\_\_\_\_  
Lori Lesmeister, City Recorder

## RESOLUTION NO. 2010

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NORTH PLAINS, OREGON, CERTIFYING THE PROVISION OF MUNICIPAL SERVICES ENUMERATED IN ORS 221.760 AND ESTABLISHING THE ELIGIBILITY OF THE CITY TO RECEIVE STATE- SHARED REVENUES FOR FISCAL YEAR 2018 – 2019

**WHEREAS**, ORS 221.760 provides the officer responsible for disbursing funds to cities under ORS 323.455, 366.785 to 366.820, and 471.805 shall, in the case of a city located within a county having more than 100,000 inhabitants according to the most recent federal decennial census, disburse such funds only if the city provided four or more of the following services:

- (1) Police protection
- (2) Fire protection
- (3) Street construction, maintenance, and lighting
- (4) Sanitary sewer
- (5) Storm sewer
- (6) Planning, zoning, and subdivision control
- (7) One or more utility services, and

**WHEREAS**, the City of North Plains officials recognize the desirability of assisting the state officer responsible for determining the eligibility of cities to receive such funds in accordance with ORS 221.760.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF NORTH PLAINS, OREGON, AS FOLLOWS:**

- Section 1.** The City of North Plains hereby certifies that it provides the following municipal services enumerated in Section 1, ORS 221.760:
1. Police protection
  2. Street construction, maintenance, and lighting
  3. Planning, zoning and subdivision control
  4. Water distribution and maintenance

**INTRODUCED AND ADOPTED** this 4th day of June, 2018.

**CITY OF NORTH PLAINS, OREGON**

BY: \_\_\_\_\_  
Teri Lenahan, Mayor

ATTEST:

BY: \_\_\_\_\_  
Lori Lesmeister, City Recorder



## CITY OF NORTH PLAINS

31360 NW Commercial Street, North Plains, Oregon 97133

Date: June 4, 2018  
To: Mayor and City Council  
From: City Manager Andy Varner  
Subject: Resolution 2012: Master Fee Schedule Update and Adoption

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**Request:** Adopt Resolution 2012 to update the City of North Plains Master Fee Schedule, effective July 1, 2018.

**Background:** Staff regularly updates the schedule of master fees for City services, SDCs, and other charges. The Council typically adopts the schedule at the same time as the ensuing fiscal year budget, but I do not believe that was done last year. The major proposed changes to this schedule involve the land use and planning fees section, as well as changes to System Development Charges. Substantive changes to the schedule are reflected with a colored shading.

The City in theory uses a deposit method for the majority of planning fees, but has been neglecting to follow up on collecting the true amount of what those permits are costing us. We will be enforcing this practice. As you can see in the attached *3J Planning Fee Analysis* spreadsheet, there are multiple instances where the City has been charging a permit fee that doesn't cover even 50% of the true cost for us to produce to it. In the Grabert Pacific Street Partition example, it cost the City over \$5,000 to issue a permit, yet we charged only \$900. The Sunset Ridge II Master Plan application cost over \$10,000 in planning costs (not accounting for engineering costs), yet we charged only \$2,400.

The proposed land use and planning fees are now based on actual costs in consultant fees, travel, and materials that we have typically incurred over the last couple years in dealing with Type II-IV applications. We added in a 15% admin fee to help defray staff costs. If the proposed fee deposit does not cover the actual costs, then the amount due (balance) will be required before the permit is issued to the applicant. Again, this process was already in place, it will now be imposed.

The SDC changes are strictly based on formulas passed by the Council, but have not been updated accordingly. We are playing catch up. As I have noted before, the Water SDC methodology was adopted incorrectly at the beginning of this year. We will rectify that this summer once the 90 day public comment period has expired. We sent those notices out several weeks ago.

Additionally, we will reexamine the Transportation Utility Fee (TUF) later this year once the TSP is complete, to incorporate any findings into our base rate calculation. The

current TUF rate *should* be calculated by multiplying the base rate per trip by the assigned average daily trip estimate. That was passed in 2011, but never implemented. In fact, the City has only been charging the base rate of \$1.06/month on the utility bill, instead of that updated figure of \$1.33/trip (which has been in the fee schedule- again, it has just been neglected). Larger trip producing customers have been receiving a discount for years.

That summarizes the major changes in the fee schedule. Updating the land use and planning fees (and enforcing the process) is a priority.

**Fiscal Impact:** City is attempting to recover its costs based on actual expenditures in consultant fees, staff time, and materials. Our General Fund will be in a better place as a result.

**Environmental Issues:**

**Recommendation:** Adopt the new master fee schedule, effective July 1, 2018.

**Sample Motion:** I move to adopt Resolution 2012 to update the City of North Plains Master Fee Schedule, effective July 1, 2018.

**North Plains****3J Planning Fee Analysis****Type I**

<b>Project Name</b>	<b>Actual 3J Fee Total</b>	<b>15% admin</b>	<b>True \$ to CNP</b>	<b>Current Fee</b>	<b>Proposed Fee</b>
Grabber Pacific Plat Review	\$ 228.00	\$ 34.20	\$ 262.20	\$ 450	\$ 450
Cook Claxter Lot Line Adjustment	\$ 342.00	\$ 51.30	\$ 393.30	\$ 400	\$ 400
Kemmer Meadows Final Plat	\$ 570.00	\$ 85.50	\$ 655.50	\$ 600	\$ 600 deposit
McKay Creek Crossing Final Plat	\$ 912.00	\$ 136.80	\$ 1,048.80	\$ 600	\$ 600 deposit
<b>Average Cost to Complete</b>	<b>\$ 513.00</b>	<b>\$ 72.68</b>	<b>\$ 585.68</b>		

**Type II**

<b>Project Name</b>	<b>Actual 3J Fee Total</b>	<b>15% admin</b>	<b>True \$ to CNP</b>	<b>Current Dep†</b>	<b>Proposed Fee‡</b>
Sunset Terrace Fence Variance	\$ 228.00	\$ 34.20	\$ 262.20	\$ 900	\$ 700
McKay Fields Setback Variance	\$ 700.00	\$ 105.00	\$ 805.00	\$ 900	\$ 700
Creekwood Homes Setback Variance	\$ 500.00	\$ 75.00	\$ 575.00	\$ 900	\$ 700
NW Union Mini Storage and Partition	\$ 1,854.00	\$ 278.10	\$ 2,132.10	\$ 900	\$ 1,800
NW Union Mini Storage and Partition	\$ 1,854.00	\$ 278.10	\$ 2,132.10	\$ 900	\$ 1,800
Hughes Hillcrest Partition	\$ 1,854.00	\$ 278.10	\$ 2,132.10	\$ 900	\$ 1,800
Verboort Gordon Road Partition & Dev Review	\$ 1,368.00	\$ 205.20	\$ 1,573.20	\$ 900	\$ 1,800
Verboort Gordon Road Partition	\$ 3,252.72	\$ 487.91	\$ 3,740.63	\$ 900	\$ 1,800
<b>Grabert Pacific Street Partition</b>	<b>\$ 4,596.48</b>	<b>\$ 689.47</b>	<b>\$ 5,285.95</b>	<b>\$ 900</b>	<b>\$ 1,800</b>
Funk Cottage Street Partition <sup>1</sup>	\$ 875.00	\$ 131.25	\$ 1,006.25	\$ 900	\$ 1,800
Kindel Partition	\$ 1,375.00	\$ 206.25	\$ 1,581.25	\$ 900	\$ 1,800
NW Cottage Creek Property LLA and Variance	\$ 2,162.00	\$ 324.30	\$ 2,486.30	\$ 400/900	\$ 400/700
Sunset Terrace II Subdiv & FP Permit <sup>2</sup>	\$ 1,250.00	\$ 187.50	\$ 1,437.50	\$ 2400/2400	\$ 2400/2400
<b>Average Cost to Complete</b>	<b>\$ 2,044.12</b>	<b>\$ 306.62</b>	<b>\$ 2,350.74</b>		

**Type III**

<b>Project Name</b>	<b>Actual 3J Fee Total</b>	<b>15% admin</b>	<b>True \$ to CNP</b>	<b>Current Dep†</b>	<b>Proposed Fee‡</b>
Valley Machine Industrial- Design Review	\$ 2,172.00	\$ 325.80	\$ 2,497.80	\$ 2,400	\$ 4,800
Jewett-Cameron Industrial Bldgs- Design Review	\$ 3,266.75	\$ 490.01	\$ 3,756.76	\$ 2,400	\$ 4,800
Kemmer Meadows Preliminary Plat	\$ 2,196.00	\$ 329.40	\$ 2,525.40	\$ 2,400	\$ 4,800
<b>Sunset Ridge No. 2 Subdivision &amp; Master Plan</b>	<b>\$ 9,124.32</b>	<b>\$ 1,368.65</b>	<b>\$ 10,492.97</b>	<b>\$ 2,400</b>	<b>\$ 10,000</b>



Vanderzanden Commercial Street Subdivision	\$	7,665.84	\$	1,149.88	\$	8,815.72	\$	2,400	\$	4,800
Kemmer Meadows II PUD	\$	4,332.00	\$	649.80	\$	4,981.80	\$	2,400	\$	4,800
McKay Creek Crossing Subdivision	\$	11,824.86	\$	1,773.73	\$	13,598.59	\$	2,400	\$	4,800
Kemmer Meadows Subdivision	\$	4,828.00	\$	724.20	\$	5,552.20	\$	2,400	\$	4,800
RV & Self Storage LLA & Type III Design Review	\$	3,420.00	\$	513.00	\$	3,933.00	\$	400/2400	\$	400/4800
Perkins Subdivision	\$	3,420.00	\$	513.00	\$	3,933.00	\$	2,400	\$	4,800
Kemmer Meadows Preliminary Plat	\$	2,196.00	\$	329.40	\$	2,525.40	\$	2,400	\$	4,800
<b>Average Cost to Complete</b>	<b>\$</b>	<b>5,851.38</b>	<b>\$</b>	<b>877.71</b>	<b>\$</b>	<b>6,729.08</b>				

#### Type IV- Zoning Map Amendment

Project Name	Actual 3J Fee Total	15% admin	True \$ to CNP	Current Dep†	Proposed Fee‡
Sunset Ridge No. 2 - Zone Map Amendment	\$ 6,859.26	\$ 1,028.89	\$ 7,888.15	\$ 5,200	\$ 5,200
Eggiman Zone Change	\$ 4,316.91	\$ 647.54	\$ 4,964.45	\$ 5,200	\$ 5,200
<b>Average Cost to Complete</b>	<b>\$ 5,588.09</b>	<b>\$ 838.21</b>	<b>\$ 6,426.30</b>		

#### Type IV- Annexation

Annexation East	\$	13,558.26	\$	2,033.74	\$	15,592.00	\$	5,200	\$	5,200
Annexation North	\$	19,324.44	\$	2,898.67	\$	22,223.11	\$	5,200	\$	5,200
<b>Average Cost to Complete</b>	<b>\$</b>	<b>16,441.35</b>	<b>\$</b>	<b>2,466.20</b>	<b>\$</b>	<b>18,907.55</b>				

<sup>1</sup> Not yet complete

<sup>2</sup> Not yet complete

†Current deposit represents what we have been collecting. No follow-up on additional amount due above deposit. Does not include admin fee or staff time.

‡Proposed fee includes the 15% admin fee.

## RESOLUTION NO. 2012

### A RESOLUTION OF THE NORTH PLAINS CITY COUNCIL ADOPTING A CITYWIDE SCHEDULE OF FEES AND CHARGES AND REPEALING RESOLUTIONS AS SET FORTH IN SECTION 3

WHEREAS, the City of North Plains Municipal Code allows for the establishment of fees and charges for certain applications and services; and

WHEREAS, fees have been established to recover the cost of providing services to the public, businesses and other agencies; and

WHEREAS, new fees are proposed to recover costs associated with providing services to the public, businesses and other agencies; and

WHEREAS, City staff have performed research to define costs associated with the fees assessed by the City; and

WHEREAS, the City of North Plains desires to continue maintaining a schedule of all existing fees and charges in one single document; and

WHEREAS, the City Council finds that such a document will provide clarity to City staff, transparency to City residents and greater efficiency of review of charges and fees; and

WHEREAS, periodic revisions to fees and charges may be necessary to recover costs related to providing services;

#### **NOW, THEREFORE, THE CITY OF NORTH PLAINS RESOLVES AS FOLLOWS:**

**Section 1.** The City Council hereby adopts the North Plains Master Fee Schedule, attached hereto as “Exhibit A” (the “Master Fee Schedule”).

**Section 2.** The City Manager is authorized to oversee the general maintenance and application of the Master Fee Schedule on behalf of the City.

**Section 3.** Prior Resolutions establishing fees and charges are hereby repealed.

//      //

**Section 4.** This Resolution is and shall be effective from and after its enactment by the City Council.

**INTRODUCED AND ADOPTED** this \_\_\_\_ day of June, 2018.

**CITY OF NORTH PLAINS, OREGON**

\_\_\_\_\_  
Teri Lenahan, Mayor

ATTEST:

\_\_\_\_\_  
Lori Lesmeister, City Recorder

CITY OF NORTH PLAINS MASTER FEE SCHEDULE

FEE	FEE DESCRIPTION	REFERENCE	FEE TYPE	EFFECTIVE 7/1/16	EFFECTIVE 7/1/17	EFFECTIVE 7/1/18
<b>ADMINISTRATIVE</b>						
<b>Business Licenses</b>						
	Annual fee					
1101	1. First year (waived)		Fee	-	\$0.00	\$0.00
1102	2. Renewal	6.15	Fee	50.00	\$50.00	\$50.00
1103	Delinquent payment if paid after February 1 or 30 days of operation			20% of license fee for every 30 day period	20% of license fee for every 30 day period	20% of license fee for every 30 day period
1105	Peddlers Permit/Solicitor Vendor Permit Door to Door	6.25	Fee	135.00	\$135.00	\$135.00
1106	Temporary Vendor Permit - Stationary	6.25	Fee	90.00	\$90.00	\$90.00
<b>Code Enforcement</b>						
1201	Notice of abatement - nuisance	4.10	Fee	Actual cost	Actual cost	Actual cost
1203	Notice of abatement - dangerous building	7.10	Fee	Actual cost	Actual cost	Actual cost
<b>Copies and Faxes</b>						
1130	Copies - B&W any size, per page		Fee	0.90	\$0.90	\$0.90
1133	Copies - Color any size, per page		Fee	1.00	\$1.00	\$1.00
1143	Faxes, up to 10 pages		Fee	2.00	\$2.00	\$2.00
	each additional page			0.50	\$0.50	\$0.50
	Fees for mailing other than public hearing to be negotiated at time work scope is developed, including staff time, postage, and copies.		Fee	Actual cost	Actual cost	Actual cost
<b>Finance</b>						
1170	Returned Check Charge		Fee	35.00	\$35.00	\$35.00
1171	Notary Fee		Fee	\$5.00/Signature	\$5.00/Signature	<b>\$10.00/Signature</b>
1175	Lien search		Fee	\$22/lot searched	\$22/lot searched	\$22/lot searched
1535	Reimbursement District Formation	2.01	Fee	determined by application	determined by application	determined by application
<b>Franchise/Privilege Tax/Host Fee</b>						
	Application		Fee	35.00	\$35.00	\$35.00
	Electricity - 1.5% privilege 3.5% franchise	9.15	Fee	5%	\$0.05	\$0.05
	Refuse & Recycling		Fee	3%	\$0.03	\$0.03
	Natural Gas	9.05	Fee	3%	\$0.03	\$0.03
	Sewage		Fee	5%	\$0.05	\$0.05
	Compost		Fee	\$1/ton	\$1/ton	\$1/ton
	Telecommunications	9.10	Fee	7%	\$0.07	\$0.07
<b>Liquor License Application</b>						
1180	Change in ownership, location or privilege		Fee	102.00	\$102.00	\$102.00
1181	New outlet application		Fee	245.00	\$245.00	\$245.00
1182	Renewal		Fee	37.00	\$37.00	<b>\$35.00</b>
1183	Temporary Application		Fee	37.00	\$37.00	<b>\$35.00</b>
<b>Newsletter Advertising</b>						
1190	Full page advertisement in City newsletter (in 97133)		Fee	90.00	\$90.00	<b>\$110.00</b>
	Half page advertisement in City newsletter		Fee	50.00	\$50.00	<b>\$55.00</b>
	Quarter page advertisement in City newsletter		Fee	30.00	\$30.00	\$30.00
	Full page advertisement in City newsletter (NP Chamber Member)		Fee			<b>\$120.00</b>
	Half page advertisement in City newsletter		Fee			<b>\$65.00</b>
	Quarter page advertisement in City newsletter		Fee			<b>\$40.00</b>
	Full page advertisement in City newsletter (Non 97133/Chamber)		Fee			<b>\$130.00</b>
	Half page advertisement in City newsletter		Fee			<b>\$75.00</b>
	Quarter page advertisement in City newsletter		Fee			<b>\$50.00</b>

# CITY OF NORTH PLAINS MASTER FEE SCHEDULE

FEE	FEE DESCRIPTION	REFERENCE	FEE TYPE	EFFECTIVE 7/1/16	EFFECTIVE 7/1/17	EFFECTIVE 7/1/18
<b>ADMINISTRATIVE Continued</b>						
<b>Permits</b>						
1135	Amplified Music Permit		Fee	80.00	\$80.00	\$80.00
1160	Filming Permit (Commercial activity)		Fee	400.00	\$400.00	\$400.00
<b>Public Records</b>						
	Actual cost for staff time, materials, attorney and all other incurred costs		Fee	Actual cost	Actual cost	Actual cost
<b>Transportation and Streets</b>						
2107	Transportation Utility Fee (TUF)		Fee	1.33/trip	1.33/trip	1.33/trip
1435	Change of Address (for reasons other than fire and life safety)		Fee	200.00	\$200.00	\$200.00
1540	Street Name Change, Dedication or Vacation		Fee	determined by application	determined by application	determined by application
1937	Street Obstruction Permit (lane closure)		Fee	160.00	\$160.00	\$160.00
<b>LIBRARY</b>						
<b>Copies and Faxes</b>						
	Black and White copies, per page		Fee	0.10	\$0.10	\$0.10
	Color copies, per page		Fee	0.40	\$0.40	\$0.40
	Fax through Staff, per page		Fee	1.00	\$1.00	\$1.00
	Fax through copier, per page		Fee	0.50	\$0.50	\$0.50
	Scan to email through copier, per page		Fee	0.10	\$0.10	\$0.10
<b>Other</b>						
1605	Earbuds/Headphones		Fee	2.00	\$2.00	\$2.00
1606	Flash drive		Fee	5.00	\$5.00	\$5.00
	Fines		Fee	Per WCCLS schedule	Per WCCLS schedule	Per WCCLS schedule
	Space rental - see Jessie Mays rental fees					
<b>POLICE</b>						
<b>Fingerprinting</b>						
1801	Fingerprinting		Fee	15.00	\$15.00	\$15.00
<b>Police Report</b>						
1802	First five pages		Fee	25.00	\$25.00	\$25.00
1803	Additional pages		Fee	0.90	\$0.90	\$0.90
<b>Police discovery for municipal court</b>						
1804	First five pages		Fee	25.00	\$25.00	\$25.00
1805	Additional pages, per page		Fee	0.90	\$0.90	\$0.90

# CITY OF NORTH PLAINS MASTER FEE SCHEDULE

FEE				REFERENCE	FEE TYPE	EFFECTIVE 7/1/16	EFFECTIVE 7/1/17	EFFECTIVE 7/1/18
<b>LAND USE AND PLANNING</b>								
	I	Type I, Administrative Permits by City Staff						
	II	Type II, Land Use Permit by City						
	III	Type II, Quasi-Judicial Permits by Planning Commission						
	IV	Type II, Legislative and Other Decisions made by Planning Commission And City Council						
<b>Type I Administrative Permits by City Staff:</b>								
These permits are processed by City Staff and tend to be straightforward, therefore City is able to set a pre-determined fee. In some cases a deposit is required.								
<b>Building - Site Plan Review</b>								
1415		Residential - New structure (Multi-Family charged per unit)	16.020-16.45		Fee	430.00	\$430.00	\$430.00
1415		Residential Remodel/Alteration; Detached accessory structure over 200 square feet (City does not review residential structures under 200 square feet)	16.020-16.45 16.105		Fee	100.00	\$100.00	\$100.00
1415		Commercial and Industrial - New structure	16.35-40		Fee	430.00	\$430.00	\$430.00
1415		Commercial and Industrial - Remodel/Alteration Design Review is required prior to Land Use Approval	16.35-40 16.50-55		Fee	100.00	\$100.00	\$100.00
1420		Demolition any structure over 200 square feet			Fee	100.00	\$100.00	\$100.00
<b>Code Interpretation</b>								
		Code interpretation (charged per hour)			Fee	35.00	\$35.00	\$35.00
<b>Culvert/Driveway (Right-of-Way) Permits</b>								
1905		Culvert/Driveway Permits	Res. No. 1063		Fee	230.00	\$230.00	\$230.00
		Deposit or performance bond required:						
		1. Rock driveway with 16" or under culvert not over 20' long			Deposit	250.00	\$250.00	\$250.00
		2. Asphalt concrete or concrete driveway 16" or under culvert not over 20' long			Deposit	600.00	\$600.00	\$600.00
		3. Driveway with curb cut and sidewalk approach not longer than 24' and 16" or under culvert			Deposit	500.00	\$500.00	\$500.00
<b>Fence, Wall and Hedge Permits</b>								
1470		Fence Permit (All Types and Zones)	16.105		Fee	81.00	\$81.00	\$81.00
<b>Final Plat</b>								
1546		Partition Final Plat	16.130		Fee	450.00	\$450.00	\$450.00
1547		Subdivision Final Plat - minor modifications only	16.135		Deposit	600.00	\$600.00	\$600.00
<b>Home Occupation Permit</b>								
1104a		Home Occupation Permit - Admin	16.85		Fee	275.00	\$275.00	\$275.00
<b>Lot Line Adjustment</b>								
1505		Lot Line Adjustments	16.120		Fee	400.00	\$400.00	\$400.00
<b>Lot of Record Determination</b>								
1510		Lot of Record Determination			Fee	35.00	\$35.00	\$35.00
<b>Sign Permits</b>								
1560		Permanent sign, simple (based on application)	16.80		Fee	175.00	\$175.00	\$175.00
		Temporary sign (in right of way)			Fee	25.00	\$25.00	\$25.00
<b>Temporary Structure Permits</b>								
1585		Temporary sales office or model home, seasonal or special events, temporary building, trailer, kiosk or structure,	16.210		Fee	175.00	\$175.00	\$175.00

CITY OF NORTH PLAINS MASTER FEE SCHEDULE

FEE	FEE DESCRIPTION	REFERENCE	FEE TYPE	EFFECTIVE 7/1/16	EFFECTIVE 7/1/17	EFFECTIVE 7/1/18
<b>LAND USE AND PLANNING Continued</b>						
<b>Type II, III, IV permits:</b>						
Deposits are used when the City seeks to recover its actual costs for a service, but due to the uniqueness of each application setting a fixed fee is not practical. These costs include, but are not limited to: services						
<b>Pre-Application Conference</b>						
	Conference with applicant, City Manager and City Planner.					
1550	Pre-Application Conference (Minor Applications)		Fee	270.00	\$270.00	\$600.00
1551	Pre-Application Conference (Major Applications) Attendees may include City Engineer, Attorney, representatives from City Boards and Commissions and local utilities.		Fee	740.00	\$740.00	\$1,500.00
<b>Type II Land Use Permit by City:</b>						
				900.00	\$900.00	\$1,800.00
<b>Design Review</b>						
	Required for all new developments and modifications, except for single family, duplex or accessory structures.					
1462	Limited Land Use Design Review	16.175	Deposit			
<b>Land Partitions</b>						
	Required for land division that creates two or three parcels in a calendar year.					
1491	Land Partitions - No street dedication	16.130	Deposit			
<b>Sign Permits</b>						
1561	Permanent sign, complex (based on application)	16.80	Deposit			
<b>Modifications</b>						
1549	Modification of Development plan - Minor					
1442	Modification of Conditional Use Permits - Minor	16.180	Deposit			
<b>Variance Permits</b>						
1595	Minor variance - Administrative Type II	16.185	Deposit			\$700.00
<b>Type III Quasi-Judicial Permits by Planning Commission:</b>						
				2,400.00	\$2,400.00	\$4,800.00
<b>Conditional Use Permits</b>						
	For uses which possess unique and special characteristics making impractical their inclusion as outright permitted uses in the underlying zoning district.					
1440	All zones	16.180	Deposit			
<b>Design Review</b>						
	Required for all new developments and modifications, except for single family, duplex or accessory structures.					
1456	Residential: Multifamily 3 or more units	16.175	Deposit			
1463	Commercial and Industrial, not eligible for Limited Design Review	16.175	Deposit			

# CITY OF NORTH PLAINS MASTER FEE SCHEDULE

FEE	FEE DESCRIPTION	REFERENCE	FEE TYPE	EFFECTIVE 7/1/16	EFFECTIVE 7/1/17	EFFECTIVE 7/1/18
<b>LAND USE AND PLANNING Continued</b>						
<b>Type III Quasi-Judicial Permits by Planning Commission Continued:</b>						
				2,400.00	\$2,400.00	\$4,800.00
<b>Development Permits</b>						
1548	Manufactured home parks and subdivisions	16.110	Deposit			
1457	Planned Use Development (PUD) preliminary plan	16.140	Deposit			
1553	Subdivision Preliminary Plat	16.135	Deposit			
	City Engineer review of public improvement drawings and inspection of public improvements		Fee	5% of City Engineers cost estimate	5% of City Engineers cost estimate	5% of City Engineers cost estimate
	Performance Bond (deposit prior to start of public improvements)		Bond	125% City Engineers estimate	125% City Engineers estimate	125% City Engineers estimate
	Security Maintenance Bond (guarantee improvements for one year from date of completion)		Bond	40% of actual cost or engineers estimate	40% of actual cost or engineers estimate	40% of actual cost or engineers estimate
<b>Final Plat</b>						
1547	Subdivision Final Plat - major modifications	16.135	Deposit			
<b>Flood Plain Permits</b>						
	Required for development within boundaries of 100-year Flood Plain.					
1473	Flood Plain Fill Permit. Includes CLOMAR Letter to remove property from a flood plain.	16.65	Deposit			
<b>Heritage Tree</b>						
1450	Nomination of heritage tree(s) designation	16.95	Deposit			
1451	Permit to remove heritage tree(s)	16.95	Deposit			
<b>Historic Overlay District</b>						
	Historic Overlay District is the Pythias Building, Lower Tavern and 379 Kaybern.					
1475	Alteration - Certificate of Appropriateness	16.70 15.03	Deposit			
1421	Demolition of historic building	16.70 15.03	Deposit			
<b>Home Occupation Permit</b>						
1104b	Home Occupation Permit - Conditional Use	16.85	Deposit			
<b>Land Partitions</b>						
	Required for land division that creates two or three parcels in a calendar year.					
1491	Land Partitions - With street dedication	16.130	Deposit			
<b>Modifications</b>						
1549	Modification of Development plan - Major					
1442	Modification of Conditional Use Permits - Major	16.180	Deposit			
<b>Non Conforming Use Permit</b>						
	Addresses alterations or expansions of uses or structures that were lawfully established prior to the City's current municipal code.					
1515	Non-Conforming Use or Structure (All Zones)Reinstatement, Enlargement or Alteration of Use	16.195	Deposit			
<b>Significant Natural Resource Permit</b>						
	Required for development within Significant Natural Resources Map.					
1565	Significant Natural Resources Permit	16.75	Deposit			
<b>Master Plan</b>						
1506	Master Plan Application (Neighborhood Community Code)	16.45	Deposit		\$2,400.00	\$10,000.00



## CITY OF NORTH PLAINS MASTER FEE SCHEDULE

FEE	FEE DESCRIPTION	REFERENCE	FEE TYPE	EFFECTIVE 7/1/16	EFFECTIVE 7/1/17	EFFECTIVE 7/1/18
<b>LAND USE AND PLANNING Continued</b>						
<b>Type III Quasi-Judicial Permits by Planning Commission Continued:</b>						
				2,400.00	\$2,400.00	\$4,800.00
<b>Similar Use Determination</b>						
	For uses not specifically listed in a particular zoning district but which are similar to permitted uses.					
1571	Similar Use Determination	16.190	Deposit			
<b>Variance Permits</b>						
1596	Variance - Type III	16.185	Deposit			
<b>Type IV Legislative and Other Decisions made by both Planning Commission and City Council:</b>						
				5,200.00	\$5,200.00	\$5,200.00
<b>Comprehensive Plan Document/Map Amendments</b>						
1445	Amendment to Comprehensive Plan Text or Map, or Zoning Map	16.200	Deposit			
<b>Annexation</b>						
1401	Annexation Application	16.205	Deposit			
<b>Appeals and Extensions</b>						
<b>Appeal</b>						
1405	Appeal of Administrative Decision, heard by Planning Commission	16.170	Deposit	50% of total application fee	50% of total application fee	50% of total application fee
1406	Appeal of Planning Commission Decision, heard by Planning Commission and City Council	16.170	Deposit	50% of total application fee	50% of total application fee	50% of total application fee
<b>Extension</b>						
	Permits are void after one year or such lesser time as the approval may specify unless substantial construction has taken place or the proposed use has occurred.					
	Type I permit extension, processed administratively	16.00		15% of total application fee	15% of total application fee	15% of total application fee
	Type II or III permit extension, approved by Planning Commission	16.00		15% of total application fee	15% of total application fee	15% of total application fee
<b>System Development Fees</b>						
<b>Joint Water Commission System Development Charge (Set by JWC, subject to change)</b>						
	Standard 5/8 x 3/4" meter			3,233.00	\$3,289.00	Varies
	Other sizes			Varies	Varies	Varies
<b>Park System Development Charge (each dwelling unit)</b>						
				4,725.00	\$4,725.00	\$5,636.00
<b>Transportation Development Tax (Set by Washington County, subject to change)</b>						
	Single Family Residence			8,278.00	\$8,458.00	Varies
	Other developments			Varies	Varies	Varies
<b>Transportation System Development Fee</b>						
	Single family dwelling, 1.02 PM peak hour trip			638.00	\$638.00	\$691.00
	Other developments			\$625/PM peak hr trip	\$625/PM peak hr trip	\$625/PM peak hr trip
<b>Water System Development Fee - Residential (see Water Fees below for other uses)</b>						
						\$6,413.00

# CITY OF NORTH PLAINS MASTER FEE SCHEDULE

FEE	FEE DESCRIPTION	REFERENCE	FEE TYPE	EFFECTIVE 7/1/16	EFFECTIVE 7/1/17	EFFECTIVE 7/1/18
<b>PARKS</b>						
<b>Community Garden</b>						
1940	Rental 20x20 plot		Fee	20.00	\$20.00	\$20.00
1941	Rental 10x20 plot or 4x12 raised bed		Fee	15.00	\$15.00	\$15.00
<b>Jessie Mays Community Hall Rental</b>						
1701	First 2 hours		Fee	135.00	\$135.00	\$200.00
	additional per hour rate			35.00	\$35.00	\$35.00
	Non-profit organizations and community fund raisers may request in-kind donation of hall rental, subject to City Manager or Council approval.		Fee			
1703	Recurring event per hour, without set up		Fee	15.00	\$15.00	\$15.00
1711	After hours access fee		Fee	95.00	\$95.00	\$95.00
	Insurance (proof required) to obtain a policy contact your insurance or <a href="http://www.theeventhelper.com">www.theeventhelper.com</a>			Varies	Varies	Varies
1710	Security Deposit	res 1706				
	1. Meeting or class (under 25 people) with no food or drink		Deposit	NA	NA	NA
	2. Small event (between 26 and 75 persons) no food or drink		Deposit	150.00	\$150.00	\$150.00
	3. Large event with no food or drink		Deposit	300.00	\$300.00	\$300.00
	4. Meeting (under 25 people) with food or drink		Deposit	150.00	\$150.00	\$150.00
	5. Small event (between 26 and 75 persons) with food or drink		Deposit	300.00	\$300.00	\$300.00
	6. Large event with food or drink		Deposit	400.00	\$400.00	\$400.00
	7. Event with alcohol		Deposit	\$400 in addition to deposit above	\$400 in addition to deposit above	\$400 in addition to deposit above
<b>Public Assemblies</b>						
	Under 150 persons		Fee	NA	NA	NA
1721	150-500 persons		Fee	150.00	\$150.00	\$150.00
1722	501-1000		Fee	450.00	\$450.00	\$450.00
1723	Over 1,000		Fee	1,540.00	\$1,540.00	\$1,540.00
1935	Block Party Street Closure		Fee	-	\$0.00	\$0.00
1936	Special Event Street Closure		Fee	210.00	\$210.00	\$210.00
<b>Public Assembly Bond/Deposit Fees</b>						
	Under 150 persons		Deposit	NA	NA	NA
1725	150-500 persons		Deposit	160.00	\$160.00	\$160.00
1726	501-1000		Deposit	500.00	\$500.00	\$500.00
1727	Over 1,000		Deposit	1,500.00	\$1,500.00	\$1,500.00

# CITY OF NORTH PLAINS MASTER FEE SCHEDULE

FEE		FEE DESCRIPTION	REFERENCE	FEE TYPE	EFFECTIVE 7/1/16	EFFECTIVE 7/1/17	EFFECTIVE 7/1/18
<b>WATER</b>							
<b>New/Reactivated Accounts</b>							
5101		Application Fee - Utility Account		Fee	15.00	\$15.00	\$15.00
5160		Reactivation Fee - Dormant account		Fee	63.00	\$63.00	\$63.00
5210		3/4 inch meter - connection fee		Fee	2,000.00	\$2,000.00	\$2,000.00
5215		3/4 inch meter - drop fee		Fee	485.00	\$485.00	\$485.00
<b>Deposit for Utility Account</b>							
5102		Residential or Apartment per unit		Deposit	75.00	\$75.00	\$75.00
5103		Manufactured Home (per lot or pad)		Deposit	75.00	\$75.00	\$75.00
5104		Commercial/Industrial/Schools		Deposit			
		3/4"-1" meter		Deposit	75.00	\$75.00	\$75.00
		1.5"-2" meter		Deposit	150.00	\$150.00	\$150.00
		3"-4" meter		Deposit	300.00	\$300.00	\$300.00
5105		Hydrant with City meter		Deposit	1,000.00	\$1,000.00	\$1,000.00
5106		Hydrant without City meter		Deposit	300.00	\$300.00	\$300.00
5107		Hydrant wrench		Deposit	25.00	\$25.00	\$25.00
<b>Monthly Water Base Fee</b>							
5140		3/4" meter		Fee	48.93	\$48.93	\$48.93
5141		1" meter		Fee	81.57	\$81.57	\$81.57
5142		1.5" meter		Fee	163.05	\$163.05	\$163.05
5143		2" meter		Fee	260.83	\$260.83	\$260.83
5144		3" meter		Fee	570.31	\$570.31	\$570.31
5145		4" meter		Fee	978.31	\$978.31	\$978.31
5146		6" meter fire protection surcharge		Fee	24.65	\$24.65	\$24.65
5147		8" meter fire protection surcharge		Fee	33.84	\$33.84	\$33.84
5155		Outside City Water Rates (extraterritorial) applies to meters, hydrants, and unit rates	3.05.050(2)	Fee	1.5 x regular rates	1.5 x regular rates	1.5 x regular rates
<b>Monthly Water Consumption Rates</b>							
5201		00-25 cf, per unit		Fee	4.11	\$4.11	\$4.11
5202		26-50 cf, per unit		Fee	4.46	\$4.46	\$4.46
5203		51 cf and up, per unit		Fee	5.03	\$5.03	\$5.03
<b>Late Charges</b>							
5220		72 hour notice Service Charge		Fee	25.00	\$25.00	\$25.00
5150		Notice of shut off / turn on	3.05.210	Fee	50.00	\$50.00	\$50.00
5130		Late payment fee (accounts not paid by 20th of month)		Fee	10% of bill	10% of bill	10% of bill

CITY OF NORTH PLAINS MASTER FEE SCHEDULE

FEE	FEE DESCRIPTION	REFERENCE	FEE TYPE	EFFECTIVE 7/1/16	EFFECTIVE 7/1/17	EFFECTIVE 7/1/18
<b>WATER Continued</b>						
<b>Water System Development Charge</b>						
5175	3/4" Displacement and low velocity turbine meters		Fee	4,936.00	4,936.00	<b>\$6,413.00</b>
5176	1" Displacement and low velocity turbine meters		Fee	12,338.00	12,338.00	<b>\$10,903.00</b>
5177	1.5" Displacement and low velocity turbine meters		Fee	24,675.00	24,675.00	<b>\$21,164.00</b>
5178	2" Displacement and low velocity turbine meters		Fee	39,480.00	39,480.00	<b>\$33,990.00</b>
5179	3" Displacement and low velocity turbine meters		Fee	78,960.00	78,960.00	<b>\$64,133.00</b>
5180	4" Displacement and low velocity turbine meters		Fee	123,374.00	123,374.00	<b>\$107,101.00</b>
5181	6" Displacement and low velocity turbine meters		Fee	246,746.00	246,746.00	<b>\$211,637.00</b>
5182	8" Displacement and low velocity turbine meters		Fee	394,794.00	394,794.00	<b>\$399,902.00</b>
5183	3" Large diameter compound meters		Fee	83,643.00	\$83,643.00	\$83,643.00
5184	4" Large diameter compound meters		Fee	143,387.00	\$143,387.00	\$143,387.00
5185	6" Large diameter compound meters		Fee	298,722.00	\$298,722.00	\$298,722.00
5186	8" Large diameter compound meters		Fee	430,160.00	\$430,160.00	\$430,160.00
5187	3" High velocity meters		Fee	83,643.00	\$83,643.00	\$83,643.00
5188	4" High velocity meters		Fee	150,557.00	\$150,557.00	\$150,557.00
5189	6" High velocity meters		Fee	334,568.00	\$334,568.00	\$334,568.00
5190	8" High velocity meters		Fee	573,547.00	\$573,547.00	\$573,547.00
5195	Water meter relocation		Fee	Actual Cost	Actual Cost	Actual Cost

The user fees are established to lessen the amount of property taxes by charging the cost of providing a service directly to the person utilizing the service. Fees are minimum payments for services, and cannot be discounted. In some cases, additional fees may be required to be negotiated for complex projects.

Deposits are used when the City seeks to recover its actual costs for a service, but due to the uniqueness of each application setting a fixed fee is not practical. These costs include, but are not limited to: services rendered by the City Planning Consultant, City Engineer, City Attorney, administrative costs covering staff reports, correspondence, financial accounting, public works review, supplies, postage, copying and clerical time. If the actual costs exceed the deposit, the City reserves the right to request an additional deposit and/or the applicant will receive an invoice for any other additional charges.

An application shall not be deemed complete until all the fees are paid.



## CITY OF NORTH PLAINS

31360 NW Commercial Street, North Plains, Oregon 97133

Date: June 4, 2018  
To: Mayor and City Council  
From: City Manager Andy Varner  
Subject: Resolution 2004: IGA with Hillsboro School District for City R-O-W Use for Fiber Project

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**Request:** Adopt Resolution 2004 and authorize the City Manager to sign the IGA on behalf of the City. The Council originally discussed this IGA on May 7 and received a presentation from the School District's CIO.

**Background:** As part of the Capital Bond that was passed in November of 2017, the Hillsboro School District will be constructing a fiber network to connect all of the schools in the Hillsboro attendance area. North Plains Elementary School will be part of this project. Additionally, there are also plans to connect the new elementary school that will be constructed in North Plains in 2020-21.

The District is requesting a Franchise Agreement with the City of North Plains to complete the construction of the fiber network. This is necessary in order to gain access to the public right of way to place and maintain the fiber infrastructure connecting these two locations. Project planning is currently underway, with construction beginning in earnest July of 2018. There are no specific dates at this time when construction will start in North Plains. The timeline to complete the entire project has a tentative deadline of December of 2019. Further information and a route map are attached.

North Plains worked with the Cities of Cornelius and Hillsboro to make the IGAs identical since our jurisdictions will be affected by this project and we wanted to create a level field for the school district. Nothing has changed in this IGA since we last examined it.

**Fiscal Impact:** The IGA currently calls for quarterly payments of \$1,000, or \$4,000 annually.

**Environmental Issues:** None.

**Recommendation:** It is recommended that the City Council approve Resolution 2004.

**Sample Motion:** I move to adopt Resolution 2004 approving the Intergovernmental Agreement with the Hillsboro School District and authorizing the City Manager to sign the IGA on behalf of the City.



INNOVATIVE INTEGRATED INDEPENDENT

April 23, 2018

Subj: Hillsboro School District Fiber Optic Routing – North Plains Franchise Narrative

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## Overview

Hillsboro School District 1J (HSD) has awarded contracts to procure and install a fiber optic network which will connect to all of their facilities. This network will encompass approximately 100 miles of routes and require permitting and franchise agreements from multiple jurisdictions. The project is segmented into rings that will be constructed to provide fully redundant connectivity to core locations. In addition, there will be an overlay of two main rings providing redundant connectivity between HSD's Administration Center and each of the District's four major high schools. Finally there will be six spurs to connect the stadiums used by HSD and outlying facilities in the north, west and southern most reaches of HSD. The following narrative covers the portion of the project that will pass through the City of North Plains.

### Assumptions:

- This narrative and the attached Google map is for illustrative purposes only and meant to clarify the District's intent to deploy a District owned fiber optic infrastructure to support their current facilities and reasonably accommodate expansion to the District foot print in terms of area served and number of physical buildings connected to this infrastructure.
- No engineering has been performed on the Google maps nor are routes absolute as shown.
- Scale is approximate and images have been resized to fit 8 ½" x 11" paper.
- Routes shown are projected; however, such may be realigned or changed to suit the logical or physical configuration(s) that are in the best interest of the District. Final decision for routing will be at the sole discretion of the District with design being represented on engineered construction and permit drawings satisfying the requirements of the Authority Having Jurisdiction.
- Anomalies and objects that may potentially alter route(s) have not been considered.

## City of North Plains

North Plains Elementary school resides on the north edge of the city limits. This site will be served from a spur that runs from Evergreen Middle School, due west on Evergreen Drive and turns north on NW Glencoe Road. The route will generally follow NW Glencoe Road, crossing over Highway 26 and enter the City of North Plains. Directional boring is anticipated to follow NW Glencoe Road to NW North Avenue where the route will turn west and continue to North Plains Elementary School.

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**RESOLUTION NO. 2004**

**A RESOLUTION OF THE NORTH PLAINS CITY COUNCIL APPROVING AN  
INTERGOVERNMENTAL AGREEMENT WITH THE HILLSBORO SCHOOL DISTRICT 1J  
AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF  
OF THE CITY**

**WHEREAS**, ORS 190.010 authorizes units of local government to enter into written agreements with other units of local government for the performance of any or all functions and activities that a party to the agreement has the authority to perform; and

**WHEREAS**, ORS 190.110 authorizes units of local government to cooperate by agreement with other units of local government for any lawful purpose; and

**WHEREAS**, the City of North Plains ("City") and the Hillsboro School District 1J ("District") wish to enter into such an Intergovernmental Agreement on terms and conditions mutually agreeable to both parties that sets out their mutual understandings regarding the District's installation, operation, use and maintenance of a telecommunications system in the City's right of way or other public property; and

**WHEREAS**, the City has the authority to regulate cable and telecommunications systems pursuant to federal law; and

**WHEREAS**, the City finds that the terms and conditions in the proposed Intergovernmental Agreement are reasonable to address the City's interests and are in the best interest of the City.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH PLAINS, OREGON:**

**Section 1.** The City hereby approves the Intergovernmental Agreement between the City of North Plains and the Hillsboro School District 1J, attached hereto as "Exhibit A" (the "Intergovernmental Agreement").

**Section 2.** The City Manager is hereby authorized and directed to sign the Intergovernmental Agreement on behalf of the City.

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**Section 3.**     This resolution is and shall be effective from and after its enactment by the City Council.

**INTRODUCED AND ADOPTED** this \_\_\_\_ day of June, 2018.

**CITY OF NORTH PLAINS, OREGON**

\_\_\_\_\_  
Teri Lenahan, Mayor

ATTEST:

\_\_\_\_\_  
Lori Lesmeister, City Recorder

## Intergovernmental Agreement

This INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made and entered into by and between the City of North Plains, an Oregon municipal corporation (“City”), and the Hillsboro School District 1J, a municipal corporation (“District”) (collectively referred to herein as the “Parties”).

### RECITALS

1. Pursuant to federal law, state statutes, the North Plains City Charter, and North Plains Municipal Code (NPMC) Chapter 3.25, the City is authorized to grant the non-exclusive right to occupy the City’s Rights-of-Way or other public property in order to construct, operate, use and maintain telecommunications service within the municipal boundaries of the City of North Plains.
2. The City has found that the District is a municipal corporation authorized under ORS Chapter 332 to provide public K-12 education within the City of North Plains. The District’s use of the City’s Rights-of-Way is not for the purpose of a business enterprise for commercial purposes.
3. The Parties agree that the District will not derive any Gross Revenue from the Telecommunications Service provided on the Telecommunications System occupying the City’s Rights-of-Way pursuant to this Agreement.
4. The District is eligible for a grant under the federal E-rate program. Under the terms of the grant, the District is prohibited from deriving Gross Revenue from the Facilities used to provide Telecommunications Services subject to this Agreement.
5. The City has found that the District provides a unique service to its constituents for public benefit and not for commercial gain, and which will be furthered by the execution of this Agreement.
6. The District desires to enter into an intergovernmental agreement with the City, pursuant to ORS Chapter 190 and NPMC Chapter 3.25 to authorize the use of the City’s Rights-of-Way. The District is organized as a public corporation organized under ORS 332.072 and authorized to enter into an intergovernmental agreement as a unit of local government as defined in ORS 190.003.

### AGREEMENT

#### SECTION 1. DEFINITIONS; RULES OF CONSTRUCTION

Throughout this Agreement, captions are intended solely to facilitate reading and reference and shall not affect the meaning and interpretation of this Agreement.

When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

For the purpose of this Agreement, the following terms, phrases, and their derivations shall have the meanings given below unless the context indicates otherwise.

- 1.3.1 “Agreement” means this Agreement, as fully executed by the City and the District.

- 1.3.2 “City” means the City of North Plains, Oregon, a municipal corporation, and all of the territory within its corporate boundaries, as such may change from time to time.
- 1.3.3 “City Engineer” means the City Engineer of the City of North Plains, or any designee thereof.
- 1.3.4 “City Manager” means the City Manager of the City of North Plains, or any designee thereof.
- 1.3.5 “City Council” or “Council” means the governing body of the City of North Plains.
- 1.3.6 “Facility” means any tangible component of the District’s Telecommunications System including, but not limited to, fiber, wires, cables, pipes, mains, ducts, conduits, vaults, pedestals, poles, antennas, power boxes, cabinets and electronic equipment.
- 1.3.7 [Reserved]
- 1.3.8 “Gross Revenue” means gross revenue derived by grantee from the provision of telecommunications services originating and/or terminating in the city on facilities covered by the franchise. For the purposes of this subchapter, the following items may be excluded from gross revenues:
  - 1.3.8.1 Net un-collectibles from revenue included in gross revenues;
  - 1.3.8.2 Revenue derived from the provision of interstate toll service;
  - 1.3.8.3 Revenue derived from the provision of telecommunications service on facilities from an end user to an interexchange carrier’s point of presence, provided that at least 90 percent of the annual traffic on the facility is interstate;
  - 1.3.8.4 Revenue derived from toll transport services.
- 1.3.9 “Minimum Quarterly Franchise Fee” means the minimum quarterly amount paid to the City of North Plains under this Agreement. The Minimum Quarterly Franchise Fee for this Agreement shall be one thousand dollars (\$1,000).
- 1.3.10 “Person” means any individual, governmental entity, sole proprietorship, partnership, association, joint stock company, trust, limited liability company, or other form of organization authorized to do business in the State of Oregon, and includes any natural Person.
- 1.3.11 “Rights-of-Way” or “ROW” means the surface of, and the space above and below, any street, road, alley, highway, sidewalk, utility easement, public square, public park, or other public place owned or otherwise held by the City.
- 1.3.12 [Reserved]
- 1.3.13 “Telecommunications Service” means any service provided for the purpose of voice, video or data transmission, including, but not limited to, local exchange service, access service, extended area service, call origination, interconnection, switching, transport, call termination and/or any other telecommunications service identified and authorized by the Federal Communications Commission (“FCC”) or the Oregon Public Utilities Commission. Telecommunications Service does not include any of the following:
  - 1.3.13.1 Cable service as defined by 47 U.S.C. § 522;
  - 1.3.13.2 Open video system service as defined in 47 C.F.R. § 76;

- 1.3.13.3 Private communications system services provided without using the public rights-of-way;
  - 1.3.13.4 Over-the-air radio or television broadcasting to the public-at-large from Facilities licensed by the FCC or any successor thereto;
  - 1.3.13.5 Direct-to-home satellite service within the meaning of Section 602 of the Telecommunications Act of 1996;
  - 1.3.13.6 Or commercial mobile radio service as defined by 47 C.F.R. § 20.3.
- 1.3.14 “Telecommunications System” means all Facilities owned, leased, rented, maintained or used by the District for the purpose of providing Telecommunications Service and located in, under and/or above Rights-of-Way.

## **SECTION 2. GRANT OF AUTHORITY**

- 2.1 The City hereby grants to the District the non-exclusive right to occupy the City’s Rights-of-Way for the purpose of construction, use, operation and maintenance of a Telecommunications System. The District shall use its Telecommunications System solely to provide Telecommunications Service.
- 2.2 Prior to providing any telecommunications services via all or part of the Telecommunications System that is the subject of this Agreement, the District shall apply for and obtain such authority from the Oregon Public Utility Commission and/or the Federal Communications Commission, if required under State or Federal law. The District shall provide the City with documentation of such authority upon written request.
- 2.3 This Agreement and the grant of authority conferred herein are not exclusive. The City reserves the right to grant the authority to others to use the City’s Rights-of-Way or other public property during the term of this Agreement. The District shall respect the rights and property of the City and other authorized users of the Rights-of-Way. This Agreement does not confer on the District any right, title or interest in any Right-of-Way beyond that expressly conferred herein. This Agreement does not confer any right or privilege to use or occupy any other property of the City or any other entity.
- 2.4 Nothing in this Agreement shall be construed to prevent the City from constructing sewers; from grading, paving, repairing or altering any Right-of-Way or from constructing, installing, repairing or removing water mains or any other public work or improvement. If any of the District's Telecommunications System interferes with the work described in this subsection, the District's Telecommunications System shall be removed or replaced according to Section 11 of this Agreement.

## **SECTION 3. EFFECTIVE DATE; TERM; TERMINATION**

- 3.1 The effective Date of this Agreement shall be the first day following the date on which both Parties sign this Agreement (the “Effective Date”).

- 3.2 This Agreement, and all rights and obligations pertaining hereto, shall, subject to any applicable statutory or regulatory limitations on the maximum term allowed for public contracts, continue in full force and effect for an **initial term of ten (10) years**, commencing on the Effective Date. Unless sooner terminated by either party as set forth in subsections 3.3 and 3.4 below, at the end of the initial ten year term, this Agreement shall renew automatically for **two (2) additional five (5) year terms**. Pursuant to Oregon Revised Statute (“ORS”) 221.460, in no event shall the term of this Agreement extend beyond twenty (20) years from the Effective Date.
- 3.3 This Agreement may be terminated by mutual written consent of the Parties at any time.
- 3.4 Either party may terminate this Agreement at any time and for any or no cause by providing not less than one hundred and eighty (180) days advance written notice to the other party, provided, however that this Agreement shall automatically terminate if the District does not pay the fee required under Section 5 within one hundred and eighty (180) days of its due date.
- 3.5 Nothing in this section shall be interpreted as limiting or altering the rights of the City or the process for the City to exercise its rights under Section 20 of this Agreement, including but not limited to, the amount of prior notice the City must provide the District as provided for in Section 20 of this Agreement.
- 3.6 Upon termination of this Agreement, the disposition of the District’s property and Facilities that occupy the Rights-of-Way shall be governed by Section 17 of this Agreement.

#### **SECTION 4. PERFORMANCE**

- 4.1 To the extent authorized by law, this Agreement is subject to the Charter of the City of North Plains and general ordinance provisions passed pursuant thereto, now in effect or hereafter made effective.
- 4.2 During the entire term of this Agreement, the District agrees to comply with all lawful terms and conditions of NPMC Chapter 3.25 and any other provisions of the North Plains Municipal Code which require underground utilities in subdivisions and partitions, the provisions of which are incorporated herein as though fully set forth. The District reserves the right to challenge any of the terms and conditions of NPMC Chapter 3.25 under applicable federal and state law in the future.

#### **SECTION 5. PAYMENTS; AUDITING**

- 5.1 As compensation for the benefits and privileges granted pursuant to this Agreement, and in consideration for use of the Rights-of-Way, the District shall pay to the City a quarterly fee of one thousand dollars (\$1,000.00) for the duration of this Agreement. The District represents and warrants that it does not and will not derive Gross Revenues from Telecommunications Services provided for under this Agreement.

If the District begins deriving such Gross Revenues during the term of this Agreement, the District shall immediately notify the City in writing and agree to negotiate amendments to this Agreement to comply with NPMC Chapter 3.25, to provide for payment terms for auditing procedures, and to designate the provisions of the amendments as material to this Agreement.

- 5.2 The District shall remit to the City the annual fee payable under Section 5.1 as follows:
- 5.2.1 Within thirty (30) days of the Effective Date, the District shall pay to the City all quarterly payments for the initial ten year term of this Agreement, as provided for in Section 3.2. The four thousand dollar (\$4,000.00) payment (\$1,000 x Minimum Quarterly Franchise Fee x 4 quarters shall constitute payment of the first Minimum Quarterly Franchise Fee due and a pre-payment of the remaining Minimum Quarterly Franchise Fees to be due during the initial term of this agreement. The District shall pay to the City, no later than January 31 of each subsequent year during the initial ten (10) year term of this Agreement, an additional four thousand dollars (\$4,000.00), which shall constitute payment of the first Minimum Quarterly Franchise Fee due for that year, and a pre-payment of three additional Minimum Quarterly Franchise Fees due for the subject year.
- 5.2.2 Within thirty (30) days of the Effective Date of a five (5) year renewal term, as provided for in Section 3.2, the District shall pay to the City all quarterly payments for the first year of that five (5) year renewal term. The four thousand dollar (\$4,000.00) payment (\$1,000 Minimum Quarterly Franchise Fee x 4 quarters shall constitute payment of the first Minimum Quarterly Fee due and a pre-payment of the remaining Minimum Quarterly Fees to be due for the first year during that renewal term of this Agreement. The District shall pay to the City, no later than January 31 of each subsequent year during each subsequent year during the five (5) year renewal term of this Agreement, an additional four thousand dollars (\$4,000.00), which shall constitute payment of four (4) Minimum Quarterly Franchise Fees.
- 5.2.3 No portion of the Minimum Annual Fees paid to the City in accordance with this Section shall be refunded or otherwise credited to the District against any fees, taxes, charges, penalties, or other financial obligations due to the City if this Agreement is forfeited or otherwise terminated or revoked under the provisions of Section 20 of this Agreement or is terminated by the District for any reason. If this Agreement is terminated for any other reason, the City shall refund or credit to the District an amount equal to the pre-paid Minimum Annual Fee for each remaining full annual period of that term of this Agreement, without proration for the remainder of the current annual period at the time of the forfeiture/termination/revocation of the Agreement.
- 5.3 Fee payments not received by the City on or before the due date shall be assessed interest based on the average prime interest rate set by the bank with which the City contracts for its general banking services on December 31st of the previous year, plus two percent (2%). At no time shall interest be reduced to less than seven percent (7%). Interest shall be due on the entire late payment from the date on which the payment was due and payable until the date on which the City receives the payment. Interest shall accrue without regard to whether the City has provided notice of the delinquency.

## **SECTION 6. REPORTS**

- 6.1 No later than February 15 of each calendar year that this Agreement is in effect, the District shall submit a written report to the City certifying that no Gross Revenues were earned during the preceding calendar year. This report shall be accompanied by a written declaration signed by an authorized officer or agent of the District under penalty of perjury with the following language included immediately above the signature of the declarant: "I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury." Such report shall be in a form satisfactory to the City.
- 6.2 Within thirty (30) days of receipt of same, the District shall submit to the City copies of all decisions, orders, and judgments by any federal, state and local court, regulatory agency, and other government body, in which the District is a party, which substantially and materially affects the District's obligations under this Agreement.
- 6.3 The District shall make available to the City, upon not less than fourteen (14) days prior written notice, such information or reports pertinent to enforcing the terms of this Agreement, in such form and at such time as the City may request.

## **SECTION 7. CHANGE OF LAW; AMENDMENT OF INTERGOVERNMENTAL AGREEMENT**

- 7.1 This Agreement may be amended from time to time to conform to any changes in the controlling federal or state law, or other changes material to this Agreement. Each party agrees to bargain in good faith with the other party concerning such proposed amendments. This Agreement also may be amended by mutual consent of the Parties or their successors-in-interest. Any amendments hereto shall be by written instrument executed with the same formalities as this Agreement.
- 7.2 To the extent any lawful City rule, ordinance, or regulation is adopted or amended and is generally imposed on similarly situated Persons or entities, the rule, ordinance or regulation shall apply without need for amendment of this Agreement. The City shall provide the District with notice of any such change in law prior to its adoption. Such change will not affect the District's reserved right of challenge as described in Section 4 of this Agreement.

## **SECTION 8. TAXES AND FEES**

Payment of the fee due under this Agreement shall not exempt the District from the payment of any other license fee, permit fee, tax or charge on the business, occupation, property, activity or income of the District that may be lawfully imposed by the City or any other taxing authority, except as may otherwise be provided in the ordinance or laws imposing such other license fee, permit fee, tax or charge.

## **SECTION 9. INSURANCE; PERFORMANCE LETTER OF CREDIT; CONSTRUCTION BOND**

- 9.1 The District shall obtain and maintain in effect during the term of this Agreement a policy or policies of commercial general liability insurance with combined single limits, or the equivalent, of not less than \$2,000,000 (two million dollars) per occurrence/ \$3,000,000 (three million dollars) in the aggregate for Bodily Injury, Death, Property Damage, Contractual Liability, and Completed

Operations. The District shall also obtain and maintain in effect during the term of this Agreement Professional Liability coverage with combined single limits of not less than \$2,000,000 (two million dollars). The insurance shall be without prejudice to otherwise existing coverage and shall name and cover as additional insureds the City, its officers, agents, and employees. The District shall be financially responsible for all pertinent deductibles, self-insured retention and/or self-insurance. The certificate of insurance as specified under subsection 9.2 below shall provide that this insurance shall not be canceled or materially altered without thirty (30) days written notice first being given to the City Manager . If the insurance is canceled or materially altered within the term of this Agreement, the District shall provide a replacement policy with the same terms.

- 9.2 The District shall maintain on file with the City a certificate of insurance certifying the coverage required above. The adequacy of the insurance shall be subject to the approval of the City Manager. Liability insurance through a captive insurance provider that is the primary carrier for District shall be acceptable under this Agreement so long as the minimum coverage amounts required under this Agreement are satisfied.
- 9.3. Construction Bond or Irrevocable Letter of Credit. During all times when the District is performing any construction work in or under the City's Rights-of-Way requiring a permit, the District shall post, through its contractor(s), a construction bond or irrevocable letter of credit, running to the City, with good and sufficient surety approved by the City, in the sum of ten thousand dollars (\$10,000). The bond or letter of credit shall be conditioned that the District shall well and truly observe, fulfill, and perform each term and condition under the applicable permit. The District shall pay all premiums or other costs associated with maintaining the bond or letter of credit, and shall keep the same in full force and affect at all times during the construction work. The bond or letter of credit shall provide that it may be terminated upon final approval of the District's construction work in or under the Rights-of-Way by the City Engineer or his designee. Upon such approval, the City agrees to sign all documents necessary to release the bond or letter of credit in accordance with the terms of this Section. For the duration of any construction work, the District shall file with the City Manager a copy of the bond or letter of credit, along with written evidence of payment of the required premiums.

## **SECTION 10. INDEMNIFICATION**

- 10.1 Subject to the limitations set forth in ORS 30.260 through ORS 30.300, the Oregon Tort Claims Act, and the Oregon Constitution each party shall indemnify, defend and hold harmless the other, and the other's officials, agents and employees, against any and all claims, demands, causes of action, suits, proceedings, damages, costs, reasonable attorney's fees or liabilities ("Claims") arising out of, pertaining to, or occurring through the exercise of, the rights and privileges retained by, granted to, or exercised by that party pursuant to this Agreement. Each party shall give to the other notice in writing of any such Claims within twenty (20) days of the date that party receives notice of any such Claims. Neither party shall settle, compromise or take any action prejudicial to the other's defense of or interest in such Claims without the express written consent of the other party.



- 10.2 The District also shall indemnify the City for any damages, claims, additional costs or expenses assessed against or payable by the City arising out of or resulting, directly or indirectly, from the District's failure to remove, adjust or relocate any of its Facilities in the Rights-of-Way in a timely manner in accordance with a relocation schedule furnished to the District by the City Engineer, unless the District's failure arises directly from the City's negligence or willful misconduct.
- 10.3 The District agrees to forever indemnify the City against any claims, suits, actions, costs, and expenses, of any kind, whether direct or indirect, incurred by the City arising out of the release or threat of release of any hazardous substance as defined in ORS 465.200(16) caused by the District's ownership, operation or maintenance of a Telecommunications System in the Rights-of-Way.

## **SECTION 11. CONSTRUCTION AND RELOCATION**

- 11.1 The District shall maintain maps and data pertaining to all of its Facilities located in the City on file at an office in Oregon. With no less than twenty-four (24) hours prior notice, the City may inspect the maps and data at any time during business hours. Upon request of the City and without charge, the District shall furnish current maps and data to the City, either in printed form or, if the City maintains compatible data base capabilities, then by electronic data in read-only format, showing the location of all the District's Facilities within the City. Upon completion of any and all of its Facilities in the Rights-of-Way, the District shall provide a map consistent with this Section to the City, showing the location as-built of its installed Telecommunication System in the Rights-Of-Way. Such as-built maps shall be in a form acceptable to the City Engineer and shall define specific locations of Facilities. Unless permitted by law, the City will not sell or transmit the District maps or data to third parties unless permitted by the District. The City will make available to the District at no cost any relevant City-prepared maps or data.
- 11.2 Subject to applicable rules and regulations of the City, the District may perform all excavations and other work necessary to construct, operate and maintain its Telecommunications System. All construction and maintenance of any and all Facilities within Rights-of-Way shall, regardless of who performs the excavation, installation and/or construction, are and shall remain the responsibility of the District. The District shall apply for and obtain all permits necessary for excavation, installation, construction, and/or maintenance of any Facilities located in the Rights-of-Way and shall pay all applicable fees due for City permits. The District must also give such notice as required by law to other franchisees, licensees or permittees of the City, and/or other units of government owning or maintaining Facilities which may be affected by the proposed work.
- 11.3 Prior to beginning any excavation, installation, or construction work, the District shall provide the City with an initial schedule and the estimated total cost of such work. When the District's work under its permit is completed, the District shall provide the City with the total amount of Right-of-Way, measured linearly, occupied by the District's Telecommunications System, and with a map showing the location of its installed Telecommunications System, as-built. Such "as-built" maps shall be in a form acceptable to the City Engineer.

- 11.4 All work by the District in the Rights-of-Way shall be properly safeguarded for the prevention of accidents. All of the District's work under Sections 11 and 12 of this Agreement shall be done in strict compliance with all applicable laws, ordinances, rules and regulations of the City and the State of Oregon.
- 11.5 Within thirty (30) days of any change in location of the District's Telecommunications System, the District shall provide a map to the City Engineer, showing the location of the District's Telecommunications System on whatever standard scale the City adopts for general use. The District shall also provide such maps in an electronic format acceptable to both the City and the District.
- 11.6 In the event that emergency repairs to its Telecommunications System are necessary, the District shall immediately notify the City of the need for such repairs. The District may immediately initiate such emergency repairs and shall apply for appropriate permits the next business day following discovery of the emergency. The District shall comply with all City ordinances and regulations relating to any excavations or construction undertaken during emergency repair work, including the payment of permits or license fees. If emergency work has been done in a manner or location unacceptable to the City, the City shall notify the District in writing. The District shall make all appropriate modifications and relocation within sixty (60) days of such written notice.
- 11.7 The District shall comply with ORS 757.542 through ORS 757.562 and the rules and regulations promulgated thereunder in making excavations.
- 11.8 The City shall have the right to require the District to change the location of any of its Facilities located within the Rights-of-Way when public convenience and necessity requires such change, and the expense thereof shall be paid solely by the District. Should the District fail to remove or relocate any such Facilities by the date established by the City, which, except in the event of a public emergency, shall not be sooner than ninety (90) days after City's written notice to remove/relocate, the City may cause or effect such removal or relocation, and the expense thereof shall be paid by District, including all direct, indirect or consequential costs and expenses incurred by the City due to the District's delay. If the City requires the District to relocate any of its Facilities located within the Rights-of- Way, the City shall make a reasonable effort to provide the District with an alternate location for such Facilities.
- 11.9 As permitted by, and in accordance with applicable laws, administrative rules, or regulations, the City may require the District to remove and replace any overhead Facilities with underground Facilities at the same or different locations subject to the District's engineering and safety standards. The expense of such a conversion shall be paid by the District. Nothing in this subsection prevents the City and the District from agreeing to a different form of cost recovery consistent with applicable statutes and administrative rules or regulations on a case-by-case basis.
- 11.10 The District's Telecommunications System shall be constructed and maintained in such manner as not to interfere with sewers, water pipes, or any other property of the City, or with any other pipes, wires, conduits or other Facilities that may have been laid in the Rights-of-Way by the City or pursuant to the City's authority.

- 11.11 Upon the District's acquisition of any Facilities located in the Rights-of- Way, or upon any addition or annexation to the City of any area in which the District owns or controls any Facilities in the Rights-of-Way, the District shall submit to the City a written statement describing all Facilities involved, along with any documentation evidencing such acquisition and specifying the location of all such Facilities. Such Facilities shall immediately be subject to the terms of this Agreement upon acquisition or control by the District.
- 11.12 The City may require the District to temporarily remove and/or relocate Facilities located in any Right-of-Way by giving not less than sixty (60) days advance written notice to the District. Prior to such removal and/or relocation, the City agrees to provide a suitable substitute location for such relocated Facilities to maintain service. The City will assist in acquiring any needed easements if required square footage is not available in the Rights-of-Way. The cost of removal and relocation of its Facilities to accommodate public projects shall be paid by the District; however when such removal and relocation are to be temporary and both the initial and the subsequent relocation are for public projects and not at the request of or to accommodate a private party, initial relocation costs shall be paid by the District and the costs of subsequent relocations occurring less than two years after the initial relocation shall be paid by the City.
- 11.13 Nothing in this Agreement shall be construed in any way to prevent the City from excavating, grading, paving, planking, repairing, widening, altering, or doing any work in any Rights-of-Way. The City shall coordinate any such work with the District to avoid, to the extent reasonably foreseeable, any obstruction, injury or restriction on the use of any of the District's Facilities. Nothing in this Section relieves the District from its obligations set forth in Section 8 of this Agreement.

## **SECTION 12. RESTORATION OF RIGHTS-OF-WAY**

- 12.1 Whenever the District disturbs the surface of any Right-of-Way for any purpose, the District shall promptly restore the Right-of-Way surface to as good or better condition than it had been prior to such disturbance.
- 12.2 All restoration of Rights-of-Way surfaces shall be subject to the approval of the City Engineer who may issue an order requiring correction of the restoration work. If the correction order is not complied with within thirty (30) days or any other such time as may be specified in the order, the City may restore the surface of the Rights-of-Way, in which case the District shall pay all costs of the restoration work to the City, including the resurfacing, inspection, supervision, and administrative costs of the resurfacing. If the City restores the surface of any Rights-of-Way under this Subsection, the District shall also pay for the cost of issuing the correction order. If the work by the District creates a public safety hazard as determined by the City Engineer, the District may be required to repair or restore such Right-of-Way within twenty-four (24) hours of such determination or within such time as otherwise agreed upon by the City Engineer and the District.
- 12.3 The District may prune or cause to be pruned, using proper arboricultural practices, any tree located in the Right-of-Way which substantially interferes with the District's Telecommunications

System if the District gives no less than fourteen (14) days advance written notice to the City Manager, the City Engineer, and any adjoining property owners. Such pruning work shall be the minimum amount required to alleviate the substantial interference with the operation of the District's Telecommunications System. Any contractor engaged by the District to perform work under this Subsection must be approved by the City in advance of the performance of any work. Any wood, debris or other matter resulting from the pruning of trees shall be removed from the Right-of-Way on the same day pruning occurs.

## **SECTION 13. USE OF DUCTS BY CITY; COMMON USERS**

### **13.1 For purposes of this Section:**

13.1.1 "Attachment" means any wire, optical fiber or other cable, and any related device, apparatus or auxiliary equipment, for the purpose of voice, video, or data transmission.

13.1.2 "Conduit Facility" means any structure, or section thereof, containing one or more ducts, conduits, manholes, hand holes or other such Facilities in the District's Telecommunications System.

13.1.3 "Duct" means a single enclosed raceway for conductors, optical fiber, wire or other cable.

13.1.4 "Licensee" means any Person, governmental entity, firm, corporation, partnership, company, association, joint stock association or cooperatively organized association franchised, licensed or otherwise permitted by the City to use the Rights-of-Way. For the purpose of this Section, the District shall not be construed to be a "Licensee" as defined herein.

13.1.5 "Municipal Purposes" includes, but is not limited to, the use of the structures and for City fire, police, traffic, water, telephone, or signal systems. "Municipal Purposes" does not include: (1) the sale or lease of Telecommunications Services to third parties; (2) the transfer of any rights by the City to third parties for the purpose of providing the City with access to interexchange carriers; or (3) the transportation of water or wastewater.

13.1.6 "Surplus Ducts or Conduits" are Conduit Facilities other than those occupied by the District or any prior Licensee, one unoccupied Duct held by the District as an emergency use spare, and other unoccupied Ducts that the District reasonably expects to use within the next eighteen (18) months.

13.2 The District acknowledges that the Rights-of-Way have a finite capacity for containing Ducts and conduits. Therefore, the City Engineer may require the District to permit a Licensee to use the District's Surplus Ducts or Conduits in common with the District, pursuant to the terms and conditions of an agreement between the District and the Licensee and in accordance with applicable federal laws, rules, and regulations. If the District and Licensee fail to agree to the use of such Surplus Ducts and Conduits within a reasonable time, the City Council shall establish by resolution such terms, conditions and regulations for such common use as it may determine to be fair and equitable.

13.3 A Licensee occupying part of a Duct shall be deemed to occupy the entire Duct.

- 13.4 The District shall give not less than 120 days' advance written notice to a Licensee and the City of its need to occupy any licensed Duct or conduit, and shall propose that the Licensee take the first feasible action listed:
- 13.4.1 Pay revised Duct or conduit rent designed to recover the cost of retrofitting the Duct or conduit with multiplexing, optical fibers, or other space-saving technology sufficient to meet the District's space needs; or
  - 13.4.2 Pay revised Duct or conduit rent based on the cost of new Ducts or conduits constructed to meet the District's space needs; or
  - 13.4.3 Vacate Ducts and conduits that are no longer surplus; or
  - 13.4.4 Construct and maintain sufficient new ducts or conduits to meet the District's space needs.
- 13.5 When two or more Licensees occupy a section of Conduit Facility, the last Licensee to occupy the Conduit Facility shall be the first to vacate or construct new conduit. When conduit rent is revised because of retrofitting of space-saving technology or construction of new conduit, all Licensees shall bear the revised cost equally.
- 13.6 All Attachments shall meet local, state, and federal clearance and other safety requirements, be properly grounded and anchored, and meet the provisions of contracts executed between the District and the Licensee. The District may, at its option, correct any Attachment deficiencies and charge the Licensee for its costs. Each Licensee shall pay the District for any fines, fees, damages, or other reasonable costs the Licensee's Attachments cause the District to incur.
- 13.7 The City may install or affix and maintain wires and equipment for Municipal Purposes within any of the District's Surplus Ducts or Conduits as defined in this Section upon not less than thirty (30) days' written notice to the District and in accordance with applicable federal laws, rules, and regulations. The City shall provide written notification to the District indicating the date on which the City intends to abandon or otherwise discontinue the use of the District's Surplus Ducts or Conduits. All work to affix or maintain City wires and equipment shall be performed by the District, according to the City's written specifications and subject to approval by the City, and shall be performed at the City's expense for the District's direct costs of material and labor. Any damage caused by the District to the City's wires and equipment when following the procedure approved by the City shall be repaired at the expense of the City. In the event of an emergency requiring the City to obtain immediate access to the District's Surplus Ducts or Conduits, as reasonably determined by the City, the thirty (30) day written notice requirement shall be waived. In the event of such an emergency, the City shall contact the District, informing the District of the emergency and the City's need for immediate access. If the District does not provide personnel on site within four (4) hours of the request, the City shall have the right to access the Surplus Ducts or Conduits with its own personnel. If the City damages the District's Facilities during such emergency access, the City shall be responsible for the repair of such damages and all of the costs thereof.
- 13.8 The value of the City's use of the District's Surplus Ducts or Conduits shall not be deducted from the District's fee or any other fees payable to the City.

## **SECTION 14. TEMPORARY RELOCATION AT THE REQUEST OF THIRD PARTIES**

Whenever it is necessary to temporarily relocate or rearrange any Facility of the District to permit the passage of any building, machinery or other object, the District shall perform the work upon thirty (30) business days' written notice from the Persons desiring to move the building, machinery or other object. The notice shall: (1) demonstrate that the third party has acquired any necessary permit from the City; (2) detail the route of movement of the building, machinery or other object; (3) provide that the Person requesting the temporary relocation shall be responsible for the District's costs; (4) provide that the requestor shall indemnify and hold harmless the City and the District from any and all damages or claims resulting either from the moving of the building, machinery or other object or from the temporary relocation of the District Facilities; and (5) be accompanied by a cash deposit or other security acceptable to the District for the costs of relocation. The cash deposit or other acceptable security shall be in an amount reasonably calculated by the District to cover the District's costs of temporary relocation and restoration. The District may, in its sole discretion, waive the cash deposit or other acceptable security requirement.

## **SECTION 15. RIGHT-OF-WAY VACATION**

If any Right-of-Way or portion thereof used by the District is vacated by the City during the term of this Agreement, the District shall, without expense to the City, remove its Telecommunications System therefrom and restore, repair or reconstruct the Right-of-Way or portion thereof in as good or better condition as before the removal, unless the City Council specifically reserves to the District the right to continue to use the vacated Right-of-Way. In the event of failure, neglect or refusal of the District, after ninety (90) days' notice by the City, to restore, repair, reconstruct, improve or maintain such vacated Right-of-Way, the City may perform such work or cause such work to be performed. The direct, indirect, and consequential costs thereof, as a result of the District's delay, as determined by the City Council, shall be entered in the Docket of City Liens against any property of the District, and such lien shall be enforced in like manner and with like effect as other liens entered in such docket. In the event of vacation under this Section, the City shall cooperate with the District to identify alternative locations within the Rights-of-Way for placement of the District's Facilities.

## **SECTION 16. MAINTENANCE OF FACILITIES**

The District shall be solely responsible for performing all required maintenance and improvements to its Telecommunications System and for installing all safeguards reasonably necessary to prevent injury to any Person, or to any publicly or privately own property, and the District shall be solely responsible for all costs thereof. The District shall be responsible, at its own expense, for repairing any trench settlement or other paving defect resulting from the installation of Facilities in the Rights-of-Way.

## **SECTION 17. DISCONTINUED USE OF FACILITIES**

Whenever the District intends to permanently discontinue use of part or all its Telecommunications System, the District shall submit a completed application to the City Engineer for approval, describing the Facility or Facilities involved and the date on which the District intends to discontinue its use. The District must remove the Facility or request that the City permit the Facility to remain in place, which permission shall be in the sole discretion of the City. If the District is permitted to abandon its Facilities in place as evidenced by written consent from the City, the District shall submit to the City a deed or other form of documentation acceptable to the City Attorney transferring ownership of such Facilities in the Rights-of-Way to the City. After the transfer of ownership is complete, the District shall have no further obligation for the Facilities except as otherwise provided for in this Agreement, including but not limited to, indemnifying the City for any claims, damages, or harm caused by Hazardous Substances as provided for in Section 10.3 and 18.4 of this Agreement. Notwithstanding the District's request that any such Facility remain in place, the City Engineer may require the District to remove the Facility from the Rights-of-Way, or modify the Facility, or a combination of both, in order to protect the public health and safety, or otherwise serve the public interest. The District shall complete such removal or modification in accordance with a schedule set by the City Engineer. Until the City consents to the District's abandonment, or the District removes or modifies the Facility as directed by the City Engineer, or until the rights to and responsibility for the Facility are accepted by another Person or entity having authority to construct and maintain such Facilities, the District shall be responsible for all necessary repairs and relocations of the Facilities, as well as restoration of the Rights-of-Way, in the same manner and degree as if the Facilities were in active use. The District shall also retain all liability for such Facilities.

## **SECTION 18. HAZARDOUS SUBSTANCES**

- 18.1 The District shall comply with all applicable state and federal laws, statutes, regulations and orders concerning hazardous substances relating to the District's Telecommunications System in the Rights-of-Way. For purposes of this Section 18, "Hazardous Substance" shall have the meaning given by ORS 465.200(16).
- 18.2 Upon reasonable notice to the District and in the presence of an authorized representative of the District, the City may inspect the District's Facilities in the Right-of-Way to determine if any release of Hazardous Substances has occurred, or may occur, from or related to the District's Telecommunications System.
- 18.3 In removing or modifying any of its Facilities as provided in this Agreement, the District shall also remove all residue of Hazardous Substances in compliance with applicable environmental clean-up standards related thereto.
- 18.4 City and the District expressly acknowledge that the City shall have no liability whatsoever for any claims, damages or harm caused by or related to the existence or release of Hazardous Substances in or by the District's Telecommunications System, or for the District's failure to adequately address or clean up such Hazardous Substances. The District shall indemnify City for any claims, damages or harm according to the requirements of Subsection 10.3 of this Agreement.

## **SECTION 19. ASSIGNMENT, TRANSFER, MERGER, LEASE OR MORTGAGE**

- 19.1 This Agreement shall not be assigned nor any of the District's Telecommunications System located in the Rights-of-Way be sold, mortgaged, assigned or otherwise transferred, without the prior written consent of the City, except to entities that control, are controlled by, or are under common control with, the District. The District shall notify the City of any proposed transfers to such entities no less than thirty (30) days in advance of such assignment or transfer. The City's granting of consent in one instance shall not render unnecessary any subsequent consent in any other instance.
- 19.2 Nothing contained herein shall be deemed to prohibit the mortgage, pledge, or assignment of tangible assets of the District's Telecommunications System for the purpose of financing the acquisition of equipment for, or the construction and operation of, the District's Telecommunications System without the City's consent, but any such mortgage, pledge or assignment shall be subject to the City's other rights under this Agreement.
- 19.3 In determining whether the City will consent to any sale, lease, mortgage, assignment, merger or transfer of the District's Telecommunications System, the City may inquire into the technical, legal, and financial qualifications of the prospective party with respect to its ability to perform under this Agreement, and the City may condition its consent upon satisfactory results of such inquiry. The District shall assist the City with any such inquiry. The City shall not unreasonably delay or withhold its consent to any such sale, lease, mortgage, assignment, transfer or merger.
- 19.4 No sale, lease, mortgage, assignment, transfer or merger for which the City's consent is required may occur until the District's successor, assignee or lessee has complied with the requirements of this Agreement, including, but not limited to, providing certificates of insurance, unless the City Council waives such compliance by official act.
- 19.5 Within ten (10) days after execution and delivery of any instrument so consented to by the City, the District shall file with the City Recorder an executed counterpart or certified copy thereof.

## **SECTION 20. FORFEITURE AND REMEDIES; FORCE MAJEURE**

- 20.1 In addition to any other rights set out elsewhere in this Agreement, the City reserves the right to declare a forfeiture of this Agreement and all of the District's rights arising hereunder, upon the occurrence of one or more of the following:
- 20.1.1 The District violates any material provision of this Agreement;
- 20.1.2 The District is found by a court of competent jurisdiction to have practiced any fraud or deceit upon the City;
- 20.1.3 There is a final determination that the District has failed, refused, neglected or is otherwise unable to obtain or maintain any permit required by any federal or state regulatory body regarding the District's operation of its Telecommunications System within the City;
- 20.1.4 The District fails to complete construction of any approved Facilities for more than eighteen (18) months after approval, unless the City and the District agree in writing to an extension for completion of such construction.
- 20.1.5 The District becomes unable or unwilling to pay its debts or is adjudged bankrupt.



- 20.2 For purposes of this Section, the following provisions are, without limitation, material to this Agreement, thus allowing the City to exercise any of its rights under this Agreement:
- 20.2.1 The invalidation, failure to pay or any suspension of the District's payments of fees to the City under this Agreement;
  - 20.2.2 Any failure by the District to submit to the City the annual written report and written declaration required by Section 6.1;
  - 20.2.3 Any failure by the District to provide or maintain the liability insurance required under this Agreement;
  - 20.2.4 Any failure by the District to post or maintain, through its contractor(s) any bond(s) and/or letter(s) of credit required under this Agreement;
  - 20.2.5 Any failure by the District to provide copies of requested information as required in subsection 6.3 or 11.1 of this Agreement; and
  - 20.2.6 Any failure by the District to otherwise fully comply with the requirements of this Agreement.
- 20.3 In addition to any rights set forth elsewhere in this Agreement, as well as its rights under the North Plains Municipal Code or any other law, the City reserves the right at its sole option to apply any of the following remedies, alone or in combination:
- 20.3.1 Impose a financial penalty of up to \$1,000.00 per violation of this Agreement;
  - 20.3.2 Suspend the District's Agreement rights until the District corrects or otherwise remedies the violation;
  - 20.3.3 The City Council may revoke this Agreement in the event that any provision becomes invalid or unenforceable and the City Council expressly finds that such provision constituted a consideration material to the grant of the Agreement.
- 20.4 In determining which remedy or remedies are appropriate, the City shall consider the nature of the violation, the Person or Persons burdened by the violation, the nature of the remedy required in order to prevent further such violations, and any other matters the City deems appropriate.
- 20.5 The City shall give the District thirty (30) days prior written notice of its intent to exercise its rights under this Section, stating the reason(s) for such action. If the District fails to cure the stated reason within the thirty (30) day notice period, or if the District does not undertake and/or maintain efforts satisfactory to the City to remedy the stated reason, the City Council may impose any or all of the remedies available under this Section.
- 20.6 Force Majeure. In the event the District's performance of any of the terms, conditions, obligations, or requirements of this Agreement is prevented or impaired by a cause or event beyond the District's reasonable control, such inability to perform shall be deemed to be excused and no penalties or sanctions shall be imposed as a result thereof. For the purpose of this Subsection, causes or events not within the control of the District shall include without limitation acts of God, strikes, sabotage, riots or civil disturbances, restraints imposed by order of a governmental agency or court, explosions, acts of public enemies, and natural disasters such as floods, earthquakes, landslides, and fires, but shall not include financial inability of the District to perform or failure of

the District to obtain any necessary permits or licenses from other governmental agencies or the right to use the facilities of any public utility where such failure is due solely to the acts or omissions of the District, or the failure of the District to secure supplies, services or equipment necessary for the installation, operation, maintenance or repair of the Telecommunications System where the District has failed to exercise reasonable diligence to secure such supplies, services or equipment.

## **SECTION 21. RENEGOTIATION**

If any provision of this Agreement becomes invalid or unenforceable and the City Council or the District expressly finds that such provision constituted a consideration material to entering into this Agreement, the City and the District may mutually agree to renegotiate the terms of this Agreement. The party seeking renegotiation shall serve on the other party written notice of an offer to renegotiate. In the event the party receiving the notification request accepts the offer to renegotiate, the Parties shall have ninety (90) days to conduct and complete the renegotiation.

## **SECTION 22. REMOVAL OF FACILITIES UPON EXPIRATION**

Upon expiration of this Agreement, the District shall either remove its Facilities in accordance with ORS 221.470 or seek City's written consent to leave its Facilities in place pursuant to Section 17 of this Agreement.

## **SECTION 23. PUBLIC RECORDS**

- 23.1 The District acknowledges that information submitted to the City is open to public inspection under the Oregon Public Records Law, ORS 192.311 through 192.478. The District acknowledges it is responsible for becoming familiar with, and understanding the provisions of the Oregon Public Records Law.
- 23.2 The District may identify information, submitted to the City as confidential, such as trade secrets, financial records, customer information or technical information (as defined in ORS 192.345 or 192.355). The District shall prominently mark any information for which it claims confidentiality with the word "Confidential" on each page of such information, prior to submitting such information to the City. The District shall also provide a written explanation as to why such information is confidential under state or federal law. The City shall treat any information so marked as confidential until the City receives any request for disclosure of such information.
- City shall make reasonable efforts to provide the District notice of a request for information marked as confidential, including a copy of the request, within ten (10) business days of receiving any such request. The District shall have five (5) business days within which to provide a written response to the City before the City will disclose any of the requested confidential information. The City shall retain the sole discretion to determine whether to release the requested confidential information, in accordance with applicable laws.

## **SECTION 24. CHOICE OF LAW; VENUE; NOTICE**

- 24.1 This Agreement shall be construed and interpreted according to the laws of the State of Oregon, without regard to choice of law considerations. Any litigation between the City and the District arising under or regarding this Agreement shall occur, if in the state courts, in the Washington County Circuit Court, and if in the federal courts, in the United States District Court for the District of Oregon.
- 24.2 Any notice provided for under this Agreement shall be sufficient if in writing and: (1) delivered personally to the following addressee, (2) deposited in the United States Mail, postage prepaid, certified mail, return receipt requested, (3) sent by overnight or commercial air courier (such as Federal Express), or (4) sent by facsimile transmission addressed as follows, or to such other address as the receiving party hereafter shall specify in writing:

If to the City: City Manager  
City of North Plains, Oregon  
31360 NW Commercial Street  
North Plains, OR 97133

With copies to: City Engineer  
City of North Plains, Oregon  
888 SW 5th Avenue, Suite 1170  
Portland, OR 97204

City Attorney  
City of North Plains, Oregon  
1750 SW Harbor Way, Suite 380  
Portland, OR 97201

If to the District: Business Office  
Hillsboro School District 1J  
Administration Center  
3083 NE 49th Place, #104  
Hillsboro, OR 97124-6009

With copies to: Chief Information Officer  
Hillsboro School District 1J  
Business Office  
Administration Center  
3083 NE 49th Place, #104  
Hillsboro, OR 97124-6009

Any such notice or communication delivered by personal delivery shall be deemed delivered and effective upon actual receipt. Any notice or communication sent by United States mail, postage prepaid, shall be deemed delivered and effective five (5) days after mailing. Any notice or communication sent by overnight

or commercial courier shall be deemed delivered and effective five (5) days after dispatch. Any notice or communication sent by facsimile transmission shall be deemed delivered when receipt of the transmission is generated by the transmitting machine. To be effective against either party, such facsimile transmission shall be confirmed by telephone notice to the other party.

#### **SECTION 25. PROVISION FOUND UNENFORCEABLE**

If any provision of this Agreement is found by a court of competent jurisdiction to be unenforceable, such provision shall not affect the other provisions, but such unenforceable provision shall be deemed modified to the extent necessary to render it enforceable, preserving to the fullest extent permitted the intent of the District and the City as set forth in this Agreement.

#### **SECTION 26. MERGER**

This Agreement, including any attachments and laws, rules and regulations incorporated herein or to which this Agreement is subject, constitutes the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements or representations, oral or written, not specified herein regarding this Agreement.

#### **SECTION 27. WAIVER OF BREACH**

One or more waivers or failures to object by either party to the other's breach of any provision, term, condition, or covenant contained in this Agreement shall not be construed as a waiver of any subsequent breach, whether or not of the same nature.

#### **28. SIGNATURES**

The Parties, by their signatures below, acknowledge having read and understood this Agreement, and agree to be bound by its terms and conditions. The individual signing this Agreement on behalf of his or her respective party hereby certifies that such signature has been authorized by his or her party and that the individual has the authority to act on behalf of and to bind his or her party.

IN WITNESS WHEREOF the Parties have caused this Agreement to be signed in their respective names by their duly authorized representatives as of the dates set forth below.

**HILLSBORO SCHOOL DISTRICT 1J:**

**CITY OF NORTH PLAINS:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_



## CITY OF NORTH PLAINS

31360 NW Commercial Street, North Plains, Oregon 97133

Date: June 1, 2018  
To: Mayor and City Council  
From: Heather Austin, AICP, Consulting Land Use Planner  
Subject: Proposed Zoning and Development Code Update

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**Request:** Conduct a second reading of and adopt Ordinance 451- Zoning Code Update

**Background:** The City Council conducted a public hearing on May 21, 2018 to review a proposed Zoning Code amendment. The Council utilized the staff report, Planning Commission recommendation, public testimony and deliberation to review the proposal. The Council voted to approve the proposed amendment and conducted the first reading of Ordinance 451.

The Council generally accepted the Planning Commission's recommended findings and code amendments, with three revisions. These are:

1. Chapter 16.045.020.D- Neighborhood Community Development Standards- remove reference to North Expansion Area and apply the standard broadly to all NC properties.
2. Chapter 16.045.040.G- Table NC-1 Development Standards- revisions to lot depth, lot width and setbacks
3. Chapter 16.135.020- Subdivision Open Space Requirements- remove this section and ask Planning Commission to review further.

**Fiscal Impact:** None.

**Environmental Issues:** None.

**Recommendation:** It is recommended that the City Council conduct the second reading of and adopt Ordinance 451.

**Sample Motion:**

1. I move to conduct the second reading of Ordinance No. 451 by title only.

**Mayor to read Ordinance No. 451 by title:**

Ordinance No. 451: An Ordinance of the City Council of the City of North Plains, Oregon, implementing an update to the Chapter 16 Zoning and Development Code to bring the Municipal Code up to date with the recently adopted Housing Needs Analysis, the forthcoming Comprehensive Plan and general planning standards.

If the motion passes unanimously:

2. I move to adopt Ordinance 451 as presented.

Before the Planning Commission of the City of North Plains

In the matter of an application for an  
updated Zoning and Development Code  
City of North Plains, APPLICANT

) **RECOMMENDATION TO CITY**  
) **COUNCIL**  
) 18-032--Zoning Code Update  
) **PC Hearing Date: May 9, 2018**

**Whereas**, the City of North Plains initiated an update to the Zoning and Development Code, including the following Chapters:

16.005- Definitions  
16.020- R-7.5 Zoning District  
16.025- R-5 Zoning District  
16.030- R-2.5 Zoning District  
16.045- Neighborhood Community Zoning District  
16.100- Duplexes, Triplexes and Attached Two-Family Dwellings  
16.105- Accessory Structures  
16.130- Land Partitioning  
16.135- Subdivisions  
16.155- Parking  
16.170- Application Requirements  
16.175- Design Review  
16.210- Temporary Use Permits; and

**Whereas** the Planning Commission conducted a duly-noticed public hearing, and reviewed the proposed zoning code changes, staff report and public testimony at its meeting on May 9, 2018; and

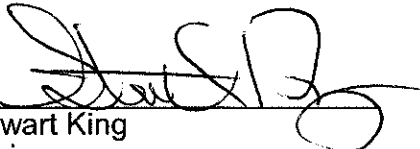
**Whereas**, the Planning Commission considered the submitted staff report and reviewed the proposed code text amendments for compliance with the North Plains Comprehensive Plan, which incorporates the Statewide Planning Goals, and thereafter closed the hearing; and

**Whereas**, the Planning Commission revised Chapters 16.045 (Neighborhood Community Zoning District) and 16.135 (Subdivisions) based on evidence provided at the hearing and Commission deliberation; and

**Whereas**, having considered the application and the evidence in the record, the Planning Commission adopted a motion to recommend approval to the City Council of file 18-032 Zoning Code Update, including the proposed Zoning Code language as amended at the Planning Commission hearing, and instructed staff to prepare findings and conclusions in a written recommendation.

**Now therefore, it is hereby recommended by the North Plains Planning Commission:**

The Planning Commission recommends approval to the City Council of proposed Zoning Code Amendments, based on the findings and conclusions contained in Exhibit A (attached) which the Planning Commission hereby adopts as its findings, and determines to be reasonable.

  
Stewart King  
Chairperson

5/10/18  
Date



## ORDINANCE NO. 451

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORTH PLAINS, OREGON, IMPLEMENTING AN UPDATE TO THE ZONING AND DEVELOPMENT CODE

**WHEREAS**, the City of North Plains Planning Commission initiated proceedings to amend thirteen sections of the Zoning and Development Ordinance, Chapter 16 of the Municipal Code, bringing the Code up to date with the recently adopted Housing Needs Analysis, the forthcoming Comprehensive Plan and general planning standards; and

**WHEREAS**, the applicable sections of the Zoning and Development Ordinance include:

16.005- Definitions  
16.020- R-7.5 Zoning District  
16.025- R-5 Zoning District  
16.030- R-2.5 Zoning District  
16.045- Neighborhood Community Zoning District  
16.100- Duplexes, Triplexes and Attached Two-Family Dwellings  
16.105- Accessory Structures  
16.130- Land Partitioning  
16.135- Subdivisions  
16.155- Parking  
16.170- Application Requirements  
16.175- Design Review  
16.210- Temporary Use Permits

**WHEREAS**, the City submitted the proposed amendments to DLCD on April 4, 2018, April 23, 2018 and May 10, 2018; and

**WHEREAS**, the Planning Commission conducted a duly-noticed public hearing, and reviewed the proposed code text amendments and staff report at its meeting on May 9, 2018, and forwarded a recommendation to the City Council; and

**WHEREAS**, the City Council conducted a duly-noticed public hearing, and reviewed the proposed code text amendments, Planning Commission recommendation and staff report at its meeting on May 21, 2018; and

**WHEREAS**, having considered the application, the evidence in the record and the applicable criteria for the amendments proposed in Application File No. 18-032 (Zoning Code Update) to amend Sections 16.005, 16.020, 16.025, 16.030, 16.045, 16.100, 16.105, 16.130, 16.135, 16.155, 16.170, 16.175 and 16.210 of the Zoning and Development Ordinance (Chapter 16 of the Municipal Code); and

**Now, therefore:**

### THE CITY OF NORTH PLAINS ORDAINS AS FOLLOWS:

**Section 1.** Chapter 16 of the North Plains Municipal Code is hereby amended as shown in "Exhibit A", attached hereto.

**Section 2.** This Ordinance shall become effective on the 30th day after its adoption.

**INTRODUCED** on the 21<sup>st</sup> day of May, 2018, **ADOPTED** on the 4<sup>th</sup> day of June, 2018 and **EFFECTIVE** on the 4<sup>th</sup> day of July, 2018.

**CITY OF NORTH PLAINS, OREGON**

By: \_\_\_\_\_  
Teri Lenahan, Mayor

ATTEST:

By: \_\_\_\_\_  
Lori Lesmeister, City Recorder

## Chapter 16.005 DEFINITIONS

**100-Year Flood Plain:** Land subject to one percent or greater chance of flooding in any given year as defined by the Federal Insurance Administration (FIA) on its official Flood Insurance Rate Map (FIRM). In this Ordinance, "100-year flood plain" is synonymous with "area of special flood hazard."

**Access:** The way or means which allows pedestrians and/or vehicles to ingress and egress a property.

**Accessory Structure or Use:** A detached, subordinate structure, the use of which is customarily incidental to that of the dominant use of the main building, structure, or land and which is located on the same lot or parcel as the main building, structure or use. Examples of accessory structures or uses include, but are not limited to, private garages, greenhouses, decks, fences, arbors, gazebos, air conditioners, heat pumps, tool sheds and satellite dishes per definition. (An Accessory Dwelling is not considered an Accessory Structure or Use. See definition for Dwelling, Accessory.) Accessory structures and accessory uses are not allowed in floodplains or floodways.

**Alcoholic Beverage Establishment:** A commercial establishment including, but not limited to, bars, taverns, pool halls, coffee houses, or similar establishments where a dance floor, music, games, or other entertainment may be provided and where the sale of alcoholic beverages is an integral component of the business.

**Alley:** A narrow vehicular service access to the back or side of properties.

**Amusement Enterprise, Indoor:** Any enterprise, wholly contained within a structure, whose main purpose is to provide the general public with an amusing or entertaining activity. Indoor amusements may include arcades, skating rinks, dance halls, theaters, ice rinks, pool halls, bowling alleys, indoor shooting ranges, health/sports facilities/gyms, and similar enterprises. Indoor amusement enterprises may also include business that hold classes in acting, art, dance, music, photography, and martial arts.

**Amusement Enterprise, Outdoor:** Any enterprise whose main purpose is to provide the general public with an amusing or entertaining activity. Outdoor amusements may include zoos, carnivals, expositions, miniature golf courses, fairs, exhibitions, athletic contests, rodeos, tent shows, Ferris wheels, children's rides, roller coasters, private soccer and baseball fields, go-cart tracks, archery range, golf courses, driving ranges, and similar enterprises.

**Animal Care Facilities:** A place where animals are boarded and/or bred, including, but not limited to, veterinary clinics, stables, dog day cares, animal groomers, and kennels.

**Art Studio or Gallery:** Where objects of art are created or displayed for public enrichment or where said objects of art are displayed for sale (including, but not limited to, the teaching of photography, painting, sculpture, and other similar skills) as the primary use of the structure.

**Automobile, Recreational Vehicle or Trailer Sales Area:** A lot used for display, sale, or rental of new or used automobiles, recreational vehicles, light trucks, or trailers, where no repair work is done except minor, incidental repairs of automobiles or trailers to be displayed, sold or rented on the premises.

**Automobile Service Station:** A building designed primarily for supplying of motor fuel, oil, lubrication and accessories to motor vehicles, but excluding major repair and overhaul.

**Awning:** A roof-like cover extending over or in front of a place (as over the deck or in front of a door or window) as a shelter.

**Bed and Breakfast Inn:** A structure where rooms are rented to transient paying guests on an overnight basis and meals are served where no cooking facilities are provided in the rooms.

**Building:** A structure built for the support, shelter, or enclosure of persons, animals or property of any kind.

**Bulk Storage Tank:** A container for the storing of chemicals, petroleum products, grains, and other materials for subsequent use or resale to distributors or retail dealers or outlets.

**Bus Depot/Terminal:** A use that includes a building and area in which patrons may purchase tickets for bus transportation. Bus terminals may provide for the storage, maintenance, and services of busses including repair, washing, and fueling facilities.

**Business Office:** A room or group of rooms used for conducting the affairs of a business, profession, service, industry or government and generally furnished with desks, tables, files, and communication equipment.

**Carport:** A structure covered with a roof and constructed specifically for the storage of one or more vehicles.

**Catering establishment:** A business where the scope of activity is the preparation and sale of meals and beverages for consumption by large parties in conjunction with events such as weddings, parties, and other events with large numbers of attendees.

**Certified Family Child Care Home:** As defined by the State of Oregon, a Certified Child Care Home provides child care for up to 12 children, and may be certified for up to 16 children with prior approval from the State of Oregon; and is located in a building constructed as a single-family dwelling.

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**City:** The City of North Plains, Oregon.

**City Planner:** The City employee or contractor authorized by the city manager or City Council to implement, administer, interpret and enforce the Zoning and Development Ordinance

**Civic/government use:** Uses that principally serve a public need, such as libraries, museums, post offices, parks, community centers, police stations, and fire stations.

**Clinic, Medical & Dental:** A facility operated by one or more physicians, dentists, chiropractors, or other licensed practitioners of the healing arts for the examination and treatment of persons solely on an outpatient basis.

**Cold Storage Facility :** A commercial establishment where foods or other commodities are stored either in lockers, rented or leased, or in vaults in bulk for distribution to the home or other commercial businesses. No slaughtering of animals or fowl is allowed on the premises.

**Corner Lot:** (see Lot, Corner)

**Country Club:** Land area and buildings containing golf courses or other recreational facilities, a clubhouse, and customary accessory uses, open to members and their guests.

**Commission:** The City of North Plains Planning Commission.

**Conference/Convention Center:** A large civic building or group of buildings designed for conventions, industrial shows, and the like, having large unobstructed exhibit areas and often including conference rooms, hotel accommodations, restaurants, and other facilities.

**Condominium:** A condominium or townhome is a group of housing units where each homeowner owns their individual unit space, usually from the wall studs in, and share ownership of most or all common elements. Condominiums are subject to the provisions of ORS Chapter 100.

**Council:** The City of North Plains City Council.

**Day:** A business day unless specifically noted as a calendar day.

**Drive-in/Thru window:** A takeaway restaurant, bank, etc. designed so that customers can do business without leaving their cars. This may include, but is not limited to, fast food, bank, and pharmacy drive-thrus.

**Dwelling, Attached Two Family:** A two family dwelling, with each dwelling unit being

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located on its own lot, and sharing one common wall and common property line with the other dwelling unit. ~~**Drive-in/Thru window:** A takeaway restaurant, bank, etc. designed so that customers can do business without leaving their cars. This may include, but is not limited to, fast food, bank, and pharmacy drive-thrus.~~

**Dwelling, Accessory:** A detached, secondary, and subordinate dwelling unit which is located on the same lot or parcel as the main building, structure, land, or use. Examples of accessory dwellings include, but are not limited to, granny flats, garage apartments, and accessory apartments. Accessory dwellings are structures on permanent foundations connected to utilities in a similar manner to the primary structure on the site.

**Dwelling, Multi-Family:** A single structure containing four or more dwelling units that share common walls or floor/ceilings with one or more units. The land underneath the structure is not divided into separate lots. Multi-family dwellings include structures commonly called garden apartments, apartments and condominiums. Multi-family dwellings that are attached on one or both sides to similar adjacent but distinct units are considered townhomes (see definition below). ~~A building containing four or more dwelling units.~~

**Dwelling, Single-Family, Attached** (~~Townhouse~~ Townhome, condominium, or row house): Two or more single family dwellings with common end-walls.

**Dwelling, Single-Family, Detached:** A detached building containing one dwelling unit.

**Dwelling, Townhome or Row House:** A single-family dwelling unit which is attached on one or both sides to a similar adjacent unit(s) on similar lot(s). The attachment is made along one or more common walls which are jointly owned. The units may either be on individual platted lots or may be located on a single lot as individual condominium units. The units are distinct from each other by scale, color, massing, or materials.

**Dwelling, Three-Family (Triplex):** A detached building containing three dwelling units, located on one legal lot.

**Dwelling, Two-Family (Duplex):** A detached building containing two dwelling units, located on one legal tax lot.

**Dwelling Unit:** One or more rooms designed for occupancy by one family and not having more than one cooking facility. Includes all conventional and prefabricated housing which meets Uniform Building Code specifications

**Easement:** A grant of right to use an area of land for a specified purpose.

**Educational Facility:** Any facility or premises regularly attended by one or more persons for the purpose of instruction. Such facilities may include tutoring businesses and primary, secondary, colligate, and vocational/trade schools.

**Entity:** Every natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government, or any other group or combination acting as a unit.

**Extended Care Facility, Convalescent Home, or Nursing Home:** A building, or portion thereof, used or designed for the housing of the aged, and/or mentally or physically handicapped persons who are under daily medical, psychological, or therapeutic care; provided that this definition shall not include rooms in any residential dwelling, hotel, or apartment hotel not ordinarily intended to be occupied by said persons.

**Farm product processing:** The alteration or modification, for the purpose of storage, transport, or sale of an agricultural product produced on a farm site through the addition of other ingredients or components, provided that the initial agricultural product must be the principal ingredient or component. Types of establishments that conduct farm product processing may include canneries, meat packing plants, saw mills, and grain elevators.

**Fence, Sight Obscuring:** A fence or evergreen planting arranged in such a way as to obscure vision.

**Flag Lot:** (See Lot, Flag)

**Flood or Flooding:** A general and temporary condition of partial or complete inundation of normally dry areas from the overflow of water bodies and/or unusual and rapid accumulation of surface water from any source.

**Floor Area:** The sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings, but not including:

- A. Attic space providing headroom of less than seven feet;
- B. Basement, if the floor above is less than six feet above grade;
- C. Uncovered steps or fire escapes;
- D. Private garages, carports, or porches;
- E. Accessory water towers or cooling towers;
- F. Accessory off-street parking or loading spaces.

**Fraternity or Sorority:** An organization formed chiefly to promote friendship and welfare among the members.

**Fraternal Lodge:** A structure where a group of people meet who are organized for a common interest, usually cultural, religious, or entertainment with regular meetings, rituals, and formal written membership.

**Fuel Sales:** A business for retail delivery of combustible fuels, including but not limited to gasoline, diesel, propane, natural gas, bio-diesel, or hydrogen to individual motor vehicles.

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**Frontage**: All the property on one side of a street between two street intersections, crossing or terminating, measured along the line of the street; or if the street is dead-ended, then all of the property abutting on one side between a street intersection and the dead-end of the street.

**Garage, Private**: A detached accessory building or portion of a main building for the parking or temporary storage of vehicles owned or used by occupants of the main building.

**Garage, Public**: A building, other than private garage, used for the care, repair, or equipping of motor vehicles, or where such vehicles are parked.

**Grade**: The average elevation of the finished ground level at the center of all walls of the building. In case a wall is parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.

**Greenhouse or Garden, Commercial**: A structure or location where plants, vegetable, flowers, and similar materials are grown for sale.

**Health Club/Sports Facility**: A building designed and equipped for the conduct of sports, or exercise, or other customary and usual recreational activities, operated for profit or not for profit and which is open only to members and guests of the club or facility.

**Height of Building**: The vertical distance from the "grade" to the highest point of the coping of a flat roof or the deck line of a mansard roof or to the point midway between the ridge and the eaves of a pitch or hip roof.

**Hospital or Sanitarium**: A building, or portion thereof, used or designed for the medical or surgical treatment of the sick, mentally ill, or injured persons, primarily on an inpatient basis, and including as an integral part, related facilities such as laboratories, outpatient facilities, or training facilities; provided that this definition shall not include rooms in any residential dwelling, hotel, or apartment hotel not ordinarily intended to be occupied by said persons.

**Home Occupation**: A commercial activity that is conducted within a dwelling unit and/or accessory buildings by persons occupying the dwelling, with no servant, employee, or other person being engaged, provided the occupation is conducted in such a manner as not to give an outward appearance, nor manifest any characteristic of a business, in the ordinary meaning of the term, nor infringe upon the rights of neighboring residents including but not limited to noise, odors, or parking.

**Hospital**: An establishment which provides sleeping and eating facilities to persons receiving medical, obstetrical, or surgical care and with nursing service on a continuous basis.



**Hotel:** A building in which lodging is provided for guests for compensation.

**Impervious Surface:** Hard surfaces such as roofs, driveways, patios and pavement that prohibit water from soaking into the ground.

**Industrial, Light:** A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing. Light industrial establishments may include cabinetry/carpentry/woodworking shops, machine shops, welding shops, and sheet metal shops.

**Industrial, Heavy:** A use engaged in the basic processing and manufacturing of materials or products or parts, predominantly from extracted raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions. Heavy industrial also includes farm product processing establishments, including grain elevators; saw mills, meat packing plants, and canneries.

**Land Division:** A partition or subdivision of a lot or parcel.

**Light Truck:** Truck with a gross cargo weight of 1-1/2 tons or less.

**Live/Work Townhouse:** An attached single family dwelling which is designed to accommodate a commercial business on the ground floor. The commercial or office portion of the building shall be oriented to the front of the building and shall be directly accessible by the primary front entrance.

**Livestock:** Domestic animals of types customarily raised or kept on farms for profit or other purposes. Refer to Municipal Code Chapter 4.25 Livestock.

**Local Improvement District (LID):** The area determined to be specially benefitted by a local improvement within which properties are assessed to pay for the cost of the local improvement.

**Lot:** Unless the context provides otherwise (e.g. a "lot of record"), a unit of land created by land division.

**Lot of Record:** Any lot, or parcel lawfully created by a partition, subdivision, recorded deed, or sales contract if there was no applicable planning, zoning or partitioning ordinance or regulation.

**Lot Area:** The total area of a lot or parcel measured in a horizontal plane within the lot boundary lines exclusive of public and private roads. For flag-shaped lots, the access strip shall not be included in the lot area for the purposes of minimum lot area

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requirements.

**Lot, Corner:** A lot or parcel abutting on two intersecting streets other than an alley provided that the streets do not intersect at an angle greater than 135degrees.

**Lot Coverage:** That portion of a lot or parcel covered by buildings and structures usually expressed in percentage of total square feet of lot size.

**Lot Depth:** The horizontal distance from the midpoint of the front lot or parcel line to the midpoint of the rear lot line.

**Lot, Flag:** A lot or parcel where access to the public road is usually by a narrow access strip.

**Lot Interior:** A lot or parcel other than a corner lot or parcel.

**Lot-Line Adjustment:** The relocation or elimination of a common boundary between two legal lots or parcels, provided no new lots or parcels are created.

**Lot Line, Front:** The line separating the lot or parcel from the public street and in the case of a corner or through lot or parcel, the line along a street over which the primary pedestrian access to the property is gained. In the case of a flag lot, the front lot line for setback purposes shall be the parallel projection of the shortest side lot line of the driveway flag.

**Lot line, Rear:** The line which is opposite and most distant from the front lot line. In the case of an irregular, triangular, or other shaped lot, a line ten feet in length within the lot parallel to and at a maximum distance from the front lotline.

**Lot Line, Side:** Any property line that is not a front or rear lotline.

**Lot Width:** The average horizontal distance between the side lot lines; ordinarily measured parallel to the front lot line.

**Manufactured Home:** A structure that has a Department of Housing and Urban Development label certifying that the structure is constructed in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Secs. 5401 et seq.), as amended on August 22, 1981; and is constructed for movement on the public highways has plumbing, and cooking facilities, is intended for human occupancy, and is being used for residential purposes.

**Manufactured Home Park:** A place where two or more manufactured homes are located on a lot, tract, or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person or to offer space free in connection with securing the trade or patronage of such a person.

**Marijuana:** The plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

**Marijuana processing site:** An entity registered with the Oregon Health Authority to process marijuana.

**Marijuana processor:** An entity licensed by the Oregon Liquor Control Commission to process marijuana.

**Marijuana producer:** An entity licensed by the Oregon Liquor Control Commission to manufacture, plant, cultivate, grow or harvest marijuana.

**Marijuana retailer:** An entity licensed by the Oregon Liquor Control Commission to sell marijuana items to a consumer in this state.

**Marijuana wholesaler:** An entity licensed by the Oregon Liquor Control Commission to purchase items in this state for resale to a person other than a consumer.

**Medical marijuana dispensary:** An entity registered with the Oregon Health Authority to transfer marijuana.

**Mixed Use Development:** A development that integrates some combination of retail, residential, commercial, office, institutional, recreation, or other functions. It is pedestrian-oriented and contains elements of a live-work-play environment. It maximizes space usage, reduces reliance on the automobile, and encourages community interaction.

**Manufactured Home Subdivision:** A subdivision intended for and designed to accommodate manufactured homes on individual lots and developed pursuant to the provisions of this Ordinance.

**Motel:** A building or group of buildings on the same lot or parcel and containing guest units with separate entrances and individual sleeping quarters, detached or in connected rows for rental to visitors. The term includes auto courts, tourist courts, tourist homes and motor lodges.

**Municipal Park:** An area of open space designed and intended for active recreational use. Municipal parks are available for use by the general public. Municipal parks may be in public ownership, such as the City or another government agency or organization. Municipal parks may also be in private ownership, such as a Homeowner's Association. All municipal parks shall be open to the public by either direct public ownership or a public access easement. Municipal parks include one or more of the following attributes: playground, athletic field, swimming pool, reservoir, or other recreational facility.

**Nonconforming Structure or Use:** A lawfully existing structure or use, at the time this Ordinance or any amendment thereto becomes effective, which does not conform, or

becomes nonconforming, to the requirements of the zone in which it is located as a result of amendments or other changes to this ordinance..

**Parking Space:** A space with room for maneuvering and access space required for a standard automobile to park space.

**Partition:** To divide land into not more than three parcels within a calendaryear.

**Place of Worship:** A building or structure, or group of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.

**Planned Unit Development:** Type of development in which some departure from lot size, density, and other requirements of the underlying zone is permitted in order to accommodate unique physical characteristics and/or facilitate use of innovative building techniques and materials.

**Recycling Facility:** A facility that involves the separation, collection, and/or processing of metals, glass, paper, plastics, and other materials which would otherwise be disposed of as solid waste, which are intended for reuse, re-manufacture, or re-constitution for the purpose of using the altered form.

**Recycling Drop-Off Center:** A facility for the drop-off and temporary holding of materials such as paper, cardboard, glass, metal, plastic, batteries, and motor oil. Processing of materials is limited to glass breaking and separation. Recycling materials are not sold to a recycling drop-off center. A recycling drop-off center is intended for household or consumer use. Use by commercial or industrial establishments is not included. Unattended drop-off stations for single materials, such as newsprint, are also not included.

**Residential Facility:** A residential care, residential training or residential treatment facility, as those terms are defined in ORS 443.400, that provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.

**Residential Home:** A residential treatment or training home, as defined in ORS 443.400, a residential facility registered under ORS 443.480 to 443.500 or an adult foster home licensed under ORS 443.705 to 443.825 that provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home.

**Restaurant:** An establishment that serves food and beverages primarily to persons

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seated within the building. This includes, but is not limited to, cafes, tea rooms, and outdoor cafes.

**Restaurant, Fast Food:** An establishment that offers quick food which is accomplished through a limited menu of items already prepared and held for service, or prepared quickly. Orders are not generally taken at a customer's table and food is generally served in disposable wrapping or containers. This type of establishment may or may not include a drive in/thru window.

**Retail Sales & Service:** Indoor establishments engaged in selling goods and services to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

**RV Park:** A campground for day use and overnight accommodations by motor homes.

**Salvage Yard:** A facility or area for storing, keeping, selling, dismantling, shredding, compressing, or salvaging material or equipment. Materials include, but are not limited to, lumber, pipes, metal, paper, rags, tires, bottles, motor vehicle parts, machinery, structural steel, equipment/vehicles, appliances and electronic products.

**Satellite Dish:** As regulated by the FCC, a direct-to-home satellite dish or antenna that is less than one meter in diameter, a TV antenna on a mast less than 12 feet above the roofline, and wireless cable antennas associated with a single family or manufactured home, a townhouse, apartment or condominium. The City may restrict such devices if it is necessary to accomplish a clearly defined safety objective, or is necessary to preserve an historic district listed or eligible for listing in the National Register of Historic Places and imposes no greater restrictions than on other devices.

**School, Elementary, Junior High or High School:** An institution, public or parochial, offering instruction in the several branches of learning and study, in accordance with the rules and regulations of the State Department of Education.

**Scientific Testing/Research Laboratory:** An establishment or facility used for carrying on investigation in the natural, physical or social sciences, which may include engineering and product development.

**Senior Housing:** A residential development which is limited to residents 55 years and over.

**Setback:** An imaginary line which marks the minimum distance a structure must be located from the property line, and establishes the minimum required front, side, or rear yard space of a building plot.

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

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**Sign. Monument:** A sign that extends from the ground, or has support which places the bottom of the sign less than two (2) feet from the ground.

**Solid Waste Transfer Station:** A facility at which solid waste is transferred from one solid waste vehicle to another solid waste vehicle for transportation to a solid waste facility.

**Solid Waste Transfer Station. Material Recovery Facility:** A solid waste transfer station designed and operated to process waste by utilizing manual and/or mechanical methods to separate useful materials from the incoming waste stream for return to the economic mainstream for use as raw materials or products. This definition includes recycling plants that process discarded metals, glass, paper, plastics, and other materials for re-use.

**Storage. Outdoor:** The keeping, in an unenclosed area, of any goods, junk, materials, or merchandise in the same place for more than twenty-four hours and not actively being sold.

**Storage. Self Service/RV:** A structure containing separate, individual, and private storage spaces of varying sizes that may include, but is not limited to, storage areas for Recreational Vehicles (RVs) and boats. Storage for RVs does not include RV parks.

**Story:** The portion of a building included between the first surface of any floor and the upper surface of the floor next above, except that the top story shall be that portion of a building included between the upper surface of the top floor and the ceiling above. If the finished floor level directly above the basement or cellar is more than six feet above grade, such basement or cellar shall constitute a story.

**Street:** The entire width between the boundary lines of every way of travel which provides for public use for the purpose of vehicular and pedestrian traffic and the placement of utilities and including the terms "road," "highway," "place," "avenue," and other similar designations.

**Structural Alteration:** Any change to the supporting members of a structure including foundation bearing walls or partitions, columns, beams or girders, or any structural change in the roof or in the exterior walls.

**Subdivision:** To divide an area of land into four or more lots for the purpose of transfer of ownership or building development, whether immediate or future, when such lot exists as a unit or contiguous units.

**Substandard lot:** A lot which does not meet the lot size requirements of the zoning district in which it is located and is therefore considered a nonconforming property.

**Tax lot:** A reference number on a taxmap (Assessor's Map) to identify a tax account for the purpose of taxing/assessing by the Washington County Assessors' Office.

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**Theater:** A building or part of a building devoted to showing motion pictures or for dramatic, dance, musical, or other live performances.

**Through Lots:** Any interior lot or parcel which has frontage on more than one street.

**Trailer (Travel or Vacation):** A vehicle or structure equipped with wheels for highway use that is intended for human occupancy, which is designed primarily for vacation and recreation purposes.

**Travel Trailer Parks:** An area containing one or more spaces designed for the temporary parking and convenience of travel trailers and similar recreational vehicles.

**Truck Stop/Freight/Trucking Terminal:** Any building, premises, or land in which or upon which a business, service, or industry involving the maintenance, servicing, storage, or repair of commercial vehicles is conducted or rendered, including the dispensing of motor fuel or other petroleum products directly into motor vehicles and the sale of accessories or equipment for trucks and similar commercial vehicles. A truck stop also may include overnight accommodations and restaurant facilities primarily for the use of truck crews.

**Unstable Soil:** Soil types which pose severe limitations for development due to potential flooding, structural instability, or inadequate sewage waste disposal, as defined by the U.S. Soil Conservation Service and identified in the Comprehensive Plan.

**Use:** The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.

**Utility Facility:** A site where infrastructure services and structures necessary to deliver basic utilities are undertaken. This includes all lines and facilities provided by a public or private agency and related to the provision, distribution, collection, transmission or disposal of water, storm and sanitary sewage, oil, gas, power, information, telephone cable, electricity and other services provided by the utility.

**Variance:** The modification of a specific standard in this Ordinance. Variances are granted by the Planning Commission. Minor variances may be approved administratively by the City Planner

**Vehicle Wash:** A place containing facilities for washing automobiles which may include the automatic or semiautomatic application of cleaner, brushes, rinse water, and heat for drying.

**Vehicular Sales, Rental, Repair & Service:** Any premises or structures when used for the sales, rental, servicing and/or repair of motor vehicles, including paint and bodywork, engine rebuilding and minor maintenance activities, irrespective of commercial gain derived there from. Motor vehicles may include, but are not limited to, automobiles, marine craft, motorcycles, and air craft. This use does not include sales, repair/service,

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and rental of commercial freight trucks/semi-trailers and farm/logging equipment.

**Vision Clearance:** The triangular area at the intersection of any two streets, a street and a railroad, or a driveway providing vehicular access to a public street, including alleys. These areas provide increased sight distance to drivers, pedestrians, wheelchairs, and other users of the intersection. For more details, refer to Chapter 16.160, Clear Vision Areas.

**Warehousing:** The storage of goods or merchandise at a facility such as a storehouse.

**Waste/Recycling Services:** Trash removal and recycling services for residents and business of an area. This may include, but is not limited to, solid waste transfer stations, material recovery facilities, and recycling facilities.

**Wholesale Sales/Service:** Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

**Wireless Telecommunication Facility:** An unstaffed facility operating for the transmission and reception of radio signals consisting of an equipment shelter or cabinet, a support structure, antennas, and related equipment.

**Wireless Telecommunication Tower:** A tall structure with the intended purpose of elevating an antenna high above the ground. This definition includes but is not limited to a tower, pole, or mast over 20 feet tall.

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

**Yard, Rear:** A yard between side lot lines measured at a right angle from the rear lot line to the nearest point of a main building.

**Yard, Side:** A yard between the front and rear yard measured at a right angle from the side lot line to the nearest point of the building.



## **Chapter 16.020** **ZONING DISTRICT R-7.5**

### **16.020.000 Purpose**

The purpose of the R-7.5 District is to provide for the development of residential uses, and to implement housing policies of the Comprehensive Plan.

### **16.020.005 Permitted Uses**

Permitted uses subject to the requirements of Chapter 16.175, Design Review if applicable. Refer to Zoning Code Use Table.

- A. Single family detached dwellings
- B. Accessory Dwellings and Accessory Structures, Subject to Chapter 16.105, Accessory Uses, -Structures & Dwellings
- C. Home occupations, administrative, subject to Chapter 16.85, Home Occupations.
- D. Certified Family Child Care Home
- E. Residential Home
- E.F. Manufactured Homes on Individual Lots, Subject to Chapter 16.110, Manufactured Homes

### **16.020.010 Conditional Uses**

Subject to the requirements of Chapter 16.175, Design Review, if applicable and the Development Standards section of this chapter. Refer to Chapter 16.015, Zoning Code Use Table.

The following uses and their accessory structures may be permitted in the R-7.5 District when authorized by the Planning Commission pursuant to this Conditional Use Permit section of this chapter.

- A. Civic /Governmental use
- B. Educational Facility
- C. Residential Facility
- D. Extended Care Facility / Convalescent / Nursing Home
- E. Home Occupations, exceeding administrative as defined and subject to Chapter 16.085, Home Occupations.
- ~~F. Manufactured Homes, subject to Chapter 16.110, Manufactured Homes~~
- G.F. Planned Unit Development, subject to Chapter 16.140, Planned Unit Development
- H.G. Fraternal Lodge

I.H. Places of Worship

J.I. Utility Facilities

### **16.020.015 Dimensional Standards**

The following dimensional standards shall be the minimum requirements for all development in the R-7.5 District except for modifications permitted under Lot, Building, & Yard Exceptions, Chapter 16.115, or the Planned Unit Development, Chapter 16.140.

#### **A. Lot/Parcel Size**

1. All uses: 7,500 square feet minimum
2. Subdivisions greater than 10 acres must average a minimum of 4 dwelling units per net acre

#### **B. Lot/Parcel Depth and Width**

1. The minimum average lot width shall be 60 feet.
2. The minimum average lot depth shall be 80 feet.

#### **C. Minimum Setback Requirements**

Principle structures, accessory dwellings, and accessory structures with a floor area greater than 200 square feet shall maintain the following minimum yard setbacks.

1. Front Yard (Principle structure and garage) 20 feet

~~Garages, carports, accessory dwellings and accessory structures shall be flush with, or recessed behind, the front building elevation of the principle structure. A garage, carport, accessory dwelling or accessory structure shall not exceed the front building elevation of the principle structure by more than six (6) feet.~~

2. Rear Yard:
  - a. 10 feet for street-access lots
  - b. 6 feet for alley-access lots
  - c. 5 feet for Accessory Structures and Accessory Dwellings
3. Side Yard:
  - a. Interior 5 feet

- b. Adjacent to street 10-feet plus additional necessary to comply with the standards of Clear Vision Areas section of this chapter.
- c. Accessory Structures and Accessory Dwellings: 10 foot Side Yard (adjacent to street) setback, except as provided for in 16.105.

D. Height of Buildings

Buildings shall not exceed a height, measured from grade, of 35 feet. Accessory dwellings and accessory structures shall not exceed 25 feet.

E. Lot/Parcel Coverage

The maximum impervious surface coverage shall not exceed sixty five (65) percent of the total area of any lot.

F. Flag Lots

Flag lots are subject to the standards set forth in Chapter 16.125, Lot Development Standards.

**16.020.020 Parking Requirements**

Parking requirements for all uses are specified in Chapter 16.155, Off Street Parking and Loading.

**16.020.025 Development Standards**

The following standards will be applied to all single family dwellings (site-built, modular and manufactured homes) to be constructed or located in the City of North Plains:

- A. All single family units shall utilize at least two of the following design features to provide visual relief along the front street-side frontage of the home:
  - 1. dormers;
  - 2. gables;
  - 3. recessed entries;
  - 4. covered porch entries;
  - 5. cupolas;
  - 6. pillars or posts;

7. bay or bow windows;

8. eaves (minimum 6" projection);

If alternative design features are proposed by an applicant not included in the options above, the applicant may apply to the Planning Commission for approval of the alternative design features.

offsets on building face or roof (minimums 16");

B. Different home designs in developments (minimums) (as measured by different roof lines, window size and placement and/or entrance placement) (reverse designs are encouraged but don't count):

- 2 for developments less than 5
- 3 for developments less than 12
- 4 for developments of 12 or greater.
- 25% or more single level homes for developments greater than 3

C. All manufactured homes shall also comply with the requirements of Chapter 16.110, Manufactured Homes.

## **Chapter 16.025 ZONING DISTRICT R-5**

### **16.025.000 Purpose**

The purpose of the R-5 District is to provide for the development of single family residential uses and limited multi-family residential uses, and to implement the housing policies of the Comprehensive Plan.

### **16.025.005 Permitted Uses**

Permitted Uses subject to the requirements of Chapter 16.175, Design Review if applicable. Refer to Zoning Code Use Table.

- A. Single Family detached dwelling
- B. Accessory Dwellings and Accessory Structures, subject to Chapter 16.105, Accessory Uses, Structures, & Dwellings
- C. Home occupations, administrative, subject to Chapter 16.085, Home Occupations.
- D. Certified Family Child Care Home

E. Residential Home

E.F. Manufactured Homes on Individual Lots, subject to Chapter 16.110, Manufactured Homes

### **16.025.010 Conditional Uses**

Subject to the requirements of Chapter 16.175, Design Review, if applicable and the Development Standards section of this chapter. Refer to Chapter 16.015, Zoning Code Use Table.

The following uses and their accessory structures may be permitted in the R-5 District when authorized by the Planning Commission pursuant to this Conditional Use Permit section of this chapter.

- A. Bed & Breakfast
  - B. Civic /Governmental Use
  - C. Educational Facility
  - D. Residential Facility
  - E. Extended Care Facility / Convalescent / Nursing Home
  - F. Home Occupations exceeding administrative, subject to Chapter 16.85, Home
-

Occupations.

- G. Manufactured Home Parks, subject to Chapter 16.110, Manufactured Homes
- H. Planned Unit Development, subject to Chapter 16.140, Planned Unit Development
- I. Single family attached homes/row houses. subject to Chapter 16.100, Duplex, Triplex, and Attached ~~Two- and to~~ Single-Family Dwelling
- J. Fraternal Lodge
- K. Places of Worship
- L. Utility Facilities

### **16.025.015 Dimensional Standards**

The following dimensional standards are the minimum requirements for all development in the R-5 District except for modifications permitted under the Lot, Building, & Yard Exceptions, Chapter 16.115, or Planned Unit Development, Chapter 16.140.

#### **A. Lot/Parcel Size**

1. Single family detached dwelling - 5,000 square feet minimum
2. Two family dwelling (duplex), triplex & attached single family dwelling - 4,000 square feet minimum per unit
3. All other uses - 5,000 square feet minimum
4. Lots for single-family detached dwellings created by subdivision plats ~~Plats~~ shall have a 7,500 square feet maximum

#### **B. Lot/Parcel Depth and Width**

1. The minimum average lot width shall be 40 feet
2. The minimum average lot depth shall be 80 feet.

#### **C. Minimum Setback Requirements**

Principle structures, accessory dwellings and accessory structures with a floor area greater than 200 square feet shall maintain the following minimum yard setbacks.

##### **1. Front Yard**

- Garage - 20 feet

- All other structures - 15 feet

~~With alley access garages, carports, accessory dwellings and accessory structures shall be flush with, or recessed behind, the front building elevation of the principle structure. A garage, carport, accessory dwelling or accessory structure shall not exceed the front building elevation of the principle structure by more than six (6) feet.~~

## **2. Rear Yard**

- Street-access lots - 10 feet
- Alley-access lots - 6 feet
- Accessory Structures and Accessory Dwellings - 5 feet

## **3. Side Yard**

- Interior – 5 feet
- adjacent to street - 10 feet plus additional necessary to comply with the standards of the Clear Vision Areas section of this chapter

## **4. Flag Lots**

Flag lots are subject to the standards set forth in Chapter 16.125, Lot Development Standards.

## **5. Height of Buildings**

Buildings shall not exceed a height, measured from grade, of 35 feet. Accessory dwellings and accessory structures shall not exceed 25 feet.

## **6. Lot/Parcel Coverage**

The maximum impervious surface lot coverage shall not exceed 65% of the total area of the lot.

### **16.025.020 Parking Requirements**

Parking requirements for all uses are specified in Chapter 16.155, Off Street Parking and Loading.

### **16.025.025 Development Standards**

The following standards will be applied to all single family dwellings (site-built, modular and manufactured homes) to be constructed or located in the City of North Plains:

All single family units shall utilize at least two of the following design features to provide visual relief along the front street-side frontage of the home:

1. dormers;
2. gables;
3. recessed entries;
4. covered porch entries;
5. cupolas;
6. pillars or posts;
7. bay or bow windows;
8. eaves (minimum 6" projection);
9. offsets on building face or roof (minimums 16");

If alternative design features are proposed by an applicant not included in the options above, the applicant may apply to the Planning Commission for approval of the alternative design features.

B. Different home designs in developments (minimums) (as measured by different roof lines window size and placement and/or entrance placement) (reverse designs don't count):

- 2 for developments less than 5
- 3 for developments less than 12
- 4 for developments of 12 or greater.
- 25% or more single level homes for developments greater than 3

C. All manufactured homes shall also comply with the requirements of Chapter 16.110 - Manufactured Homes.



## **Chapter 16.030**

### **ZONING DISTRICT R-2.5**

#### **16.030.000 Purpose**

The purpose of the R-2.5 District is to provide for the development of residential single family and multifamily housing and to implement the housing policies of the Comprehensive Plan.

#### **16.030.005 Permitted Uses**

Permitted uses are subject to the requirements of Chapter 16.175, Design Review, if applicable. Refer to Zoning Code Use Table.

- A. Single family detached dwelling
- B. Accessory Dwellings and Accessory Structures, subject to Chapter 16.105, Accessory Uses, Structures & Dwellings
- C. Home occupations, administrative, subject to Chapter 16.085, Home Occupations.
- D. Duplexes and Triplexes and single family attached row houses up to 4 units, subject to Chapter 16.100, Duplex, Triplex, and Attached Two Single Family Dwellings
- E. Certified Family Child Care Home
- F. Residential Homes

G. Residential Facility

G.H. Manufactured Homes on Individual Lots, subject to 16.110, Manufactured Homes

#### **16.030.010 Conditional Uses**

Subject to the requirements of Chapter 16.175, Design Review, if applicable and the Development Standards section of this chapter. Refer to Chapter 16.015, Zoning Code Use Table.

The following uses and their accessory structures may be permitted in the R-2.5 District when authorized by the Planning Commission pursuant to Conditional Use Permit.

- A. Bed & Breakfast
- B. Civic /Governmental Use
- C. Educational Facility

- D. Extended Care Facility / Convalescent / Nursing Home
- E. Home Occupations exceeding administrative, subject to Chapter 16.85, Home Occupations.
- F. ~~Manufactured Homes and~~ Manufactured Home Parks, subject to Chapter 16.110, Manufactured Homes
- G. Planned Unit Development, Subject to Chapter 16.140, Planned Unit Development
- H. Fraternal Lodge
- I. Townhomes/condominiums, Subject to Chapter 16.175, and Multi-Family Dwelling(s) Section and Chapter 16.100, Duplex, Triplex, and Attached Two, Single Family Dwelling
- J. Places of Worship
- K. Utility Facilities

#### **16.030.015 Dimensional Standards**

The following dimensional standards are the minimum requirements for all development in the R-2.5 District except for modifications permitted under the Lot, Building, & Yard Exceptions, Chapter 16.115, or Planned Unit Development, Chapter 16.140.

##### **A. Lot/Parcel Size**

1. Lots created by plat shall have a maximum lot size of 6,000 per dwelling unit
2. Single-family dwelling shall have a 4,000 square feet minimum
3. Two-family dwelling (duplexes), Triplexes & attached single family dwellings: 2,500 square feet per dwelling unit
4. Multi-family dwellings (greater than 3 units): 2,000 square feet per dwelling unit
5. All other uses 4,000 square feet minimum

##### **B. Lot/Parcel Depth and Width**

- No minimum lot width or depth.

##### **C. Setback Requirements**

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Principle structures, accessory dwellings and accessory structures with a floor area greater than 200 square feet shall maintain the following minimum yard setbacks.

1. **Front Yard**

- For all structures: 10 feet
- Garage: 20 feet

Garages, carports and accessory structures shall be accessed from the rear of the building via an alley where appropriate and feasible. If front access garages are proposed, the applicant must provide justification as to why rear access garages are not appropriate or feasible.

~~Garages, carports, accessory dwellings and accessory structures with front access shall be flush with, or recessed behind, the front building elevation of the principle structure.~~ A garage, carport, accessory dwelling or accessory structure shall not exceed the front building elevation of the principle structure by more than six (6) feet.

2. **Rear Yard:**

- street-access lots - 10 feet
- alley-access lots - 6 feet
- Accessory Accessory Structures and Accessory Accessory Dwellings - 5 feet.

3. **Side Yard:**

- Side yards should be established to create separation between structures and meet fire codes and provide space for pervious surface area
- Single family dwellings created by plats must have at least one side yard
- Adjacent to street - 10 feet plus additional space necessary to comply with the standards of chapter 16.160, Clear Vision Areas.
- Accessory Structures and Accessory Dwellings - 5 foot Adjacent to street setback, except as provided for in Chapter 16.105, Accessory Use, Structures and Dwellings
- Attached dwellings do not require side yard setbacks along the side the dwelling units are attached

4. **Flag lots approved:**

Flag lots are subject to Chapter 16.125 Lot Development Standards.

## 5. **Height of Buildings**

Buildings shall not exceed a height, measured from grade, of 35 feet.  
Accessory dwellings and accessory structures shall not exceed 25 feet.

## 6. **Lot/Parcel Coverage**

In the R-2.5 District, the maximum lot coverage for impervious surfaces shall not exceed 65%.

### **16.030.020 Parking Requirements**

Parking requirements are specified in Chapter 16.155, Off Street Parking and Loading.

### **16.030.025 Development Standards**

The following standards will be applied to all dwellings:

- A. All units shall utilize at least two of the following design features to provide visual relief along the front of the home:

- A. dormers;
- B. gables;
- C. recessed entries;
- D. covered porch entries;
- E. cupolas;
- F. pillars or posts;
- G. bay or bow windows;
- H. eaves (minimum 6" projection);
- I. offsets on building face or roof (minimums 16");

If alternative design features are proposed by an applicant not included in the options above, the applicant may apply to the Planning Commission for approval of the alternative design features.

- B. All manufactured homes shall also comply with the requirements of Chapter 16.110 - Manufactured Homes.

## **Chapter 16.045**

### **Neighborhood Community Zone (NC)**

#### **16.045.000     Purpose**

The Neighborhood Community zone (NC) incorporates a number of design, development and infrastructure features indicative of a self-reliant neighborhood, including but not limited to: quality and craftsmanship in the built environment; an appropriate mix of architectural styles, residential types and densities and neighborhood commercial opportunities to serve the surrounding neighborhood; advantageous and sensitive use of natural resource features and open space; and innovative and imaginative site planning in order to develop a sense of place where amenities, facilities, features and overall urban design could not be achieved through application of individual or a combination of zones. The NC zone shall be used to implement the Neighborhood Community Comprehensive Plan designation. Master planning of the non-exception expansion areas is necessary to achieve a cohesive vision for the build out of these areas.

#### **16.045.005     Objectives**

The following objectives shall be considered in reviewing an application for a master plan:

- A. To provide for a master planned neighborhood(s) that provide a mix of uses and densities as illustrated on the Density/Land Use Plans prepared for the north and east non-exception expansion areas and adopted by reference in the Comprehensive Plan.
- B. To encourage complete, pedestrian-oriented neighborhoods with a variety of housing types, neighborhood-scale commercial uses, open spaces and parks, and appropriate institutional uses.
- C. To encourage development of the Urban Growth Boundary expansion areas consistent with Chapter 15 of the Comprehensive Plan.

#### **16.045.010     Permitted Uses**

The following uses are permitted outright within the NC zone when associated with an approved master plan:

- A. Single family detached housing.
- B. Single family attached -housing.
- C. Duplexes or Triplexes.
- D. Row-~~homes~~houses/Town-homes.
- E. Multifamily dwellings.

F. Accessory Dwellings and Accessory Structures, subject to Chapter 16.105, Accessory Uses, Structures & Dwellings.

E.G. Mixed-Use (including residential, commercial and/or institutional uses).

F.H. Parks and Ppermanent open space.

I. Neighborhood commercial uses

G.J. Certified Family Child Care Home

H.K. Residential Homes

L. Residential Facility

I.M. Manufactured Homes on Individual Lots, Subject to Chapter 16.110, Manufactured Homes

#### **16.045.015 Conditional Uses**

The following uses and their accessory structures may be permitted in the NC zone when authorized by the Planning Commission pursuant to this chapter.

- A. Church / Religious Institution.
- B. Governmental structure or use, including a fire station, library or museum.
- C. School: nursery, elementary, junior high, senior high, college or university.
- D. Geriatric care or assisted living facility.

E. Community service facility.

E.F. Uses permitted outright in the Light Industrial (M-1) Zoning District, as identified in Section 16.050.005.

#### **16.045.020 Development Standards and Off Street Parking Requirements**

A. No development may occur within the NC zone prior to master plan approval. Master plans in these areas shall generally reflect the land use pattern, density ranges and parks/open spaces illustrated on the "Density/Land Use Plans" adopted as part of the Comprehensive Plan. include a mix of uses that may include residential, commercial, institutional and light industrial. The land use mix shall generally reflect the concept plan adopted when an area is brought into the Urban Growth Boundary, or as modified through master plan approval. The following standards apply to all development in the NC zoning district:

1. Municipal parks shall be provided at a minimum rate of 400 square feet for every

one (1) dwelling unit. In addition, municipal parks shall be provided at a minimum rate of 5,000 square feet for every one (1) acre of land that is not designated exclusively residential (such as commercial, industrial, institutional or mixed-use). Municipal parks are intended for active recreational use. Wetlands, water quality facilities (swale), and other types of passive open space may not count toward the minimum municipal park requirement. The Planning Commission will utilize the master plan review process to determine the location, size and functionality of proposed parks.

2. In order to promote a variety of housing types and efficient land use, a minimum of 30% of the proposed residential development in a master plan shall be either attached single-family or multi-family housing. If a master plan includes a minimum of twenty percent (20%) of the total proposed housing as multi-family residential, a twenty percent (20%) increase in density will be permitted to the multi-family housing proposed. Identification of multiple use areas and adjustments to the specific locations of proposed uses, street patterns, parks and/or open spaces may be considered during the master plan process.

A.B. Development within the NC District shall comply with the standards for lot size and dimensional requirements, lot coverage, - building height and setbacks -as contained within Table NC-1: Development standards, or as modified and approved during the Master Plan process. Builders and developers are encouraged to create dwellings that meet contemporary lifestyles.

C. Development within the NC District shall provide off street vehicular and bicycle parking per Section 16.155 of this Code, as addressed in table NC-2: Off Street Parking Requirements, or as modified and approved during the Master Plan process.

B.D. In the NC zoning district, a minimum of two acres shall be reserved from exclusive residential development so that commercial, institutional and/or mixed-use development options are available. This reserved area shall be included in one of the development phases proposed with the master plan. If development has not occurred in this reserved area for a minimum of five years from the issuance of the final occupancy permit of the final residential unit in the same development phase as the reserved area, then the applicant may submit an application for subdivision or design review to the City for exclusive residential development, with the Planning Commission as the review and decision authority. The reserved area can be used as temporary open space in the interim.

### **16.045.030 Standards and Requirements for Master Plans**

The following standards and requirements shall govern the application for master plan approval within the NC zone:

A. The land uses in a master plan ~~shall be those identified on the corresponding Density/Land Use Plan for each of the expansion areas~~ shall generally reflect the concept plan adopted when an area is brought into the Urban Growth Boundary, or as modified through master plan approval. Flexibility in -arrangement of uses and densities is permitted provided that the overall master plan is in substantial compliance with the area totals and

density ranges as identified in ~~Chapter 15~~ the adopted Concept Plan of the Comprehensive Plan.

B. A master plan application may address the entirety of any expansion area individually or may combine expansion areas within the ~~UGB~~ Urban Growth Boundary (UGB).

C. A phasing plan shall be included with the submitted Master Plan for any expansion area. The phasing plan shall indicate the acreage of each proposed phase to be developed, the number of housing units and square footage of other development projected within the phase and the approximate timing of the construction of each phase. The phasing plan shall provide a reasonable sequence of development for the expansion area with regards to the transportation system, utilities and topography of the area as well as market conditions and development within the City as a whole. The Planning Commission shall approve the phasing plan as part of the ~~master plan~~. Revisions to the phasing plan after master plan approval are permitted as reviewed and approved by the Planning Commission.

D. ~~Neighborhoods Master plans~~ shall have public spaces, such as a plaza, park, school, ~~and/or~~ community square.

E. Garages, carports and accessory structures shall be accessed from the rear of the building via an alley where appropriate and feasible. If front access garages are proposed, the applicant must provide justification as to why rear access garages are not appropriate or feasible.

~~Garages, carports, accessory dwellings and accessory structures with front access shall be recessed behind the front building elevation of the principle structure. A garage, carport, accessory dwelling or accessory structure shall not extend beyond the front building elevation of the principle structure by more than six (6) feet.~~

F. A minimum of 10% of the single-family detached housing units proposed with a Master Plan shall be single-level construction, or as modified through the Master Plan review process.

~~F.G.~~ Commercial buildings shall be designed to front on pedestrian-friendly streets rather than parking lots or arterial roadways.

#### **16.045.040 Procedure**

The following procedure shall be observed when a Master Plan proposal is submitted for consideration:

A. The applicant shall submit 1 copy of a master plan application with all exhibits ~~and~~ one electronic copy of all submittal materials to the City for review. The master plan submittal shall include the following information in graphic and written form:

1. Proposed land uses and housing unit densities.



2. Tables detailing the dimensional, area, and setback requirements for each of the proposed use categories.
  3. Proposed access and circulation.
  4. Proposed open space uses.
  5. Preliminary grading and drainage pattern.
  6. Preliminary utility plan for sanitary sewer and water.
  7. Relation of the proposed master plan to the surrounding area and the Comprehensive Plan.
  8. Phasing schedule identifying anticipated sequence and timing of each phase or phases.
- B. Public notice of the proposed Master Plan shall be provided in accordance with the public notice provision of this chapter.
- C. In considering the Master Plan, the Commission shall determine whether:

1. The minimum residential density of the north and east non-exception expansion areas, as included within the City Limits prior to December 31, 2017, shall be 8.4 units per net acre. The density of each expansion area is calculated independently of one another. The North Expansion Area is calculated independently of the East Expansion Area, and vice versa. If an applicant is seeking Master Plan approval for a single either the East or North expansion area, the applicant must demonstrate that the single Master Plan achieves a minimum 8.4 residential units per net acre in that entire expansion area. The residential portion of any mixed-use development shall be included in the overall density calculation of the expansion area. The proposed circulation system (including proposed street sections) is adequate to support the anticipated traffic and the development will not overload the streets outside the boundaries of the Master Plan. No roadway straight line tangent shall exceed 600 feet in length, except where deemed necessary by the Planning Commission due to issues such as: topographic constraints, existing developed conditions or existing property boundaries. Where such an exception is allowed, roundabouts or curb extensions at intersections and other traffic calming measures shall be evaluated.

2. In all expansion areas brought into the City Limits, the residential development shall be split as follows, or as modified through Master Plan approval:

- 70% Single-Family Detached
- 30% mix of Single-Family Attached and Multi-Family

The following deviation to this residential split standard is permitted to accommodate

flexibility in land development:

- A Master Plan proposing 50 or more dwelling units – 2% deviation
- A Master Plan proposing 49 or fewer dwelling units- 10% deviation

3. Proposed utility and drainage facilities are adequate –for –the population densities and type of development proposed.

4.4. The proposed circulation system (including proposed street sections) is adequate to support the anticipated traffic and the development will not overload~~exceed the adopted functional/performance standard of~~ the streets outside the boundaries of the Master Plan. No roadway straight line tangent shall exceed 600 feet in length, except where deemed necessary by the Planning Commission due to issues such as: topographic constraints, existing developed conditions, or existing property boundaries or master plan design features. Where such an exception is allowed, roundabouts or curb extensions at intersections and other traffic-calming measures shall be evaluated.

D. If, ~~in the opinion of the~~ the Planning Commission finds, that the provisions of Sections 16.145.010 through 16.145.040 ~~(C)~~ are satisfied, the proposal shall be approved. If the Commission finds the provisions are not satisfied, it may deny the application or return the plan to the applicant for revision. In addition to the requirements of this section, the Commission may attach conditions ~~it finds~~ are necessary to carry out the purposes of this Ordinance.

E. Applications for individual phases within the Master Plan, such as subdivision or design review applications, may be applied for concurrently with or subsequent to Master Plan approval. If applications for individual phases are applied for concurrently with the Master Plan, the Applicant shall extend, in writing, the state-mandated 120-day review period by 30 days for the individual phase application. The Planning Commission will review the Master Plan first and will review the individual phase application at a subsequent Planning Commission meeting. If the Planning Commission requires a second meeting to complete review of the Master Plan, the Applicant agrees to an additional 30-day extension to the review period. Applications for individual phases within the Master Plan shall be reviewed under the provisions and requirements of this chapter.

F. In the process of reviewing applications for individual phases within an approved Master Plan, the Commission may approve the refinements to the Master Plan. Refinements to the Master Plan are defined as:

1. Changes to the street network or functional classification of streets that do not significantly reduce circulation system function or connectivity for vehicles, bicycles or pedestrians.
2. Changes to the nature or location of park type, trails, or open space that do not significantly reduce land area, function, livability, usability, connectivity, or overall distribution or availability of these uses in the Master Plan area.

3. ~~Changes to the location or mix of land uses that do not significantly alter the overall distribution or availability of uses in the Master Plan area.~~

G. Refinements meeting the above definition may be approved by the Commission upon finding that:

1. The refinement(s) will equally or better meet the conditions of the approved Master Plan.
2. The refinement will not preclude an adjoining phase from development consistent with the approved Master Plan.

Significant changes to an approved Master Plan shall be submitted to the Planning Commission for processing as an amendment to an approved Master Plan. Significant changes would be defined as any change not covered by Subsection F (1-3) above.

TABLE NC-1 DEVELOPMENT STANDARDS									
Building Type	Min. Lot Size (sf)	Min. Lot Width (sf)	Min. Lot Depth (sf)	Max. Lot Coverage (%)	Max. Bldg. Height (ft)	Min. Front Setback (ft) front/alley Loaded	Min. Rear Setback (ft) front/alley Loaded	Min. Side Setback (ft)	Min. Street Side Setback (ft)
Single-Family <sup>1</sup> <del>(Alley Loaded)</del>	1,850	<del>302</del> 8	<del>706</del> 6	80	35	10	0	<del>0</del> <sup>3</sup>	7
Single-Family <sup>2</sup> <del>(Front Loaded)</del>	3,800	<del>403</del> 8	80	70	35	15	10	<del>0</del> <sup>3</sup>	7
Single Family Medium Lot	4,800	45	85	60	35	15/12	15/0	<del>0</del> <sup>3</sup>	7
Single Family Large Lot	7,000	55	90	60	35	15/12	15/0	5	10
Duplex <del>(incl. ancillary units)</del>	3,800	45	85	65	35	12/10	10/0	4	7
Townhomes	N/A	15	50	80	45	12/10	0	0	7
Multi-family	4,800	50	85	80	45	15/12	10/0	5	10
Mixed Use Building	6,000	55	85	80	45	15/12	0	0	0
Commercial/ Institutional	7,000	60	85	80	45	0	0	0	0

1 Single-Family detached homes- minimum standards for alley-loaded

2 Single-Family detached homes- minimum standards for front-loaded

3 3-foot setback required on one side, 0-foot setback on the other side

44 The garage setback from an alley shall be between 3 and 5 feet, or if providing an off-street parking space between the garage and alley the garage must be setback from the alley a minimum of 20 feet.

25 Street-loaded garages shall have a minimum 20-foot setback to the face of garage and the garage face shall not extend beyond the front building elevation of the principle

~~structure by more than six (6) feet. must be set back a minimum of 5 feet from nearest front façade, front porch or stoop. In no cases shall the garage face extend beyond the front façade of the residential structure.~~

6 Porches, stoops, decks, balconies, and other similar building projections may extend 4 feet beyond a front setback.

37 ~~Accessory structures not attached to the principal structure shall maintain a 3-foot rear and side yard setback and shall not be located within the front yard setback.~~

48 Commercial/institutional/mixed use structures adjacent to a residential use shall have a minimum setback of 10 feet along the adjoining yard.

59 Lot sizes, widths and/or depths may be reduced to 90% of the standard provided the overall lot average meets the corresponding lot size requirement.

610 Townhomes shall not exceed three (3) stories in height.

## **Chapter 16.100**

### **Duplex, Triplex and Attached Two Single Family Dwellings**

#### **16.100.000 General Provisions**

Special uses included in this Section are uses which, due to their effect on surrounding properties, must be developed in accordance with special conditions and standards. These conditions and standards may differ from the development standards established for other uses in the same Zoning District. When a dimensional standard or a special use differs from that of the underlying district, the standard for the special use shall apply.

#### **16.100.005 Purpose**

The purpose for allowing duplexes, triplexes and attached single family dwellings, as defined in the Definitions section of this chapter, as a special use in certain residential zones, is to permit greater flexibility of design (including lot sizes and setbacks) and to permit greater opportunity for compatibility of housing types and ownership patterns.

#### **16.100.010 Standards and Requirements**

The following standards and requirements shall govern the development of duplexes, triplexes and attached single family dwellings:

A. **Minimum Lot Size**: The minimum lot size of each dwelling unit shall be as specified by the base zone.

**B. Minimum Building Setbacks:**

All setbacks shall comply with the setbacks required in the underlying zone, except that for interior side yards with a common wall, the side setback shall be zero feet

The location of all buildings shall comply with the vision clearance requirements of the Clear Vision Areas section of this chapter.

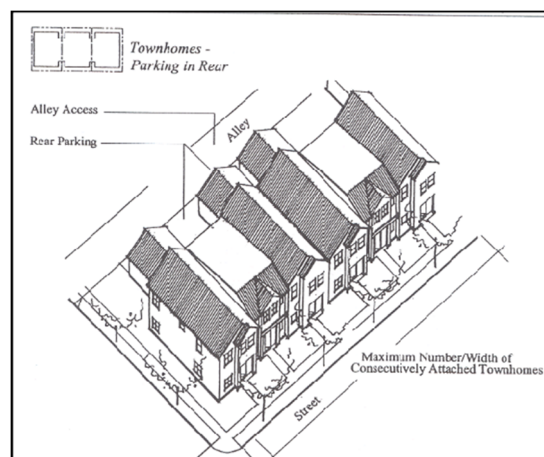
**C. Design Standards**

These standards are intended to control development scale; avoid or minimize impacts associated with traffic, parking, and design compatibility; and ensure management and maintenance of common areas.

1. **Building Mass Supplemental Standard**. The maximum number and width of consecutively attached townhouses (i.e., with attached walls

at property line) shall not exceed 2 units in the C-1 Zoning District and 4 units in the R-2.5 and R-5 Zoning Districts.

2. Alley Access. Townhouse subdivisions (creation of 4 or more lots for single-family attached dwellings) shall receive vehicle access only from a rear alley. Alley(s) shall be created at the time of subdivision approval. Alleys are not required when development patterns or topography make construction of an alley impracticable. As necessary, the City shall require dedication of right-of-way or easements and construction of pathways between townhouse lots (e.g., between building breaks) to provide for pedestrian connectivity.

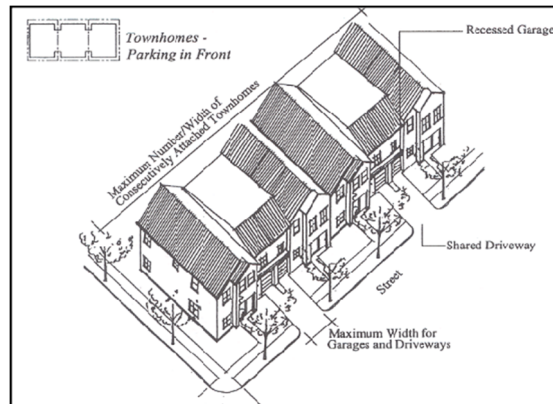


Alley Access Townhouses

3. Street Access Developments. Townhouses receiving access directly from a street shall comply with all of the following standards, in order to minimize interruption of adjacent sidewalks by driveway entrances, slow traffic, improve appearance of the streets, provide more on-street parking area, and minimize paved surfaces for better storm water management.

- a. When garages face the street, they shall be flush with, or recessed behind the front elevation (i.e., living area or covered front porch).

Street Access  
Townhouses



- b. The maximum allowable curb cut and driveway apron width is 18 feet per dwelling unit. The remainder of the driveway facing the street may not exceed the width of the garage door plus an additional four feet. The maximum combined garage width per unit is 50 percent of the total building width. For example, a 24-foot wide unit may have one 12-foot wide recessed garage facing the street.
- c. Two adjacent garages shall share one driveway when individual driveways would otherwise be separated by less than 20 feet (i.e., the width of one on-street parking space). When a driveway serves more than one lot, the developer shall record an access and maintenance easement/agreement to benefit each lot, prior to building permit issuance.
- 4. Common Areas. "Common areas" (e.g., landscaping in private tracts, shared driveways, private alleys, and similar uses) shall be maintained by a homeowners association or other legal entity. A homeowners association may also be responsible for exterior building maintenance. A copy of any applicable covenants, restrictions and conditions shall be recorded and provided to the city prior to building permit approval.

D. **Standards For Approval: Such uses shall may be permitted as a special use upon the following findings:**

- 1. The project shall comply with all other applicable provisions of the ZDO.

2. The project will accommodate the traffic generated by providing adequate off-street parking, access points and additional street right-of-way and improvements and other traffic facilities as required.
3. All public and private improvements shall be developed to applicable City Public Works standards.
4. Pedestrian walkways shall be provided for adequate pedestrian and bicycle traffic.
5. The overall housing density of the project shall comply with that permitted in the underlying R zone.
6. If proposed, private streets shall be owned and maintained by the owners of the lots which access the private street. A maintenance agreement shall be recorded which provides for the maintenance of the private street.

#### **16.100.15    Procedure**

The development of attached single family dwellings pursuant to this section shall require the approval of either a land partition or subdivision in order to create the 2,500 or 3,750 square foot legal lots of record. The proposed development shall comply with all applicable procedures and standards of either the Land Partitioning or Subdivisions sections of this chapter. A Development Agreement specifying that subsequent development on the lots be limited to attached single family dwellings shall also be required.



## Chapter 16.105 Accessory Uses, Structures, and Dwellings

### **16.105.000 Requirements for Accessory Uses and Structures**

#### **A. Greenhouse**

A greenhouse or hothouse may be maintained accessory to a dwelling only if there are no sales.

#### **B. Accessory Structures in Residential Zoning Districts**

In all residential zoning districts, accessory structures with a floor area greater than 200 square feet associated with a single family dwelling, other than fences, walls, or hedges, shall be either recessed behind, or flush with, the front elevation of the dwelling.

### **16.105.005 Requirements for Accessory Dwellings**

An accessory dwelling is a small, secondary housing unit on a single family lot, usually the size of a studio apartment. The additional unit can be a detached cottage, a unit attached to a garage, or in a portion of an existing house. The housing density standard of the base zone does not apply to accessory dwellings, due to the small size and low occupancy level of the use. The following standards are intended to control the size and number of accessory dwellings on individual lots, so as to promote compatibility with adjacent land uses. Accessory dwellings shall comply with all of the following standards:

- A. Oregon Structural Specialty Code. The structure complies with the Oregon Structural Specialty Code;
- B. ~~Owner-Occupied Utility Connection. Either the primary residence or accessory dwelling shall be owner-occupied. Alternatively, the owner may appoint a family member as a resident care taker of the principal house and manager of the accessory dwelling.~~ The structure is permanently built and connected to utilities in a manner similar to the primary structure;
- C. One Unit. A maximum of one accessory dwelling unit is allowed per lot;
- D. Floor Area. The floor area of the accessory dwelling shall not exceed 650 square feet;
- E. Building Height. The building height of detached accessory

dwellings (i.e., separate cottages) shall not exceed 25 feet;

- F. Buffering. A minimum 6 foot hedge or fence between an accessory dwelling and a lot line shall be required when the accessory dwelling will have windows or doors which face a side or rear lot line and are within 10 feet of the lot line;
- G. Location. Detached accessory dwellings shall either be recessed behind, or flush with, the front elevation of the principal dwelling.

**16.105.010 Requirements for Fences, walls and hedges**

Fences, walls and hedges may be located in any required yard or along the edge of any yard, subject to the maintenance of clear-vision areas. A fence, wall or hedge may not exceed six (6) feet in height in a residential zone without approval of a variance. Fences, walls or hedges shall not exceed a height of three feet along the front property line or within a front yard setback

## **Chapter 16.130**

### **LAND PARTITIONING**

#### **16.130.000 Definition**

**Partition:** A partition is required for a land division that creates two (2) or three (3) parcels in a calendar year.

#### **16.130.005 General Provisions**

- A. All partitions shall conform to all applicable Zoning District Standards, Development Standards of this ordinance and the comprehensive plan.
- B. A master plan for development shall be required for any application which leaves a portion of the subject property capable of redevelopment.
- C. Partition approval is valid in perpetuity, upon recording of the final partition plat.
- D. A parcel within an approved partition may not be re-divided within the same calendar year in which it was recorded except through the subdivision process.
- E. A tentative partition that creates a public road to access any of the proposed parcels shall be reviewed at a public hearing of the Planning Commission pursuant to the provisions of Public Hearings in this chapter.
- F. Notice of the public hearing shall be provided in accordance with the provisions of Public Notice Requirements in this chapter.
- G. Approval of a Tentative Map for a partition is valid for one (1) year after the date of the written decision. A final plat map for a partition shall be approved and recorded within this one (1) year time period or the tentative approval shall lapse.
- H. Requests for extensions of partition approvals may be made in accordance with the provisions of this chapter.

#### **16.130.010 Submittal Requirements for Tentative Partition Review**

- A. An application for a partition shall be submitted on forms provided by the City and accompanied by the appropriate filing fee.
- B. An application shall include one (1) copy of a tentative partition drawn to scale and shall contain, at a minimum, the following:

1. Name and address of the owner of the property to be divided.
2. Legal description of the property and Tax Lot ID (TLID) by Township, Range, Section and Tax Lot.
3. North arrow and scale.
4. Comprehensive Plan and Zoning designations for the subject property.
5. Individual parcel designation, e.g. Parcel I, Parcel II.
6. Dimensions and size in square feet or acres of all proposed parcels.
7. Adjacent property under the same ownership.
8. All adjacent roads (public or private), including name and road width.
9. Location and size of all existing and proposed utilities.
10. All existing structures on the property and their setbacks.
11. Natural drainage ways, streams, wetlands or other significant natural features of the property.
12. Existing or proposed easements.

#### **16.130.015 Process for Tentative Partition Review**

A tentative partition that does not create a public road to access any of the proposed parcels shall be reviewed administratively by the City. Conditions may be attached to the approval of a tentative partition.

A tentative partition that does creates a public road to access any of the proposed parcels shall be reviewed at a public hearing of the Planning Commission. The Planning Commission may require dedication of land and easements and may specify conditions or modifications in the tentative plan as necessary. In no event, however, shall the Planning Commission require greater dedications or conditions than would be required- if the tract were subdivided.

#### **16.130.020 Partition Approval Criteria**

The City may approve, approve with conditions or deny a preliminary partition plat based on the approval criteria of this chapter including the Subdivisions section.

## **16.130.025 Process for Final Partition Approval**

### **A. Survey Submitted**

Within one (1) year of the written decision approving a tentative partition, two (2) copies of the final survey of the approved partition shall be submitted to the City for review. If the final survey is not submitted within one year, the tentative approval shall lapse.

### **B. Final Approval**

If the final survey of the partition is consistent with the approved partition, if the conditions of approval have been satisfied, and if the City Council has accepted dedication of any newly created public roads by either accepting a deed of dedication on a form acceptable to the City or authorizing the mayor or other City Council designee to sign an acceptance of dedication on the final plat map, the City shall mark the survey map "Approved" and shall:

1. Transmit one copy of the approved partition or the original mylar with acceptance of public road dedication to the applicant for recording, and
2. Retain one copy for the City's files, and
3. Send a final approval letter to the County Surveyor with instructions for final review and recording of the final plat.

### **C. Recording of Approved Partition Required**

The applicant is responsible for recording the approved Partition with the Washington County Records Office. A building permit shall not be issued, or parcel sold, transferred or assigned, until the approved Partition has been recorded.

### **D. Improvements/Bonding**

Prior to issuance of a building permit, all improvements required by the Conditions of Approval shall be constructed or the construction shall be guaranteed through an irrevocable letter of credit, assignment of bank account, performance bond or other instrument acceptable to the City Attorney. If ownership of a parcel is transferred prior to satisfaction of the Conditions of Approval, the new owner shall be notified in writing of these Conditions by the transferor.

## **Chapter 16.135 Subdivisions**

### **16.135.000 Definition**

“Subdivision”, for the purpose of this Chapter is mean to divide an area of land into four or more lots for the purpose of transfer of ownership or building development, whether immediate or future, when such lot exists as a unit or contiguous units.

### **16.135.005 General Provisions**

- A. All subdivisions shall conform to applicable Zoning District Standards, Development Standards of this ordinance and the comprehensive plan.
- B. A master plan for development shall be required for any application which leaves a portion of the subject property capable of redevelopment.
- C. Pre-application conferences shall be required prior to the submittal of all subdivision applications. The City Manager may waive this requirement.

### **16.135.010 Submittal Requirements for Tentative Subdivision Plans**

- A. All Subdivision applications shall be submitted on forms provided by the City and accompanied by the appropriate filing fee.
- B. Each application shall include one (1) copy of the tentative subdivision plan drawn on a sheet of 24 x 36 inches in size at a scale of 1 inch equals 100 feet and one (1) copy in electronic form.
- C. Should include copy of the letters of tentative approval of all Service Providers.
- D. The following information shall be shown on the tentative subdivision plan:
  - 1. Proposed name of the subdivision. This name shall not duplicate or resemble the name of any other subdivision in the county and shall be approved by the Planning Commission and the County Surveyor.
  - 2. Date, north point and scale of drawing.
  - 3. Appropriate identification of the drawing as a tentative plan.
  - 4. Description of the subdivision sufficient to define its location and boundaries and legal description of the land proposed to be subdivided.
  - 5. Names and addresses of the owner and subdivider applicant.

6. The location, widths and names of existing improved and unimproved streets within or adjacent to the tract. Add the location and width of existing easements within or adjacent to the tract.
  7. The location, width, names, approximate grades and radii of curves of proposed streets as shown on any development plan and any proposed easements.
  8. Contour lines related to some established bench mark or other datum approved by the city engineer and having minimum intervals as follows:
    - a. For slopes of less than five per cent: two feet, together with not less than four spot elevations per acre, evenly distributed, if necessary.
    - b. For slopes of five percent to 15 percent: five feet.
    - c. For slopes of 15 percent to 20 percent: ten feet.
    - d. For slopes of over 20 percent: 20 feet.
  9. The location of at least one temporary bench mark within the subdivision boundaries pursuant to ORS 96.060.
  10. The location and direction of water courses and the location of areas subject to flooding and/or within the most current designated 100-year flood plain.
  11. Natural features such as rock outcroppings, marshes, wooded areas and isolated preservable trees having a caliper (diameter) of 6 inches or greater at 4 feet above grade.
  12. Existing uses of the property and location of existing structures designated historic and cultural resources on the site and structures to remain on the property after platting.
  13. A vicinity map showing existing subdivisions and unsubdivided land ownerships adjacent to the proposed subdivision and showing how proposed streets and utilities may be extended to connect to existing streets and utilities.
  14. Proposed deed restrictions, if any, in outline form.
  15. The location of existing sewage disposal facilities, water mains, culverts, storm drainage facilities and electric lines within and adjacent to the subdivision.
  16. Dimensions and area of each proposed lot.
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17. Proposed lot and tract numbers.
18. Proposed sites, if any, allocated for development.
19. All subdivisions must show how layout of streets will interface with and accommodate all adjacent properties.
20. Any of the following may be required by the City or Planning Commission to supplement the tentative subdivision plan:
  - a. Approximate center line profiles with extensions for a reasonable distance beyond the limits of the proposed subdivision showing the finished grade of streets and sidewalks and the nature and extent of street construction.
  - b. A schematic plan for domestic water supply lines and related water service and sewage disposal facilities.
  - c. Proposals for storm water drainage and flood control, including profiles of proposed drainage ways.
  - d. If lot areas are to be graded or filled, a plan showing the nature of cuts and fills and information on the character of the soil.
  - e. Proposals for other improvements such as electric utilities.

#### **16.135.015 Preliminary Plat Approval Criteria**

The City may approve, approve with conditions or deny a preliminary plat based on the following approval criteria:

- A. The proposed preliminary plat complies with the applicable Development Code chapters and all other applicable ordinances and regulations. At a minimum, the provisions of this section and the applicable sections of this chapter including Zoning Districts, Development Standards, and Streets and Facilities shall apply. Where a variance is necessary to receive preliminary plat approval, the application shall also comply with the Variance section of chapter 16.185;
- B. The proposed streets, roads, sidewalks, bicycle lanes, pathways, utilities, and surface water management facilities are laid out so as to conform or transition to the plats of subdivision and maps of major partitions already approved for adjoining property as to width, general direction and in all other respects. All proposed public improvements and dedications are identified on the preliminary plat;
- C. All proposed private common areas and improvements (e.g. homeowners association property) are identified on the preliminary plat;



- D. Evidence that any required State and federal permits have been obtained, or shall be obtained before approval of the final plat;
- E. Evidence the improvements or conditions required by the City, road authority, Washington County, Clean Water Services, special districts, utilities, and/or other service providers, as applicable to the project, have been or shall be met;
- F. A Traffic Impact Study (TIS) has been provided, if applicable, in accordance with the provisions of Chapter 16.170; and
- G. If any part of the site is located within a Specific Area Plan District, Overlay District, or previously approved Master Planned Development, it shall conform to the applicable regulations and/or conditions.

#### **16.135.025 Lot Access Provisions**

In addition to the provisions of this chapter, all lots and parcels shall conform to the specific requirements below, as applicable:

- A. In conformance with the Uniform Fire Code (UFC), a 20-foot wide fire apparatus drive shall be provided to serve all portions of a building that are located more than 150 feet from a public right-of-way or approved access drive.
- B. When a common drive is to be provided to serve more than one lot, a reciprocal easement which will ensure access and maintenance rights shall be recorded with the approved subdivision. The minimum drive width shall be 10 to 15 feet, except as required by the UFC, and improved with an all- weather surface approved by the City.
- C. Access reserve strips may be required to be granted to the City for the purpose of controlling access to adjoining undeveloped properties.
- D. Street and building placement and alignment shall be designed so that all future street connections can be made as surrounding properties develop.

#### **16.135.030 Flag Lot**

Flag lots may be created only when a through street or mid-block lanes cannot be extended to serve abutting uses or future development. A flag lot driveway ("flag pole") may serve no more than two (2) dwellings units, including accessory dwellings and dwellings on individual lots, unless Uniform Fire Code (UFC) standards are met for more units. A driveway serving more than one lot shall be a minimum of 15 feet wide, except as required by the UFC, and have a reciprocal access and maintenance easement recorded for all lots. No fence, structure or other obstacle shall be placed within the drive area. The Fire Marshal may require an emergency turn-around. Fire sprinklers may also be required for buildings that cannot be fully served by fire hydrants due to distance from a hydrant of insufficient fire flow.

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### **16.135.035 Conditions of Approval**

The City may attach such conditions as are necessary to carry out provisions of this code, and other applicable city ordinances and state regulations.

### **16.135.040 Preliminary Review of Tentative Subdivision Plan**

- A. Upon receipt of a complete application, the City shall refer copies of the tentative subdivision plan and supplementary material to affected agencies for review and comments.
- B. The City shall prepare a staff report and recommendation on the tentative subdivision plan for the Planning Commission. The City may recommend approval of the tentative plan as submitted or as it may be modified in accordance with Section 16.135.011 Preliminary Plat Approval Criteria. The City may attach any reasonable conditions found necessary to carry out the purposes of this or any other City ordinance or State statute.
- C. If the City recommends denial, the staff report and recommendation shall set out clearly the grounds for denial and shall clearly inform the applicant of the changes or modifications needed to allow the lawful division of the property.
- D. Upon receipt of the City's staff report and recommendation, the Planning Commission shall hold a public hearing to give consideration to the tentative subdivision plan. The Planning Commission may approve the tentative plan as submitted or as it may be modified by recommendation of the City or Planning Commission.
- E. Approval of the tentative plan shall indicate approval of the final plat if there is no change in the plan of the subdivision and if the subdivider complies with the requirements of this ordinance.
- F. The action of the Planning Commission shall be noted on two copies of the tentative plan, including reference to any attached documents describing conditions. One copy shall be retained by the City and the other shall be returned to the applicant with a written statement of the Commission's action.

### **16.135.045 Expiration of Tentative Approval**

Approval of the tentative plan shall become null and void if a final plat in accordance with these regulations is not submitted within one year after the date of the approval of the tentative plan. If the subdivider cannot complete the recording of the final plat within the one year time period, he may petition the commission an extension of the subdivision approval in accordance with the provisions of Section 16.080, Termination of Approvals and Extensions.

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### **16.135.050 Phasing of Development**

If requested in the original application, a large subdivision may be approved for phased development. The final plat for the first phase of such a phased subdivision shall be submitted within one year of the date of approval of the tentative plan. Final plats of subsequent phases may be submitted after the one year limitation, provided that each phase complies with the approved tentative plan of the subdivision. Request for extensions of subdivision approvals may be made in accordance with the General Provisions of this chapter. However, in no case shall the final plat for the last phase be submitted more than 10 years after the approval of the tentative plan.

### **16.135.055 Final Subdivision Plat**

#### **A. Submittal of Final Subdivision Plat**

Within one year after approval of the tentative plan, the sub-divider shall have the subdivision surveyed and a plat prepared which conforms to the approved tentative plan. Unless a request for an extension of the subdivision approval is made in accordance with the provisions of Section 16.080.

#### **B. Information on Plat**

The applicant shall submit one (1) original, one (1) additional hard copy and one electronic copy of the final subdivision plat. The following information shall be included on the plat:

1. Reference points of existing surveys identified, related to the plat by distance and bearings, and referenced to a field book or map as follows:
  - a. Stakes, monuments or other evidence found on the ground and used to determine the boundaries of the subdivision.
  - b. Adjoining corners of adjoining subdivisions.
  - c. Other monuments found or established in making the survey of the subdivision or required to be installed by provisions of this ordinance.
2. The exact location and width of streets and easements intercepting the boundary of the tract.
3. Tract and lot boundary lines and street right-of-way and center lines, with dimensions, bearing or deflection angles, radii, arcs, points of curvature and tangent bearings.
4. The width of the portion of streets being dedicated and width of existing right-of-way. For streets on curvature, curve data shall be based on the street center line. In addition to the center line dimensions, the radius and central angle shall

be indicated.

5. Easements denoted by dashed lines, clearly identified and, if already of record, their recorded reference. If an easement is not definitely located of record, a statement of the easement shall be given. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision shall be shown. If the easement is being created by the map, it shall be properly referenced in the Declaration of the Plat.
6. Lot numbers beginning with the number "1" and continuing consecutively without omission or duplication throughout the subdivision.
7. Identification of land to be dedicated for any purpose, public or private, to distinguish it from lots intended for sale.
8. All plats must be signed and sealed in accordance with ORS 92.

### **C. Supplemental Information with Plat**

The following information shall accompany the final plat:

1. 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.
2. Sheets and drawings showing the following:
  - a. Traverse data including the coordinates of the boundary of the subdivision and ties to section corners and donation land claim corners, and showing the error of closure, if any.
  - b. The computation of distances, angles and courses shown on the plat.
  - c. Ties to existing monuments, proposed monuments, adjacent subdivisions, street corners and state highway stationing.
3. A copy of any deed restrictions applicable to the subdivision.
- 3.4. A copy of any dedication requiring separate documents.
- 4.5. A list of all taxes and assessments on the tract which have become a lien on the tract.

### **D. Technical Plat Review**

1. Upon receipt of the final plat, the plat and other data shall be reviewed by the City to determine that the subdivision as shown is substantially the same as it
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- appeared on the approved tentative plan and that the subdivision is in compliance with provisions of state law and this ordinance.
2. The City Engineer may make such field checks as are necessary to verify that the map is sufficiently correct on the ground.
  3. If the City Engineer and City determine that changes of additions must be made to the final plat, they shall notify the sub-divider and afford the subdivider an opportunity to make the changes or additions.

#### **16.135.060 Final Subdivision Plat Review**

- A. The final subdivision plat shall be submitted to the City for review pursuant to the requirements sections of this chapter. The City shall review the plat to assure compliance with the approved preliminary plat and with the conditions of approval. The City shall signify approval of the final mylar plat by signing the plat sheet. However, if the plat includes dedication of any newly created public roads the City, by ordinance, shall either accept a deed of dedication on a form acceptable to the City, or sign an acceptance of dedication on the final plat. Any substantial changes to the final plat from the preliminary plat must be approved by the original approval authority and is processed as a modification.
- B. A sub-divider shall, without delay, submit the plat for signatures of other public officials required by law. Approval of the final plat shall be null and void if the plat is not recorded within 90 days after the date of the last required approving signature has been obtained.
- C. At the time of submittal for final approval, the sub-divider shall pay to the City a final plat filing fee to defray the cost incurred by the City in checking, investigating, and otherwise reviewing the final plat for conformance to all applicable laws. The final plat filing fee must be paid at the time of submittal, in no way assures approval and cannot be refunded.

#### **16.135.065 Improvements/Bonding**

Prior to the recording of the Final Subdivision Plat, all improvements required by the conditions of approval shall be constructed or the construction shall be guaranteed through an irrevocable letter of credit, assignment of bank account, performance bond, cash or other instrument acceptable to the City Attorney. The assurance sum shall cover the cost of the improvements and repairs, including related engineering and incidental expenses identified in an itemized improvement estimate provided by the developer and certified by a registered civil engineer. A Development Agreement between the City and the developer shall be recorded with the final plat. In the event the developer fails to carry-out the provisions of the agreement, and the City has

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unreimbursed costs or expenses resulting from such failure, the City shall call on the bond, cash deposit letter of credit or other instrument for reimbursement. The developer shall not cause termination of nor allow expiration of the guarantee without first having secured written authorization from the City.

**16.135.070**   **Recording**

The applicant is responsible for recording the final subdivision plat with Washington County. A building permit shall not be issued nor a lot be sold, transferred, nor assigned until the subdivision has been recorded. However, parent lot deemed legal lot(s) of record may qualify subject to the setbacks of tentative plat approval.

**16.135.075**   **Re-platting, Vacation, or Changes to Approved Land Divisions**

Any plat or portion thereof may be re-platted or vacated upon receiving an application signed by all the owners as appearing on the deed or current title report. Further any change to a map of an approved or recorded land division that affects a street, public use, property line, number of lots, or the provision of public services may be requested upon receiving application by all owners as appearing on the deed. All requests for a re-plat, a plat vacation or a change to an approved or recorded land division shall be processed in accordance with the procedures and standards for approval of a subdivision or partition.

## **Chapter 16.155**

### **Off Street Parking and Loading**

#### **16.155.000 Purpose**

The purpose of this chapter is to provide adequate areas for the parking, maneuvering, loading and unloading of vehicles for all land uses in the City of North Plains.

#### **16.155.005 General Provisions**

- A. The provision and maintenance of off-street parking and loading spaces are continuing obligations of the property owner. No building or other permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking and loading space. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this Ordinance.
- B. Parking requirements for types of buildings and uses not specifically listed herein shall be determined by the Planning Commission, based upon the requirements of comparable uses listed.
- C. In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.
- D. Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the building inspector in the form of deed, leases or contracts to establish the joint use.
- E. Off-street parking spaces for dwellings shall be located on the same tax lot with the structure, and within 250 feet of the dwelling unit for which the parking space is required. Garages and/or carports may be used to satisfy the off-street parking requirements for dwellings, however, one required parking space may be uncovered. Parking spaces required for other uses may be located on a separate tax lot and shall be located not farther than 500 feet from the building or use they are to serve.
- F. Parking and loading spaces shall not be located in a required side or rear yard, except that off street parking spaces may be located in a required side or rear yard adjacent to a street on commercial or industrial zoned land provided that the parking spaces are developed consistent with the development standards of this chapter.

- G. Required parking spaces shall be available for parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.
- H. Required parking spaces shall be improved and available for use before the final inspection is completed by the building inspector. An extension of time may be granted by the building inspector providing an irrevocable letter of credit, assignment of bank account, performance bond, or its equivalent, is posted equaling the cost to complete the improvements.
- I. On-Street Parking Credit. The amount of off-street parking required may be reduced by one-half off-street parking space for every one on-street parking space adjacent to the development (where curbs and sidewalks are present and parking is allowed). On-street parking shall follow the established configuration of existing on-street parking, except that angled parking may be allowed for some streets, where permitted by City standards. The following constitutes an on- street parking space:
  - a. Parallel parking, each 24 feet of uninterrupted curb;
  - b. 45 degree diagonal, each 14 feet of curb;
  - c. 60 degree diagonal, each 11.5 feet of curb;
  - d. 90 degree (perpendicular) parking, each 10 feet of curb;
  - e. Curb space must be connected to the lot which contains the use;
  - f. Parking spaces that would not obstruct a required clear vision area, nor any other parking that violates any law or street standard; and
  - g. On-street parking spaces credited for a specific use may not be used exclusively by that use, but shall be available for general public use at all times. No signs or actions limiting general public use of on-street parking spaces are permitted.

J. When the calculation of the minimum number of parking spaces required results in a fraction of a space, the applicant must round up to the nearest whole space.

J-K. When 50 or more parking spaces are either required or proposed with a development application, a minimum of five percent (5%) of the total number of parking spaces shall be available for future installation of electric vehicle charging stations, as defined by Oregon Administrative Rule (OAR) 918-020-038. Fractional numbers derived from this calculation must be rounded up to the nearest whole number.

#### **16.155.010 Commercial District Modifications**

The parking requirements of this section shall not apply to existing commercial buildings within the commercial core of the City as defined on the official zoning map of the City as the C-1 zone.



## **16.155.015    Automotive Parking Requirements**

### **A. Residential**

- |   |   |
|---|---|
| 1. Detached single-family*  | 2 spaces per dwelling unit  |
| 2. Duplexes and Triplexes*  | 1.5 spaces per dwelling unit  |
| 3. Multi-family dwellings and attached single-family dwellings:*                                      |   |
| a. Studio units or 1- <del>br</del> <u>bedroom</u><br>units <del>&lt; 500</del><br><del>sq. ft.</del> | 1 space per dwelling unit   |
| <del>b. 1 bedroom units 500 sq. ft. or</del><br><del>larger</del>                                     | <del>1.5 spaces per dwelling unit</del>                                   |
| <del>eb.</del> 2-bedroom units  | 1.75 spaces per dwelling unit   |
| <del>ec.</del> 3-bedroom units  | 2 spaces per dwelling unit  |
| <del>ed.</del> Senior housing   | 1.25 spaces per dwelling unit   |
| 4. Residential hotel;<br>rooming/boarding house   | 2 spaces per 3 guest rooms plus one<br>additional space per two employees |
| 5. Mobile home park   | 1 space per mobile home plus 1 guest<br>parking space for every two homes |

### **B. Commercial Residential**

- |          |  |
|----------|--|
| 1. Hotel | 1 space per 2 guest rooms or suites plus 1<br>space per two employees. |
| 2. Motel | 1 space per guest room or suite plus 1 space<br>per two employees.     |

### **C. Community Services, Institutional and Semi-Public Uses**

- |   |   |
|---|---|
| 1. General Office/Government Office   | 3 spaces per 1,000 sq ft gross floor area   |
| 2. Community Recreation<br>Buildings/ <del>Covered Picnic Areas</del>   | 1 space per 250 sq ft, or 1 space per 6<br>patrons to the maximum capacity, plus 1<br>space per employee on the largest shift |
| 3. Church, Chapel, Auditorium,<br>Lodge, Fraternal/Civic Assembly with<br>or without eating/drinking facilities | 1 space per 6 fixed seats, or, where there are<br>no fixed seats, 1 space per 10 patrons to the<br>maximum capacity           |
| 4. Library or Museum  | 2 spaces per 1,000 sq ft gross floor area   |
| 5. Hospitals/Medical Centers  | 1 space per 1,000 sq ft gross floor area  |
| 6. Medical/Dental Offices/Clinics   | 4 spaces per 1,000 sq ft gross floor area   |
| 7. Day Care/Small School  | 1 space per employee and 1 space per 5<br>students  |
| 8. Preschool/Kindergarten   | 2.5 spaces per 1,000 sq ft gross floor area   |

9. School- Elementary or Middle/Junior High	1.5 spaces per classroom, plus recreation facilities, if applicable
10. School- Senior High School/Vocational or College	2 spaces per 1,000 sq ft gross floor area, plus recreation facilities, if applicable
11. Park, private or public <u>&lt; 1 acre</u>	None

142. Park, private or public > 1 acre As determined at time of land use review

#### **D. Commercial Amusement**

1. Stadium/Arena/Theater	1 space per 4 seats or 8 feet of bench length
2. Bowling Alley	4 spaces per alley plus 1 space per 2 employees
3. Dance Hall/Skating Rink	1 space per 100 sq ft of floor area plus 1 space per 2 employees

#### **E. Commercial**

1. Retail Store	1 space per 200 sq ft gross floor area
2. Service or Repair Shop	1 space per 400 sq ft gross floor area plus 1 space per 2 employees
3. Retail Store (handling exclusively bulky merchandise such as automobiles or furniture)	1 space per 500 sq ft gross floor area
4. Bank/Professional Office	1 space per 800 sq ft gross floor area
5. Clinic or Office for Doctor, Dentist, or other Practitioners of the Healing Arts	1 space per 300 sq ft gross floor area plus 1 space per 2 employees
6. Eating and Drinking Establishment	1 space per 100 sq ft gross floor area

#### **F. Industrial**

1. Storage Warehouse/Manufacturing Establishment/Rail or Trucking Freight Terminal	1 space per employee on largest shift
2. Wholesale Establishment	1 space per employee plus 1 space per 800 sq ft of patron serving area
3. Public Utility (gas/water/telephone/etc)	1 space per 2 employees on largest shift, plus 1 space per company vehicle

\* Garages count toward off-street parking requirements. Garages need not be physically attached to the residential structure to count toward off-street parking requirements.

### **16.155.020 Off-Street Loading Requirements**

Off-street loading space shall be provided as listed below:

- A. All office buildings shall require a minimum loading space size of 12 feet wide, 20 feet long and 14 feet high in the following amounts:
  - 1. For buildings containing up to 5,000 square feet of gross floor area, one space; for each additional 10,000 square feet of gross floor area, or any portion thereof, one space.
- B. All other commercial or industrial buildings shall require a minimum loading space of 12 feet wide, 20 feet long, and 14 feet high in the following amounts:
  - 1. For buildings containing up to 5,000 square feet of gross floor area, one space; for each additional 10,000 square feet of gross floor area, or any portion thereof, one space.

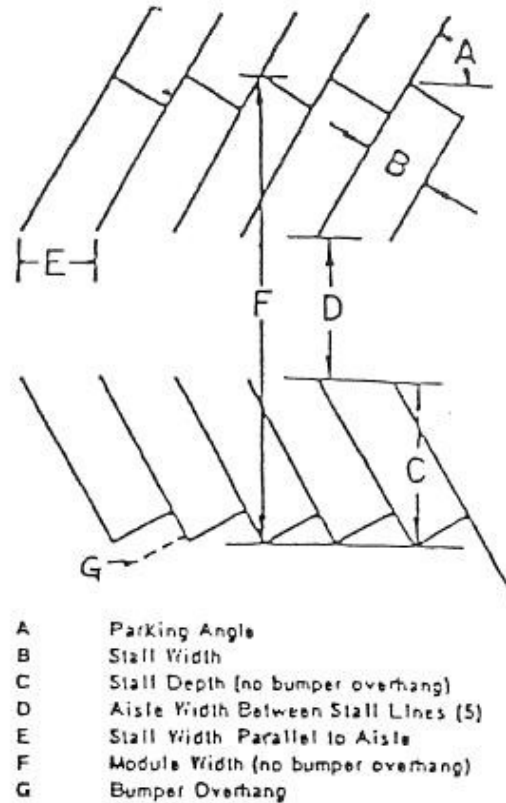
**16.155.025 Parking and Loading Area Development Requirements**

All parking and loading areas shall be developed and maintained as follows:

- A. **Surfacing**: Areas used for standing and maneuvering of vehicles shall have durable and dustless surfaces maintained adequately for all weather use and drained to avoid flow of water across public sidewalks.
- B. **Screening**: When any public parking or loading area is within or adjacent to a residential zone, such parking or loading area shall be screened from all residential properties with an ornamental fence, wall or hedge of at least five feet in height but not more than six feet in height, except where vision clearance is required.
- C. **Periphery**: Parking spaces along the outer boundaries of a parking lot shall be contained by a bumper rail or a curb at least four inches high and set back a minimum of four feet from the property line.
- D. **Lighting**: Artificial lighting which may be provided shall not create or reflect substantial glare in a residential zone or on an adjacent dwelling.
- E. **Design of Parking Spaces and Driveways**

Off-street parking lots shall be designed in accordance with City Standards for stalls and aisles as set forth in the following drawing and table:

a	b	c	d	e	f	g
45°	8.5'	17.5'	13.0'	12.0'	48.0'	2.0'
	9.0	17.5	12.0	12.7	47.2	2.0
	9.5	17.5	11.0	13.4	46.0	2.0
	10.0	17.5	11.0	14.1	46.0	2.0
60°	8.5'	19.0'	18.0'	9.8	56.0'	2.5'
	9.0	19.0	16.0	10.4	54.0	2.5
	9.5	19.0	15.0	11.0	53.0	2.5
	10.0	19.0	14.0	11.6	52.0	2.5
75°	8.5'	19.5'	25.5'	8.8'	64.0'	2.5'
	9.0	19.5	23.0	9.3	62.0	2.5
	9.5	19.5	22.0	9.8	61.0	2.5
	10.0	19.5	21.0	10.3	60.0	2.5
90°	8.5'	18.5'	28.0'	8.5'	65.0'	3.0
	9.0	18.5	26.0	9.0	63.0	3.0
	9.5	18.5	25.0	9.5	62.0	3.0
	10.0	18.5	24.0	10.0	61.0	3.0



Notes:

- For one (1) row of stalls use "C" plus "D" as minimum bay width.
- Public alley width may be included as part of dimension "D," but all parking stalls must be on private property, off the public right-of-way.
- For estimating available parking area, use 350 square feet per vehicle for stall, aisle and access areas.
- The stall width for self-parking of long duration is 8.5'; for higher turnover self-parking is 9.0'; and for supermarkets and similar facilities is 9.5; - 10.0'.
- The minimum aisle width for two-way traffic and for emergency vehicle operations area is 24'. The minimum aisle width for emergency vehicle access (open way traffic is 20'.
- Where appropriate bumper overhang area is provided (extruded curbs), "G" can be subtracted from "C" to determine stall depth.
- Dimensions of required recreational vehicle spaces are 10' x 25'.

## 1. General Provisions

a. Applicability. Bicycle parking spaces shall be provided for new development, changes of use, and major renovations, defined as construction valued at twenty-five (25) percent or more of the assessed value of the existing structure.

b. Bicycle parking shall be provided for all multi-family, commercial, institutional and industrial uses.

c. Types of Spaces. Bicycle parking facilities shall be provided in terms of short-term bicycle parking and long-term bicycle parking. Short-term bicycle parking is intended to encourage customers and other visitors to use bicycles by providing a convenient and readily accessible place to park bicycles. Long-term bicycle parking provides employees, students, residents, commuters, and others who generally stay at a site for at least several hours a weather-protected place to park bicycles.

d. Minimum Number of Spaces.

1. A minimum of two (2) bicycle parking spaces shall be provided.

2. If greater than 40 vehicle parking spaces are required, bicycle parking shall be provided at a rate of one (1) bicycle parking space for every 20 required vehicle parking spaces and a bicycle repair station shall be provided.

3. Public and private schools shall provide a minimum of two bicycle parking spaces per classroom.

4. Parks shall provide a minimum of two bicycle parking spaces per acre and a minimum of one bicycle repair station.

e. Multiple Uses. When there are two or more primary uses on a site, the required bicycle parking for the site is the sum of the required bicycle parking for the individual primary uses. Bicycle parking for multiple uses on one site may be concentrated in one area.

## 2. Location and Design.

a. Lighting. Bicycle parking shall be at least as well-lit as vehicle parking for security.

b. Reserved Areas. Areas set aside for bicycle parking shall be reserved for bicycle parking only.

c. Hazards. Bicycle parking shall not impede or create a hazard to pedestrians. Parking areas shall be located so as to not conflict with vision clearance standards.

d. Location. Bicycle parking shall be located inside or outside the building within thirty (30) feet of the main entrance to the building or at least as close as the nearest vehicle parking space, whichever is closer.

## Chapter 16.170

### APPLICATION REQUIREMENTS AND REVIEW PROCEDURES Administration, Limited Land Use, Quasi-Judicial & Legislative Decisions

#### 16.170.000 General Provisions

The following lists set forth the type of review procedure for administrative and land use applications:

##### A. Type I Administrative Permits by City Staff

1. Accessory Structures, residential
2. Extension for a Type I Permit
3. Fence, Wall and Hedge Permit
4. Home Occupation Permit Type 1
5. Sign Permit
6. Building Permit (plot plan review)
7. Code Interpretation
8. Final Plat with Minor Modifications
9. Grading Permit
10. Lot of Record Determination
11. Lot Line Adjustment Permit
12. Right-of-Way Permit
13. Temporary Use Permit ~~for a Sales Office or Model Home~~
14. Floodplain Development Permit as determined by Chapter 16.065.015.A

##### B. Type II Land Use Permit by the City Manager, Planner, or Engineer

1. Accessory Structures, non-residential up to 500 square feet or 20% of existing structure, whichever is greater
2. Minor Design Review
3. Minor Modifications to development approvals per code
4. Minor Variance Permit
5. Other application not specifically described
- ~~6. Temporary use for seasonal and special events~~
- ~~7.6.~~ Extension of Type II Permit
- ~~8.7.~~ Minor Land Partition without Right-of-Way Creation

##### C. Type III Quasi-Judicial Permits by Planning Commission

1. Appeal of Type I and Type II Land Use Decisions
2. Conditional Use Permit
3. Design Review Permit
4. Final Plat approval with major modifications
5. Extensions of Type III Permits
6. Flood Plain Development Permit as determined by Chapter 16.065.015.A
7. Historic Overlay Demolitions
8. Home Occupation (conditional use)
9. Minor Land Partition with Right-of-Way Creation
10. Multi-family Dwellings (conditional use)
11. Nonconforming Structure/Use Permit
12. Planned Unit Development Permit
13. Significant Natural Resource Permit
14. Similar Use Permit
15. Subdivision Permit
16. Major modifications to Development Approvals
17. Variance Permit
18. Historic Overlay Alterations
19. Accessory Structures, non-residential over 500 square feet or 20% of existing structure, whichever is greater.
20. Heritage Tree

~~21. Temporary Use Permit for a Building, Kiosk or Structure~~

D. Type IV: Legislative & Other Decisions made by both the Planning Commission and City Council

1. Appeal from Planning Commission
2. Annexation
3. Comprehensive Plan Map or Text Amendment
4. Zoning Code Map or Text Amendment

**16.170.005 Pre-application Conference**

A pre-application conference is recommended for Type II and required for Type III and IV permits. The City Manager may waive this requirement in writing.

The applicant shall file the appropriate application, pay the review fee and meet with the City Planner, other city staff and affected agencies. At the conference the City Planner shall identify the relevant comprehensive plan policies, map designations, zone and development standards and procedural requirements that apply to the application. The planner, staff and affected agencies shall provide technical direction and identify opportunities or constraints concerning the application.

Failure of the City to provide any information required by this section does not constitute a waiver of any of the standards, criteria or requirements for the application. Due to possible changes in federal, state, regional and local law, the applicant is responsible for assuring the application complies with all applicable laws on the day the application is deemed complete.

#### **16.170.010 Neighborhood Meeting**

The applicant or the applicant's representatives should meet with adjacent property owners and neighborhood representatives prior to submitting an application to the City in order to solicit input and exchange information about the proposed development. The applicant for any Type III application, Comprehensive Plan Map or Zoning Map amendment, or Annexation must provide for a neighborhood meeting with a recognized neighborhood or community organization. If no organization exists, then the applicant must provide for a meeting with adjacent property owners within a radius of 250 feet of the development site. Evidence of the neighborhood meeting shall be provided with the land use application in the form of an attendance sheet and notes from the meeting.

#### **16.170.015 Traffic Impact Study**

The purpose of this section is to assist in determining compliance with Section 660-012-0045 (2) of the State Transportation Planning Rule that requires the City to identify potential traffic impacts and apply conditions to development proposals to minimize certain impacts and protect transportation facilities.

This Chapter establishes the standards for when a proposal must be reviewed for potential traffic impacts, when a Traffic Impact Study must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities, what must be in a Traffic Impact Study, and who is qualified to prepare the Study.

##### **A. When a Traffic Impact Study is required.**

The City or other authority with jurisdiction over an affected roadway may require a Traffic Impact Study (TIS) as part of an application for development, a change in use, or a change in access. A TIS may shall be required when a land use application involves one or more of the following actions:

1. A change in zoning or a plan amendment designation;



2. Any proposed development that the road authority determines will have adverse operational or public safety impacts to the facility;
3. An increase in site traffic volume generation by 300 Average Daily Trips (ADT) or more; or
4. An increase in site traffic volume of a particular movement to and from the State Highway by 20 percent or more; or
5. An increase in use of adjacent streets by vehicles exceeding the 20,000 pound gross vehicle weights by 10 vehicles or more per day; or
6. The location of an access driveway does not meet minimum sight distance requirements, or is located where vehicles entering or leaving the property are restricted, or vehicles leaving or entering the property will queue or hesitate on the State Highway, creating a safety hazard; or
7. A change in internal traffic patterns that may cause safety problems, such as back up onto a street or greater potential for traffic accidents.

B. Traffic Impact Study Preparation.

A Traffic Impact Study shall be prepared by a professional engineer in accordance with the requirements of the road authority. If the road authority is the Oregon Department of Transportation (ODOT), consult ODOT's regional development review planner and OAR 734-051-180.

C. City Street Improvement Requirements.

In addition to street improvement requirements in this code for new development, see Chapters 16.145 and 16.150 for street improvement requirements related to residential and commercial and industrial developments and expansions.

**16.170.020 Type I Administrative Review by City Staff**

Type I administrative applications are reviewed under clear and objective criteria. If a Type I application requires the exercise of discretion, the City shall process the request as a Type II application. Review of a Type I administrative applications described in Section 16.170.000A shall be reviewed by the City Staff according to the following procedures:

- A. An application shall be made on forms provided by the City and shall include the property owners signature of consent.
- B. A dated notice shall be given to the applicant when the application is deemed complete. Within 120 days of this notification, unless extended with the consent of the applicant, the City shall issue a written decision.

- C. The decision shall be based on all applicable provisions of this development code and accompanied by written findings of fact which support the decision, where applicable.
- D. Written notice of the decision shall be provided to the applicant and anyone who requested notice of the decision in writing.
- E. The City's written decision is final unless appealed to the Planning Commission. See Appeals section of this chapter.

#### **16.170.025 Type II Land Use Decisions by City Manager or Planner**

A Type II land use application described in Section 16.170.000.B shall be reviewed according to the following procedures:

A. Application forms.

An application shall be made on forms provided by the City Planner or designee. If the application is referred to a quasi-judicial hearing, either voluntarily by the applicant or by staff, a new application is not required.

B. Submittal Information. The application shall:

1. Be made on forms provided by the City and shall include the property owner's signature of consent. Applicants who are entities with condemnation authority are not required to provide an owner's signature.
2. Be filed with one copy of a narrative statement that explains how the application satisfies all of the relevant criteria and standards in sufficient detail for review and decision-making.
3. Be accompanied by the required fee pursuant to Chapter 16.00.070; and
4. Include one set of pre-stamped and pre-addressed envelopes for the record owner of all real property located within 250 feet of the site. The records of the Washington County Assessor's office are the official records for determining ownership. The applicant shall produce the notice list. At the applicant's request, and upon payment of the appropriate fee, the City may prepare the public notice mailing list. The City or the applicant shall use the most current County real property assessment records to produce the notice list. The City shall mail the notice of application.

C. Completeness

Within 30 days of receiving the application, the City shall provide a dated notice to the applicant indicating whether the application is deemed complete or incomplete. If the application is incomplete the City shall notify the applicant in writing of exactly what information is missing. If deemed incomplete, the applicant has 180 days to submit the missing information, or 14 days to submit a refusal statement or withdraw the application. If the applicant refuses to submit the required information and does not withdraw, the application shall be deemed complete upon receipt of the refusal letter.

D. Final Action

Final action on the application shall occur within 120 days of the date the application is deemed complete unless extended by the applicant in writing.

E. Hearing Option

The City Planner or the applicant may request a public hearing on the application before the Planning Commission. The procedures for the public hearing are described in Section 16.170.012.C and D. The applicant is responsible for the additional city costs associated with the public hearing.

F. Notice. The City shall mail notice of the application to:

1. The applicant.
2. All owners of record of property within 250 feet of the subject site.
3. Any person who submits a written request to receive a notice and any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City, or required by State statute.
4. The road authority, or rail authority and owner, when a proposed development abuts or affects the rail or transportation facility.
5. The City may notify other affected agencies, as appropriate, of the application.

G. Contents of Notice. The notice shall:

1. Provide a 14-day period for submitting written comments.
2. Explain the nature of the application and the proposed use or uses which could be authorized.
3. Describe the site by the street address or other easily understandable reference.

4. List the applicable criteria from the ordinance and the plan that apply to the application at issue.
5. State the place, date and time that comments are due and the person to whom the comments should be addressed, including the name and telephone number of the contact person.
6. State that the failure to address an issue with enough detail may preclude an appeal on that issue. Only comments on the applicable criteria are considered relevant evidence.
7. State that all evidence relied upon by the City to make this decision is in the public record and available for public review. Copies of the evidence may be obtained at a reasonable cost from the City.
8. State that after the comment period closes, the City shall issue a decision. The decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.

#### H. Decision

The City Manager or Planner shall review the application and make a decision based on an evaluation of the application, the evidence and the applicable criteria as set forth in this code.

#### I. Conditions of Approval.

1. Authorization of Approval. Approval of a land use application may be granted subject to conditions. Conditions shall be designed to protect public health, safety and general welfare from potential adverse impacts caused by a proposed land use described in an application. Conditions shall either ensure compliance with standards of the Code or may be added to address a need for public services created by the proposed use.
2. Timing of Conditions and Development Agreement. Unless otherwise specified in the decision, all conditions of approval required by the City shall be completed prior to the issuance of an occupancy permit. When an applicant provides information which demonstrates that it is not practical to fulfill all conditions prior to issuance of such permit, the City Planner may require a performance bond or other guarantee to assure compliance with zoning regulations or fulfillment of required conditions. The City may also require a development agreement between the City and the owner or developer to specify the developer's or owner's obligations for completing construction and any public improvements.

3. Modify Conditions. A request to change or alter conditions of approval shall be processed as a new land use action under the same procedure that was used for the initial approval.

J. Notice of Decision.

1. Within five (5) working days after a decision is made, a Notice of Decision shall be transmitted to:
  - a. The applicant and all property owners or contract purchasers of record.
  - b. Any person who submits a written request to receive notice of the decision, or provides comments during the application review period.
  - c. Any governmental agency entitled to notice under an intergovernmental agreement entered into with the City, and other agencies that were notified or provided comments during the application review period.
2. The City Planner or designee shall cause an affidavit of transmission to be prepared and made a part of the file. The affidavit shall show the date the notice was transmitted, demonstrate that the notice was sent to the parties above and within the time required by law.
3. The Notice of Decision shall contain a description of the proposal, where to obtain the decision, the date the decision becomes final unless appealed, and a statement of who may file an appeal, how to file an appeal and the deadline to file an appeal.
4. Effective Date: The Decision is final for purposes of appeal when it is sent by the city. The decision is effective the day after the appeal period expires or as otherwise provided in the decision.

- K. Appeals. A decision issued by the City Manager or Planner under this section may be appealed to the Planning Commission as described in the appeals section of this chapter.

**16.170.030 Type III Quasi-Judicial Decisions by the Planning Commission**

A pre-application conference is required for all Type III quasi-judicial applications under this Section. The City Manager may waive this requirement at the request of the applicant.

- A. The requirements and procedures for a pre-application conference are described in Chapter 16.170.0054.

B. Application Requirements.

1. Application form. A quasi-judicial application shall be made on forms provided by the City Planner or designee. The application shall include all property owner's signatures of consent. Entities with condemnation authority are not required to provide a consent signature.
2. Submittal Information. A quasi-judicial application shall include:
  - a. The information requested on the application form;
  - b. One copy of a narrative statement that explains how the application satisfies each of the relevant criteria and standards in sufficient detail for review and decision-making.
  - c. The required fee pursuant to Chapter 16.00.070;
  - d. One set of pre-stamped and pre-addressed envelopes for the record owner of all real property located within 250 feet of the site. The records of the Washington County Assessor's office are the official records for determining ownership. The applicant shall produce the notice list. At the applicant's request, and upon payment of the fee noted on the City's fee list, the City may prepare the public notice mailing list. The City or the applicant shall use the most current County real property assessment records to produce the notice list. The City shall mail the notice of application.
  - e. Evidence of the required neighborhood meeting, as specified in Section 16.170.010, above.
3. Completeness. Within 30 days of receiving an application for a Type III application, the City staff shall provide a dated notice to the applicant indicating whether the application is deemed complete or incomplete. If the application is incomplete, the City Planner shall notify the applicant in writing of exactly what information is missing. If deemed incomplete, the applicant has 180 days to submit the missing information, a refusal statement, or to withdraw the application. If the applicant refuses to submit the required information and does not withdraw, the application shall be deemed complete upon receipt of the refusal letter.
4. Final Action. Final action on an application under this section shall occur within 120 days of completeness pursuant to Chapter 16.00.090.

C. Notice of Application.

1. Mailed notice. The City shall mail and publish notice of a Type III application.

The records of the Washington County Assessor's Office are the official records for determining ownership. Notice of the initial hearing or an appeal hearing shall be given by the City in the following manner:

- a. At least 20 days before the hearing date, notice shall be mailed to:
    - i. The applicant and all owners or contract purchasers of record of the property that is the subject of the application;
    - ii. All property owners of record within 250 feet of the site;
    - iii. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies. The City shall notify the road authority, and rail authority and owner, when there is a proposed development abutting or affecting their transportation facility and allow the agency to review, comment on, and suggest conditions of approval for the application;
    - iv. Owners of airports in the vicinity shall be notified of a proposed zone change in accordance with ORS 227.175;
    - v. Any neighborhood or community organization recognized by the City Council and whose boundaries include the property proposed for development;
    - vi. Any person who submits a written request to receive notice;
    - vii. For appeals, the appellant and all persons who provided testimony in the original decision;
    - viii. For a land use district change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175;
  - b. The City Planner or designee shall prepare an affidavit of notice. The affidavit shall state the date that the notice was mailed to the persons who must receive notice; and
  - c. At least 14 days before the hearing, notice of the hearing shall be printed in a newspaper of general circulation in the City. The newspaper's affidavit of publication of the notice shall be made part of the administrative record.
2. Content of Notice. Notice of a Type III application shall contain the following information:
- a. The nature of the application and the proposed land use or uses that could be authorized for the property;

- b. The applicable criteria and standards that apply to the application;
- c. The street address or other easily understood geographical reference to the subject property;
- d. The date, time, and location of the public hearing;
- e. A statement that the failure to raise an issue in sufficient detail to afford the decision-maker an opportunity to respond to the issue may preclude an appeal based on that issue with the State Land Use Board of Appeals or the circuit court;
- f. The name of a City representative to contact and the telephone number where additional information on the application may be obtained;
- g. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards are available for inspection at North Plains City Hall at no cost and that copies shall be provided at a reasonable cost;
- h. A statement that a copy of the City's staff report and recommendation to the hearings body shall be available for review at no cost at least seven days before the hearing, and that a copy shall be provided on request at reasonable cost;
- i. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings; and
- j. The following notice: "Notice to mortgagee, lien holder, vendor or seller: if you receive this notice it shall be promptly forwarded to the purchaser."

D. Conduct of the Public Hearing

- 1. At the commencement of the hearing, the hearings body shall state:
  - a. The applicable approval criteria and standards that apply to the application or appeal;
  - b. That testimony and evidence must address the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations that the person testifying believes to apply to the decision;



- c. That failure to raise an issue with sufficient detail to give the hearings body and the parties an opportunity to respond to the issue, means that no appeal may be made on that issue;
  - d. Before the conclusion of the initial evidentiary hearing, any participant may ask the Planning Commission for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The hearings body shall grant the request by scheduling a date to finish the hearing (a “continuance”) per paragraph 2 of this subsection, or by leaving the record open for additional written evidence or testimony per paragraph 3 of this subsection.
2. If the Planning Commission grants a continuance, the completion of the hearing shall be continued to a date, time, and place at least seven days after the date of the first evidentiary hearing. An opportunity shall be provided at the second hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the second hearing, any person may request, before the conclusion of the second hearing, that the record be left open for at least seven days, so that they can submit additional written evidence or testimony in response to the new written evidence;
3. If the Planning Commission leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days after the hearing. Any participant may ask the City in writing for an opportunity to respond to new evidence submitted during the period that the record was left open. If such a request is filed, the Planning Commission shall reopen the record.
4. When the Planning Commission reopens the record to admit new evidence or testimony, any person may raise new issues that relate to that new evidence or testimony;
5. An extension of the hearing or record is subject to the limitations of ORS 227.178 (“120-day rule”), unless the continuance or extension is requested or agreed to by the applicant;
6. Unless expressly waived by the applicant, the City shall allow the applicant at least seven (7) days after the record is closed to all other persons to submit final written arguments in support of the application. The applicant’s final submittal shall be part of the record but shall not include any new evidence;
7. The record shall contain all testimony and evidence that is submitted to the City and that the hearings body has not rejected;

8. In making its decision, the hearings body may take notice of facts not in the hearing record (e.g., local, state, or federal regulations; previous city decisions; case law; staff reports).
9. Participants in a land use hearing are entitled to an impartial review authority as free from potential conflicts of interest and pre-hearing ex parte contacts as reasonably possible.
  - a. At the beginning of the public hearing, hearings body members shall disclose the substance of any pre-hearing ex parte contacts concerning the application or appeal. The member shall state whether the contact has impaired the member's impartiality or their ability to vote on the matter and shall participate or abstain accordingly;
  - b. A member of the hearings body shall not participate in any proceeding in which they have a direct or substantial conflict of interest. Any actual or potential conflict of interest shall be disclosed at the hearing;
  - c. A member of the hearings body may be disqualified due to contacts or conflict and may be ordered not to participate in the vote by a majority of the members present and voting. The person who is the subject of the motion may not vote on the motion to disqualify;
  - d. If a member of the hearings body abstains or is disqualified, the City may provide a substitute in a timely manner subject to the impartiality rules in this section. In this case, a member of the City Council appointed by the Mayor may substitute for a member of the Planning Commission.
  - e. If all members of the Planning Commission abstain or are disqualified, the City Council shall be the hearing body. If all members of the City Council abstain or are disqualified, a quorum of those members present who declare their reasons for abstention or disqualification shall make the decision;
  - f. Any member of the public may raise conflict of interest issues prior to ordering the hearing, to which the member of the hearings body shall reply in accordance with this section.

E. Ex parte communications

A decision or action of the hearings body is not invalid due to ex parte contacts or bias resulting from ex parte contacts, if the person receiving contact:

1. Places in the record the substance of any written or oral ex parte communications concerning the decision or action; and
2. Publicly announces the content of the communication and the participants' right to dispute the substance of it. The announcement shall be made at the first hearing following the communication.
3. Communication between City staff and the hearings body is not ex parte contact.

F. Presenting and receiving evidence.

1. The hearings body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or evidence;
2. Verbal testimony shall not be accepted after the record is closed. Written testimony may be received after the close of the public hearing, only as provided in Section D. Conduct of Hearing;
3. A member of the hearings body may visit the property and the surrounding area, and may use information obtained during the site visit to support the member's decision, provided the information relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence.

G. The Decision Process.

1. Basis for decision. Approval or denial of a land use application shall be based on standards and criteria in the development code and other applicable laws.
2. Findings and conclusions. The decision shall include written findings that explain the relevant criteria and standards, the facts relied on in rendering the decision, and justify the decision according to the criteria, standards, and facts.
3. Form of decision. The Planning Commission shall issue a final written order containing the findings and conclusions stated in subsection 2 and any conditions of approval. The Planning Commission may also issue appropriate intermediate rulings when more than one permit or decision is required.
4. Decision-making time limits. A final order for an action under this section shall be filed with the City Planner or designee within ten business days after the close of the deliberation.

5. Notice of Decision. Written notice of a decision under this Section shall be mailed to the applicant and to all participants of record within ten business days after the hearings body decision. Failure of a person to receive mailed notice shall not invalidate the decision, provided that a good faith attempt was made to mail the notice.
6. Final Decision and Effective Date. The decision of the hearings body on an application is final for purposes of appeal on the date it is mailed by the City. The decision is effective on the day after the appeal period expires. If an appeal is filed, the decision becomes effective on the day after the appeal is decided by the City Council. The notice and hearings procedures for a quasi-judicial application on appeal to the City Council shall be the same as for the initial hearing. An appeal of a land use decision to the State Land Use Board of Appeals must be filed within the period required by state law.
- H. Appeals. A decision issued by the Planning Commission under this section may be appealed to the City Council as described in the appeals section of this chapter.

#### **16.170.035 Type IV Legislative and Other Decisions**

##### **A. Pre-Application Conference**

A pre-application conference is required for all Type IV legislative applications initiated by a party other than the City of North Plains. The City Manager may waive this requirement upon request of the applicant. The requirements and procedures for a pre-application conference are described in Chapter 16.170.~~004~~005.

##### **B. Timing of Requests**

The City accepts legislative requests at any time. The City Council may initiate its own legislative proposals at any time.

##### **C. Application Requirements**

1. Application forms. A legislative application shall be made on forms provided by the City.
2. Submittal Information. The application shall contain:
  - a. The information requested on the application form;
  - b. A map and/or plan addressing the appropriate criteria and standards insufficient detail for review and decision (as applicable);
  - c. The required fee pursuant to Chapter 16.00.070; and

d. One copy of a letter or narrative statement that explains how the application satisfies all of the relevant approval criteria and standards.

d-e. Evidence of the required neighborhood meeting, as specified in Section 16.170.010, above.

D. Notice of Hearing

1. Required hearings. A minimum of two hearings, one before the Planning Commission and one before the City Council, are required for all legislative applications.
2. Notification requirements. Notice of public hearings for the application shall be given by the City in the following manner:
  - a. At least 10 days before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any element thereof, rezone property, or amend the development code a notice shall be mailed to:
  - b. Each owner whose property would be rezoned in order to implement the ordinance (including owners of property subject to a comprehensive plan amendment if a zone change will be required to implement the proposed comprehensive plan amendment);
  - c. Owners of property within 250 feet of property to be rezoned.
  - d. Any affected governmental agency;
  - e. Any person who requests notice in writing;
  - f. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175;
  - g. For a zone change affecting an airport, the owners of the airport in accordance with ORS 227.175.
3. At least 10 days before the first evidentiary hearing, public notice shall be published in a newspaper of general circulation in the City.
4. The City Planner or designee shall:

- a. For each mailing of notice, file an affidavit of mailing in the record as provided by subsection 2.a; and
- b. For each published notice, file in the record the affidavit of publication in a newspaper that is required in Subsection 3.
- c. The Oregon Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed comprehensive plan and development code amendments at least 35 days before the first public hearing at which public testimony or new evidence will be received, or at such lesser time as the law may allow. The notice to DLCD shall include a DLCD Notice of Proposed Change Form.
- d. Notice of a proposed annexation shall follow the provisions of Chapter 16.205.
- e. Content of notices. The mailed and published notices shall include the following information:
  - i. The number and title of the file containing the application, and the address and telephone number of the City Planner or designee's office where additional information about the application can be obtained;
  - ii. The proposed site location;
  - iii. A description of the proposed site and the proposal in enough detail to determine what change is proposed, and the place where all relevant materials and information may be obtained or reviewed;
  - iv. The time(s), place(s), and date(s) of the public hearing(s); a statement that public oral or written testimony is invited; and a statement that the hearing will be held under this title and rules of procedure 16.170 - 19 adopted by the Council and available at City Hall (See Section E. below); and
  - v. Each mailed notice required by Section D above shall contain the following statement: "Notice to mortgagee, lien holder, vendor, or seller: If you receive this notice it shall be promptly forwarded to the purchaser."
- f. Failure to receive notice. The failure of a person to receive notice shall not invalidate the action, provided:
  - i. Mailed notice is deemed given where the notice is deposited with the United States Postal Service;
  - ii. Published notice is deemed given on the date it is published.

E. Hearing Process and Procedures

Unless otherwise provided in the rules of procedure adopted by the City Council:

1. The presiding officer of the Planning Commission and of the City Council have the authority to:
  - a. Regulate the course, sequence, and decorum of the hearing;
  - b. Direct procedural requirements or similar matters;
  - c. Impose reasonable time limits for oral presentations.
2. A person may not address the Commission or the Council without:
  - a. Receiving recognition from the presiding officer; and
  - b. Stating the person's full name and address.
3. Disruptive conduct such as, but not limited to, applause or cheering may be cause for expulsion from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.
4. Unless otherwise provided in the rules of procedures adopted by the Council, the presiding officer of the Commission and of the Council shall conduct the hearing as follows:
  - a. The presiding officer shall begin the hearing with a statement of the nature of the matter before the body, a general summary of the procedures, a summary of the standards for decision-making, and whether the decision which will be made is a recommendation to the City Council or the final decision of the Council;
  - b. The City Planner or designee's report and other applicable staff reports shall be presented;
  - c. The public shall be invited to testify. The public hearing may be continued to allow additional testimony or it may be closed; and
  - d. The body's deliberation may include questions to the staff, comments from the staff, and inquiries directed to any person present.

F. Continuation of the Public Hearing

The Planning Commission or the City Council may continue any hearing and no additional notice of hearing shall be required if the matter is continued to a specified place, date, and time.

G. Approval Process and Authority

1. The Planning Commission shall:
  - a. After notice and a public hearing, prepare and vote on a recommendation to the City Council whether to approve, approve with modifications, approve with conditions or deny the proposed change, or adopt an alternative; and
  - b. Within 14 days of adopting a recommendation, the presiding officer shall sign the written recommendation and it shall be filed with the City Planner or designee.
  - c. Any member of the Planning Commission who votes in opposition to the Planning Commission's majority recommendation may file in the City planning file a written statement of opposition prior to the hearing on the proposal before the City Council. City planning staff shall send a copy to each Council member and place a copy in the record;
2. If the Planning Commission fails to adopt a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative proposal within 60 days of its first public hearing on the proposed change, City staff shall:
  - a. Report the failure together with the proposed change to the City Council;
  - b. Provide notice and put the matter on the City Council's agenda for the City Council to hold a public hearing and make a decision. Thereafter, no further action shall be taken by the Commission.
3. The City Council shall:
  - a. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change. The City Council also may remand the application to the Planning Commission for rehearing and reconsideration on all or part of the application;
  - b. Consider the recommendation of the Planning Commission; however, the City Council is not bound by the Commission's recommendation; and



4. The City Council shall approve any legislation by ordinance, which shall be signed by the Mayor after adoption.

H. Vote Required for a Legislative Change

1. A vote by a majority of the qualified voting members of the Planning Commission present is required for a recommendation for approval, approval with modifications, and approval with conditions, denial or adoption of an alternative.
2. A vote by a majority of the qualified members of the City Council present is required to decide any motion made on the proposal.

I. Notice of Decision

Notice of a Legislative decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development (DLCD), within five (5) days after the City Council's decision, per DLCD regulations. The City shall also provide notice to all persons as required by other applicable laws.

J. Final Decision and Effective Date

A Legislative decision, if approved, shall take effect and shall become final as specified in the enacting ordinance, or if not approved, upon mailing of the notice of decision to the applicant.

K. Record of the Public Hearing.

1. A verbatim record of the proceeding shall be made by stenographic, mechanical or electronic means. It is not necessary to transcribe an electronic record. The minutes and other evidence presented as a part of the hearing shall be part of the record;
2. All exhibits received and displayed shall be marked to provide identification and shall be part of the record;
3. The official record shall include:
  - a. All materials considered by the hearings body;
  - b. All materials submitted by City staff to the hearings body regarding the application;
  - c. The verbatim record made by the stenographic, mechanical or electronic means; the minutes of the hearing; and other documents considered;

- d. The final ordinance;
- e. All correspondence; and
- f. A copy of the notices that were given as required by this Chapter.

#### **16.170.040 Appeals**

A decision issued under the procedures of this chapter may be appealed to the Planning Commission or City Council as follows:

A. Who may appeal.

The following people may appeal a land use Decision:

- a. The applicant or owner of the subject property;
- b. Any person who was entitled to written notice of the decision;
- c. Any other person who participated in the proceeding by submitting written comments.

B. Appeal filing procedure.

- a. Notice of appeal. A person described in subsection A above may appeal the decision by filing a Notice of Appeal.
- b. Time for filing. A Notice of Appeal shall be filed with the City Planner or designee within 14 days of the date the Notice of Decision was mailed.
- c. Content of Notice of Appeal. The Notice of Appeal shall:
  - i. Identify the decision being appealed, including the date of the decision;
  - ii. Demonstrate that the person filing the Notice of Appeal has standing to appeal;
  - iii. Explain the specific issues being raised on appeal; and
  - iv. Include the filing fee for each appeal.

C. Scope of appeal.

Appeal of a Type I or Type II Land Use Decision shall be to a de novo hearing before the Planning Commission. The hearing appeal shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the review by the City Staff. The Planning Commission may allow additional evidence, testimony or argument concerning any relevant standard, criteria, condition or issue.

4. Appeal procedures.

Quasi-Judicial notice, hearing procedures and decision process shall also be used for all appeals under this section;

5. Appeal to City Council.

A decision of the Planning Commission regarding a land use issue or an appeal of a Type II Limited Land Use Decision is the final decision of the City unless appealed to City Council. An appeal to City Council is de novo and shall be based on the record before the Planning Commission public hearing and any new evidence or testimony entered into the record before the City Council without substantive changes to the application reviewed by the Planning Commission. The appeal shall follow the same notification and hearing procedures as for the original Planning Commission hearing. The decision of the City Council on an appeal is final and effective on the date it is sent by the City. The City Council's decision may be appealed to the State Land Use Board of Appeals pursuant to ORS 197.805 – 197.860.

## **Chapter 16.175 Design Review**

### **16.175.000 Purpose**

The purpose of Design Review Approval is to insure compliance with the objectives and provisions of this ordinance and the Comprehensive Plan; to mitigate the impacts where development may cause a conflict between uses in the same or adjoining zones, to reduce and eliminate unsightly, unhealthful or unsafe conditions, which adversely affect the public health, safety, and general welfare.

This section is designed to address the location and design of a use that is allowed within the zone. In considering the design review requirements, the City shall take into account the impact of the proposed development on nearby properties, the capacity and circulation of the street system, the capacity of the utility and service systems, and the appearance of the street and the community.

### **16.175.005 Design Review Approval Requirements**

A building, grading, parking, or development permit, as specified in this chapter shall not be issued for a use subject to this section, nor shall such uses be commenced, enlarged, altered, changed or moved until a design review application is approved by the City.

### **16.175.010 Design Review Approval Procedures**

Design review is required for all new developments and modifications of existing developments described below. Regular maintenance, repair and replacement of existing materials (e.g. roof, siding, awnings, etc.), parking resurfacing and similar maintenance and repair shall be exempt from review.

- A. Limited Land Use Design Review – Type II.** A Type II Land Use Design Review application is conducted by the City without a public hearing and in accordance with this chapter. This procedure shall be used when the City finds that the applicable standards are primarily clear and objective but may require a limited exercise of discretion. This procedure is for changes in land use and developments that do not require a conditional use permit or comprehensive design review approval. A limited land use review ensures compliance with the basic land use and development standards of the land use district, such as lot area, building setbacks, and orientation, lot coverage, building height, landscaping, parking and other development standards

A Limited Land Use review is required for the types of changes in land use and development proposals listed below. Land uses and development exceeding the thresholds below require a Type III Design Review application.

1. A change in occupancy from one type of land use to a different land use;
2. A development proposal that increases lot coverage by no more than 10%;
3. Non-residential building additions up to 500 square feet or 20% of an existing structure, whichever is greater.
4. Minor modifications to development approvals that require one or more discretionary approval standards.
5. Minor alterations to a development that has a valid conditional use permit that require one or more discretionary approval standards, and as determined by Chapter 16.51;
6. Non-residential Accessory structures and accessory parking;
7. Having a condition for major public improvements where a specific plan was not considered (e.g., transportation facilities and improvements, parks, trails and similar improvements as determined by the City).

A Type II Limited Land Use Design Review shall be conducted prior to issuance of building permits, occupancy permit, business license or public improvement permits as determined by the City and an application shall be approved only upon meeting all of the following criteria:

1. The proposed land use or development is permitted by and meets the intent of the underlying land use district;
2. Adequate findings can be shown to address discretionary application criteria, and
3. When new development is proposed, the proposal is found to comply with the applicable sections of this chapter apply.

**B. Type III Design Review.** Type III design review applications are reviewed by the Planning Commission including a public hearing in accordance with this chapter. It applies to all development in the City, except those specifically listed or similar to those under “A.” above and the standards of this chapter.

#### **16.175.015 Filing Procedure**

Design Review Applications shall be filed on a Planning Department form as provided by the City and shall be accompanied by such drawings, sketches, and descriptions as the City deems necessary to describe the proposed development. An application shall

not be deemed complete unless all information requested is provided.

**16.175.020 Pre-Application Conference**

If required, the applicant shall schedule a pre-application conference prior to filing a Design Review Application.

**16.175.025 Application**

Following the pre-application conference, the applicant shall submit the formal application to the City accompanied by the appropriate fee and application materials, along with a site development plan and other information in accordance with the pre-application meeting and the requirements of this chapter.

**16.175.030 Filing**

A design review application must be filed for any of the following uses, except for single family or duplex construction and accessory structures and unless determined to be a Type II limited land use review pursuant to 16.175.010(A).

- A. New buildings or structures.
- B. Building alterations substantially affecting the exterior design and/or dimensions of an existing structure.
- C. Any exterior alteration to an existing nonresidential use, which has not previously been subject to design review, except for painting, the replacement of roofing and siding material.
- D. Any exterior alteration to an existing nonresidential use which has been subject to design review.
- E. Any alteration of site improvements, such as the landscaping in conjunction with an existing nonresidential use which has been subject to design review.
- F. Any new permitted land use on undeveloped property, such as parking lots, concession stands, storage yards, etc.
- G. Site grading of property affecting or altering the on-site or off-site drainage.
- H. A change of use within a zone unless the use change will not affect parking, exit requirements, and other standards of this ordinance.
- I. The removal of a substantial portion of mature trees existing on-site.

**16.175.035 Design Review Plan - Submittal Requirements**

- A. **Information Requirements.** Information provided on the design review plan shall conform to the following:
1. Drawings depicting the proposal shall be presented on sheets not larger than twenty-four inches by thirty-six inches in the number of copies directed by the city;
  2. Drawings shall be at a scale sufficiently large enough to enable all features of the design to be clearly discerned;
  3. An electronic copy of the drawings shall be submitted in Adobe Acrobat (.pdf) or other software format designated by the City.
  4. A development anticipating more than one business on the premises shall submit a uniform sign plan with the land use application for design review.
- B. **Existing Conditions.** This element of the design review plan, which may be in a freehand form to scale, shall indicate the following site characteristics:
1. Location and species of trees greater than six inches in diameter when measured four and one-half feet above the natural grade, and an indication of which trees are to be removed;
  2. On sites that contain steep slopes, potential geologic hazard or unique natural features that may affect the proposed development, the city may require contours mapped at two-foot intervals;
  3. Natural drainage ways and other significant natural features;
  4. All buildings, roads, retaining walls, curb-cuts and other manmade features;
  5. Natural features, including trees and structures on adjoining property having a visual or other significant relationship with the site.
- C. **Site Photographs.** Photographs depicting the site and its relationship to adjoining sites may also be provided.
- D. **Site Development Plan.** This element of the design review plan shall indicate the following:
1. Legal description of the lot;
  2. Boundary dimensions and area of the site;

3. Location of all new structures and existing structures proposed to be retained, including their distances from the property line;
4. Area of the site covered by the structures described in subdivision 3 of this subsection and their percentage of the site;
5. All external dimensions of proposed buildings and structures;
6. The location of a building's windows, doors, entrances and exits;
7. Parking and circulation areas, including their dimensions;
8. Service areas for such uses as the loading and delivery of goods;
9. Locations, descriptions and dimensions of easements;
10. Grading and drainage plans, including spot elevations and contours at close enough intervals to easily convey their meaning;
11. Location of areas to be landscaped;
12. Private and shared outdoor recreation areas;
13. Pedestrian circulation;
14. The location of mechanical equipment, garbage disposal areas, utility appurtenances and similar structures;
15. Exterior lighting on the proposed building(s), including the type, intensity and area to be illuminated;
16. Location, size and method of illumination of signs;
17. Provisions for handicapped persons;
18. Other site elements which will assist in the evaluation of site development;
19. The location and names of all existing streets within or on the boundary of the proposed development;
20. A written summary showing the following:
  - a) For commercial and nonresidential development:



- i. The square footage contained in the area proposed to be developed,
  - ii. The percentage of the lot covered by structures,
  - iii. The percentage of the lot covered by parking areas and the total number of parking spaces,
  - iv. The total square footage for all landscaped areas including the percentage consisting of natural materials and the percentage consisting of hard-surfaced areas such as courtyard,
- b) For residential development:
- i. The total square footage in the development,
  - ii. The number of dwelling units in the development (include the units by the number of bedrooms in each unit, e.g., ten one-bedroom, twenty-five two-bedroom, etc.),
  - iii. Percentage of the lot covered by:
    - 1) Structures
    - 2) Parking areas
    - 3) Recreation areas,
    - 4) Landscaping

E. **Landscape Plan.** Development proposals with a total project cost exceeding two hundred fifty thousand dollars may be required to ~~shall~~ have the landscape plan prepared by a licensed landscape architect. This element of the design review plan should indicate the following:

- 1. The size, species and locations of plant materials to be retained or placed on the site;
- 2. The layout of proposed irrigation facilities;
- 3. The location and design details of walkways, plaza, courtyards and similar seating areas, including related street furniture and permanent outdoor equipment including sculpture;
- 4. The location, type and intensity of lighting proposed to illuminate outdoor areas;
- 5. The location and design details of proposed fencing, retaining walls and trash collection areas; and

6. For commercial projects with a total project cost exceeding two hundred fifty thousand dollars, a rendering showing the proposed landscape plan in perspective. Such renderings shall be prepared for each of the project's main elevations.
- F. **Architectural Drawings.** This element of the design review plan shall indicate the following:
1. A plot plan specifying the building footprint and dimensions, including all points of access. Floor plans of interior spaces to the extent required to clarify access functions. Such floor plans shall be provided for all building floors and shall include appropriate dimensions;
  2. Exterior elevations showing finish materials, windows, doors, light fixtures, stairways, balconies, decks and architectural details. These elevations shall be provided for every exterior wall surface, including those which are completely or partially concealed from view by overlapping portions of the structure. Existing and finished grades at the center of all walls shall be shown with elevations of floors indicated and a dimension showing compliance with height limitations;
  3. The color and texture of finish materials shall be described on the drawings and samples shall be submitted of the materials and color ranges of siding, roofing and trim;
  4. Location and type of exterior light fixtures including the lamp types and levels of illumination that they provide;
  5. A comprehensive graphic plan showing the location, size, material and method of illumination of all exterior signs, subject to the other applicable requirements of the Zoning and Development Ordinance. At the applicant's option, this plan may be submitted for approval at any time prior to the issuance of occupancy permits.
- G. **Architectural Model.**
1. Architectural models may be required for:
    - a. All new construction, other than duplexes or triplexes,
    - b. Alterations to existing structures other than duplexes or triplexes where the proposed alteration involves the addition of one thousand square feet of gross floor area or more;

2. The model shall be to scale and represent the proposed development and adjoining buildings within fifty feet of applicant's property lines;
3. The model need only be a massing model sufficient to illustrate the relationship of the proposed structure(s) to the site and surrounding properties.

H. **Property Survey.**

1. A survey of the property by a licensed land surveyor clearly delineating property boundaries. The city may waive this requirement where there is a recent survey which can be used to establish the applicant's property boundaries;
2. Prior to the Planning Commission meeting, the applicant will have clearly marked the corners of proposed buildings and other significant features proposed for the site.

**16.175.040 Engineer's Assessment**

Prior to the development of lots containing unstable soils as defined by this ordinance, the City shall require a registered engineer's assessment of the design and structural techniques needed to mitigate potential hazards. In the event there are inadequate mitigation measures, the City shall prohibit development.

**16.175.045 Documentation**

All documentation and completed plans required by the Planning Commission shall be submitted and approved prior to obtaining any required permits or licenses.

**16.175.050 Type III Design Review Criteria**

Approval of a Type III Design Review application shall be based on the following criteria:

A. **Relation of Site Plan Elements to the Environment**

1. The elements of the site plan shall be compatible with the natural environment and existing buildings and structures having a visual relationship with the site.
2. The elements of the site plan should promote energy conservation, and provide protection from adverse climatic conditions, noise and air pollution.

3. Each element of the site plan shall effectively, efficiently and attractively serve its function. The elements shall be on a human scale, interrelated, and shall provide spatial variety and order.
4. In commercial and industrial zones adjacent to State or Federal highways, and/or lying in County jurisdiction within urban growth boundaries, a coordinated circulation and access plan shall be submitted for the site and all properties in the immediate vicinity (no more than 1/4 mile to each site) to assure the public's safety in entering or leaving the site, as well as when traveling through the area. This requirement may be waived by the Planning Staff if adequate access control and efficient and safe circulation can be obtained without the development and approval of a coordinated circulation and access plan.
5. Safety and Privacy. The site plan should be designed to provide a safe environment while offering appropriate opportunities for privacy and transitions from public to private spaces.
6. Preservation of Natural Landscape. The landscape and existing grade shall be preserved to the maximum practical degree, considering development constraints and suitability of the landscape or grade to serve the applicant's functions. Preserved trees and shrubs shall be protected during construction.
7. Pedestrian and Vehicular Circulation and Parking. The location and number of points of access to the site, the interior circulation patterns, the separations between pedestrians and moving and parked vehicles, and arrangement of parking areas in relation to building and structures, shall be harmonious with proposed and neighboring buildings and structures.
8. Drainage. Surface drainage systems shall be designed so as to not adversely affect neighboring properties, streets and/or surface and subsurface water quality. All surface water shall be contained on-site.
9. Buffering and Screening. Areas, structures, and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, and the like), loading and parking, and similar accessory areas and structures shall be designed, located, buffered, or screened to minimize adverse impact on the site, adjacent right-of-way and neighboring properties. All roof-mounted equipment visible from neighboring properties or adjacent right-of-way shall be screened with materials complimentary to the building design materials.
10. Utilities. All utility installations above ground, if such are allowed, shall be located so as to minimize adverse impacts on the site, adjacent right-of-way and neighboring properties.
11. For any access within the Light Industrial (M-1) zone, the access shall be spaced a minimum of 200 feet from the nearest access on the same side of

the street; this is to be coordinated between O.D.O.T., Washington County and the City of North Plains.

**B. Required Landscaping**

Areas Subject to Landscape Requirements: All use types as allowed in the particular zoning district, and subject to Design Review shall meet the provisions of this section.

1. Multi-family Residential. 15% landscaping of the gross lot area required. All areas subject to the final site plan and not otherwise improved shall be landscaped.
2. Community Commercial. 5% landscaping of the gross lot area required. All areas subject to the final site plan and not otherwise improved shall be landscaped.
3. General Commercial. 5% landscaping of the gross lot area required. All areas subject to the final site plan and not otherwise improved shall be landscaped. Screening by tall trees between highway commercial and adjacent residential zones, on side of highway commercial zone from highway to which it relates, such that the trees provide an attractive backdrop to elevated signage and adjacent residential uses.
4. Light Industrial. 5% landscaping of the gross lot area required. All areas subject to final site plan and not otherwise improved shall be landscaped.
5. Landscape Management. Natural vegetation is acceptable if maintained in a neat and fire safe manner.
6. Other Landscape Areas. All areas utilized for subsurface sewage disposal land treatment, except for single-family residences are required to be landscaped and maintained.

**C. Landscaping in Parking and Loading Areas**

In addition to the above provisions, the following landscape requirements apply to parking and loading areas.

1. A parking or loading area shall be separated from any lot line adjacent to a roadway by a landscaped strip at least 5 feet in width.
2. A landscaped strip separating a parking or loading area from a street shall contain:

- a) Street trees spaced as appropriate to the species, not to exceed 50 feet apart, on the average; and
  - b) Low shrubs, not to reach a height greater than 3'0", spaced no more than 8 feet apart, on the average; and
3. Vegetative ground cover if required.
  4. Landscaping in a parking or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.
  5. The landscaping in a parking area shall have a width of not less than three feet.

**D. Irrigation**

Provisions shall be made for watering planting areas where such care is required. Underground sprinklers may be required.

**E. Maintenance**

Required landscaping shall be continuously maintained.

**F. Special Requirements**

The Planning Commission may require the following, in addition to the minimum requirements and standards of this ordinance, as a condition of Design Review Approval.

1. An increase in building separation, to afford improvement in light reception or air circulation or to afford greater fire resistance, based on building structural and fire flow requirements.
2. Additional off-street parking, according to specific requirements for the type of development.
3. Screening of the proposed use by a fence, or landscaping.
4. Limitations on the size, location, intensity and number of exterior lights.
5. Limitations on the number, and location of curb cuts.
6. Improvement or enlargement of utilities serving the proposed use, where existing facilities will be burdened by the proposed use.
7. Landscaping, or increases in landscaping requirements for the site.

8. Limitations on the number and size of signs.
9. Review of and adjustments in design for conformance with the historic architectural design theme.
10. Any other limitations or conditions it considers necessary to achieve the purposes of this ordinance and the Comprehensive Plan.

**16.175.055 Design Review - Specific Use Standards**

The following specific uses shall comply with the standards of the zone in which they are located and with the additional standards and conditions set forth in this section.

**A. Churches, or Other Religious Institutions or Hospitals**

In residential districts, all buildings shall be setback a minimum of 30 feet from a side or rear lot line, and off-street parking shall be screened from abutting residential property.

**B. Medical Clinics, Clubs, Lodges, Community Centers, Golf Courses, Grounds and Buildings for Games or Sports, Country Clubs, Swimming Clubs, Tennis Clubs, Government Structures and Land Uses, Parks, Playgrounds**

The Planning Commission may authorize these uses if it determines that the following will be provided:

1. Access from principal streets subject to City Public Works Standards.
2. Building and site design provisions, including landscaping, that will effectively screen neighboring uses from noise and glare.
3. Subject to site plan review if the use is located in or adjacent to a residential district, all such uses shall be located with off-street parking screened from abutting residential property. All buildings shall be set back a minimum of 30 feet from side or rear lot lines. There shall be no external evidence of any incidental commercial activities taking place within the building. If located in or adjacent to a residential district, design shall be of a type that conforms with the type of allowed residential use adjacent to it.

3.4. Parks greater than 1 acre in size shall include an appropriate amount of off-street parking, as determined by the land use authority.

**C. Schools**

Nursery-All public and private schools shall have a minimum site size of 10,000 square feet, and provide and maintain at least 100 square feet of outdoor play area per child. A sight-obscuring fence at least four feet but not more than six feet high shall separate the play area from adjoining lots.

**D. Multi-Family Dwelling(s)**

A multi-family dwelling and a multi-family dwelling complex shall comply with the following provisions:

1. The maximum number of -dwelling units permitted by the applicable zone per gross acreage of a site (e.g., 24 dwelling units per acre in R-2.5) shall be based on the total surface area measured horizontally within the lot lines of the lot. The actual achievable density on the site may be less than the maximum allowable density due to site constraints such as easements, rights-of-way and environmental constraints. The maximum density may be increased as follows:
  - a. If dedicated open space which is developed and landscaped equals 50% or more of the total area of the site, a maximum of 10% increase in the number of units may be granted.
  - b. If in addition to open space as provided in (a) above, a maintained playground area with approved equipment such as goal posts, swings, slides, etc., is provided, the number of units permitted may be increased an additional 5%.
  - c. If in addition to open space and playgrounds as provided in (a) and (b) above, an approved recreational community building is provided, an additional 10% increase of units may be granted.
2. The maximum total increase in dwelling units made possible by development of open space, playgrounds and recreational facilities shall be 25% of the number of units otherwise allowed.
3. There shall be no outdoor storage of furniture, tools, equipment, building materials or supplies belonging to the occupants or management of the complex.
4. For a multi-family dwelling complex with five or more dwelling units, a minimum of at least 2,500 square feet plus 150 square feet per dwelling unit shall be provided for a recreational play area, group or community activities or common open space. Such area shall be improved with grass, plantings, surfaces, equipment or buildings suitable for recreational use. The Planning Commission may require recreational areas to be screened from streets, parking areas or other uses by a sight-obscuring fence. No play area is required if more than 70% of the area is preserved as open space and is improved and landscaped for recreational enjoyment.



5. All roadways and parking areas shall be paved and roadways shall conform to City Public Works Standards.
6. A sight obscuring fence or hedge may be required by the Planning Commission when, in its judgment, such screening is necessary to preserve the values of nearby properties, protect the aesthetic character of the neighborhood or vicinity, and to provide security for occupants of the subject complex.
7. All structures associated with such a complex shall be set back 30 feet from the property line of an abutting single family residential lot or use unless approved otherwise by the Planning Commission.
8. Sidewalks or other approved surfaced pedestrian walkways within the complex shall be provided.
9. Bicycle parking facilities shall be provided.
10. Public Park. The developer shall set aside and dedicate to the public for park and recreational purposes not less than 8% of the gross area of said development, if the land to be dedicated is suitable and adaptable for such purposes and is generally located in an area planned for parks.

The City shall determine whether or not said land is, in fact, suitable for park purposes. Provided, further, that any such approval shall be subject to the condition that the City Council accept the deed dedicating such land.

In the event there is no suitable park or recreation area or site in the proposed area to be developed or adjacent thereto, then the developer shall, in lieu of setting aside land, pay into a park acquisition and development fund a sum of money equal to the fair market value of the land that would have been donated under the above conditions. For the purpose of determining the fair market value, an appraisal performed by a state certified appraiser, or the latest value of the land as un-platted and without improvements as shown on the Washington County Assessor's tax roll shall be used. The sum so contributed shall be used for acquisition of suitable area of park and recreation purposes or for the development of recreational facilities. Such expenditures shall be made for neighborhood or community facilities within the area of the community that will reasonably benefit the contributing development.

Funds contributed in lieu of park land shall be credited to a park acquisition and development fund and shall be deposited with the City. Such funds may be expended only on order of the City Council for the purpose of acquiring or developing land for park or recreation purposes.

11. All such complexes shall provide adequate access.

12. If the complex or any unit thereof is more than 500 feet from a public fire hydrant, such shall be provided at appropriate locations on a vehicular way and shall conform in design and capacity to the public hydrants in the City.

**E. Recreational Vehicle Park**

A recreational vehicle park shall conform to state standards in effect at the time of construction and the following provisions:

**1. Use Standards.**

Management headquarters, recreational facilities, toilets, dumping stations, showers, coin-operated laundry facilities, and other uses and structures customarily incidental to operation of a recreational vehicle park and campground are permitted as accessory uses to the park.

**2. Design Standards**

- a. The maximum density of an RV park shall be 15 units per acre.
- b. The pad provided for each recreational vehicle shall be not less than 700 square feet exclusive of any space used for common areas such as roadways, general use structures, walkways, parking spaces for vehicles other than recreational vehicles and landscaped areas.
- c. Roadways shall be not less than 30 feet in width if parking is permitted on the margin of the roadway, or not less than 20 feet in width if parking is not permitted on the edge of the roadway and shall be paved with asphalt, concrete or similar impervious surface and designed to permit easy access to each recreational vehicle space.
- d. A space provided for a recreational vehicle shall be covered with crushed gravel or paved with asphalt, concrete, or similar material and be designed to provide for the control of runoff or surface water. The part of the space which is not occupied by the recreational vehicle and not intended as an access way to the recreational vehicle or part of an outdoor patio need not be paved or covered with gravel provided the area is landscaped or otherwise treated to prevent dust or mud.
- e. A recreational vehicle space shall be provided with piped potable water and sewage disposal service. A recreational vehicle staying in the park shall be connected to the water and sewage service provided by the park if the vehicle has equipment needing such service, and proper back-flow prevention devices are installed per City Public Works Standards.

- f. A recreational vehicle space shall be provided with electrical service.
- g. Trash receptacles for the disposal of solid waste materials shall be provided in convenient locations for the use of guests of the park and located in such number and of such capacity that there is no uncovered accumulation of trash at any time.
- h. No recreational vehicle shall remain in the park for more than 3 months in any 6 month period.
- i. No recreational vehicle or any other camping unit shall be used as a permanent place of abode, dwelling, or business or for indefinite periods of time. Occupancy and/or placement extending beyond three months in any six months shall be presumed to be permanent occupancy. Any action toward removal of wheels of a recreational vehicle except for temporary purposes of repair is hereby prohibited. Camping units other than recreational vehicles shall be limited to 30 days in any 60 day.
- j. The total number of parking spaces in the park, except for the parking provided for the exclusive use of the manager or employees of the park, shall be equal to one space per recreational vehicle space. Parking spaces shall be covered with crushed gravel or paved with asphalt, concrete or similar material.
- k. Entrance driveways shall be located not closer than 150 feet from the intersection of public streets.
- l. The park shall provide toilets, lavatories and showers for each sex as required by the State Building Agency Administrative Rules, Chapter 918. Such facilities shall be lighted at all times of night and day, shall be ventilated, and shall be provided with adequate floor drains to permit easy cleaning.
- m. 12. Recreational vehicles or other camping units shall be separated from each other and from other structures by at least 10 feet. Any accessory structure such as attached awnings, carports, or individual storage facilities shall, for purposes of this separation requirement, be considered to be part of the recreational vehicle.
- n. The recreational vehicle park shall be enclosed by a fence, wall, landscape screening, earth mounds, or by other designs approved by the Planning Commission which will complement the landscape and assure compatibility with the adjacent environment.

- o. Each recreational vehicle park shall set aside along the perimeter of the recreational vehicle park a minimum 10' strip which shall be site obscuring landscaping and used for no other purpose. Additional area for landscaping may be required through the design review process.

F. **Bed and Breakfast Inn**

A Bed and Breakfast Inn shall comply with all applicable state laws and the following conditions:

1. No more than three (3) sleeping rooms shall be available for the accommodation of inn visitors.
2. No more than six (6) guests shall be accommodated at any one time.
3. One daily meal shall be provided to inn guests.
4. The exterior of the building shall maintain a residential appearance.
5. No materials or commodities shall be delivered to or from the residence in a bulk or quantity that will create congestion.
6. The bed and breakfast inn shall be operated in a way that will prevent unreasonable disturbance to area residents.
7. One off-street parking space shall be provided for each guest room in addition to parking required for the residence.

G. **Commercial or Industrial Use or Accessory Use Not Wholly Enclosed Within a Building, on a Lot Adjoining or Across a Street From a Lot in a Residential Zone**

These uses may be permitted conditionally subject to the following standards:

1. A sight-obscuring fence or evergreen hedge may be required by the Planning Commission when they find such a fence or hedge or combination thereof is necessary to preserve the values of nearby properties or to protect the aesthetic character of the neighborhood or vicinity.
2. In addition to the requirements of the applicable zone, the Planning Commission may further regulate the placement and design of signs and lights in order to preserve the values of nearby properties, to protect them from glare, noise, or other distractions or to protect the aesthetic character of the neighborhood or vicinity.
3. In order to avoid unnecessary traffic congestion and hazards, the Planning Commission may limit access to the property.

#### H. **Amusement Enterprise**

An amusement enterprise may be authorized after consideration of the following factors:

1. Adequacy of access from principal streets together with the probable effect of traffic volumes on adjoining and nearby streets.
2. Adequacy of building and site design provisions to maintain a reasonable minimum of noise and glare from the building and site.

#### I. **Radio, Television Tower, Utility Station or Substation**

1. In a residential zone, all equipment storage on the site may be required to be within an enclosed building.
2. The use may be required to be fenced and landscaped.
3. The minimum lot size for a public utility facility may be waived on finding that the waiver will not result in noise or other detrimental effect to adjacent property.
4. Transmission towers, posts, overhead wires, pumping stations, and similar installations shall be located, designed and installed to minimize conflicts with scenic values.

#### **16.175.060 Violation**

Failure to comply with an approved Design Review and Site Plan and any conditions of approval shall be a zoning violation, subject to the requirements of this chapter.

## **Chapter 16.210**

### **Temporary Permits**

#### **16.210.00 Purpose**

The purpose of a temporary permit is to allow a use or structure for a use which is temporary or seasonal in nature, provided such use is consistent with the intent of the zoning district in which it is located and is in compliance with the provisions of this ordinance.

#### **16.210.005 Application and Fee**

An application for a temporary permit shall be filed with the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which describes the number of employees, the hours of operation, a description of the operation and its duration, and also addresses the review criteria of this chapter. A Temporary Use Permit may be authorized as ~~an Administrative Permit,~~ a Limited Land Use (Type I) Permit ~~or a Quasi-Judicial Permit by the Planning Commission~~

pursuant to Chapter 16.210.010 below.

#### **16.210.010 Types, Requirements and Procedures for Temporary Uses**

Temporary uses are characterized by their short term or seasonal nature and by the fact that permanent improvements are not made to the site. Temporary uses include, but are not limited to: construction trailers, leasing offices, temporary carnivals and fairs, parking lot sales, retail warehouse sales, and seasonal sales such as Christmas tree sales and vegetable stands. Three types of temporary uses require permit approval (See A, B and C):

**A. Seasonal and Special Events.** These types of uses occur only once in a calendar year and for no longer a period than 60 days. Using the Limited Land Use (Type I) procedure under the Application Review section of this chapter, the City shall approve, approve with conditions or deny a temporary use permit based on findings that all of the following criteria are satisfied:

1. The use is permitted in the underlying land use district and does not violate any conditions of approval for the property (e.g., prior development permit approval);
2. The applicant has proof of the property-owner's permission to place the use on his/her property;
3. Parking will be utilized by customers and employees of the temporary

use which is needed by the property owner to meet their minimum parking requirement ;

4. The use provides adequate vision clearance and shall not obstruct pedestrian access on public streets;

5. Ingress and egress are safe and adequate when combined with the other uses of the property;

6. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner in which other uses allowed outright in the district do not affect the adjoining use; and

7. The use is adequately served by sewer or septic system and water, if applicable. (The applicant shall be responsible for obtaining any related permits.)

**B. Temporary Sales Office or Model Home.** Using ~~an Administrative Permit~~a Limited Land Use (Type I) approval procedure under ~~the~~ Application Review section of this chapter, the City may approve, approve with conditions or deny an application for the use of any real property within the City as a temporary sales office, offices for the purpose of facilitating the sale of real property, or model home in any subdivision or tract of land within the City, but for no other purpose, based on the following criteria:

1. Temporary sales office:

a. The temporary sales office shall be located within the boundaries of the subdivision or tract of land in which the real property is to be sold;

b. The property to be used for a temporary sales office shall not be permanently improved for that purpose;

c. Conditions may be imposed regarding temporary utility connections, and as necessary to protect public health, safety, or welfare.

2. Model house:

a. The model house shall be located within the boundaries of the subdivision or tract of land where the real property to be sold is situated; and

b. The model house shall be designed as a permanent structure that meets all relevant requirements of this Code and other applicable codes and permit requirements.

**C. Temporary Building, Trailer, Kiosk or Structure.** Temporary ~~or permanent~~

placement of a building, trailer, kiosk, or structure, including but not limited to prefabricated building(s), for use on any real institutional, commercial or industrial property within the City shall require a development permit. Using a Limited Land Use (Type I) approval procedure under the Application Review section of this chapter. ~~Using a QuasiJudicial~~

~~Permit procedure, as governed by the Application Review section of this application~~ the City may approve, approve with conditions or deny an application for a placement of a building, trailer, kiosk, or structure for temporary use, or temporary placement, such as a temporary commercial or industrial use or space associated with the primary use on the property, based on following criteria:

- a. The temporary trailer or building shall be located within the specified property line setbacks of the parcel of land on which it is located;
- b. The primary use on the property to be used for a temporary trailer is already developed or has received land use approval;
- c. Ingress and egress are safe and adequate as demonstrated by an approach permit approved by the road authority, as applicable;
- d. There is adequate parking for the customers or users of the temporary use;
- e. The use will not result in vehicular congestion on streets;
- f. The use will pose no impediment or hazard to pedestrians in the area of the use;
- g. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the district do not affect the adjoining use;
- h. The building complies with applicable building codes;
- i. The use can be adequately served by sewer or septic system and water, if applicable. (The applicant shall be responsible for obtaining any related permits); and
- j. The length of time that the temporary building will be used does not exceed 6 months. When a temporary building exceeds this time frame, the applicant shall be required to remove the building, or renew the temporary use permit for no more than one additional year; and
- k. Conditions may be imposed regarding temporary utility connections, and as necessary to protect public health, safety, or welfare.



#### **16.210.015 Conditions of Approval**

In issuing a temporary permit, the ~~Planning Commission or City Planner~~ may impose reasonable conditions as necessary to preserve the basic purpose and intent of the underlying zoning district. The public need for the conditions shall be supported by findings. These conditions may include, but are not limited to the following.

- a. Increasing the required yard dimensions;
- b. Requiring fencing, screening or landscaping to protect adjacent or nearby property;
- c. Limiting the number, size, location or lighting of signs;
- d. Limiting the time for certain activities; and
- e. Limiting the total duration of the uses.

#### **16.210.020 Compliance with Conditions**

Compliance with conditions imposed in approval of a temporary use permit and adherence to an approved plot plan shall be required. Any departure from these conditions of approval and approved plans constitutes a violation of this ordinance.

The ~~Planning Commission~~City may revoke approval of any temporary permit for failure to

comply with any conditions imposed in approval of the temporary permit or for any other violation of this ordinance.



## CITY OF NORTH PLAINS

31360 NW Commercial Street, North Plains, Oregon 97133

Date: June 4, 2018  
To: Mayor and City Council  
From: City Manager Andy Varner  
Subject: City Manager Staff Report

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PNW Economics, the firm selected to update and finalize the **Economic Opportunities Analysis**, will be at the June 18 meeting to give an introduction of the project to the Council. They should also have some preliminary employment land needs data and UGB effect, based on the Safe Harbor numbers. They are scheduled to have a more in-depth discussion with the Council later on in their scope, so the June 18 meeting will be more at the surface level.

We had a **Parks Master Plan Open House** on May 23, immediately after the Parks Board meeting. We had many good comments, and were fortunate to have several students in attendance that were there to give testimony at the Parks Board meeting earlier that night.

Related, I plan to take 6 poster boards on the Parks Plan to the **Ice Cream Social** on June 7. I am hoping that free ice cream, a warm summer day outside, and lots of foot traffic should generate a lot more parks and rec feedback from folks.

I have conferred with the Tualatin Valley Beekeeper's Association and Oregon State association on some model **residential beekeeping ordinances**, and reached out to other communities. Many examples I received through the manager's network had no specific ordinances related to beekeeping, or if they did were very simple, surprisingly. Issues were typically addressed through the local Nuisance Ordinances. Hillsboro is an exception; they have an extensive and prescriptive process for keeping bees. Several years ago the Legislature passed a bill that created a committee to investigate model ordinances, and OSU ended up developing a Best Practices framework that could apply to all communities to help simplify the process, put the onus on keepers, and use the OSBA as a mechanism to avoid and diffuse conflict. I included two informative emails at the end of this report, one from the OSBA rep and another from North Plains resident Briana Van Roekel, who attended the last meeting. If necessary, we can make this a formal agenda item in the future and invite one of the beekeeping consultants to answer specific questions. We could also go the route of many communities and encourage local keepers to abide by the Best Practices and address beekeeping issues in our Nuisance process.

I applied for a **Transportation Growth Management** grant to study options for an eastern modal-modal arterial to connect downtown to Jackson School Road, which would fit into a future UGB expansion. There are potential wetland issues with the extension of Pacific Street, so the grant could determine the best location for the east/west connection and focus on the need for safe pedestrian access between the school and the downtown core.

We are also applying for a state **Recreational Trails Program grant** for improvements on the Ghost Creek trail, on the Galaway property where we are planning for a Veteran's park. The grant would help with land acquisition for that sliver of park and making a logical trailhead connection between the park and trail system.

Several staff are going to attend a **workshop/training** by the City of Hillsboro this week that focusses on continuous improvement and lean management techniques.

The Garcia Birthday Band is under contract for a **musical performance** at Jessie Mays Park on June 22 at 6.30PM.

There will be a **legislative Town Hall meeting** with State Representative Sollman, Senator Riley & *Children First for Oregon* at Jessie Mays on June 13 at 5.30PM.

***What's on deck for the Planning Commission?***

- June 13: Sign ordinance worksession, Sunset Terrace II Subdivision and Floodplain Permit public hearing. Public hearings for Comp Plan and EOA remain open.
- July 11: Worksession on fiber-optic conduit requirement for new developments, continuation of public hearings

The Council agreed to convene for City Council meeting work sessions at 6PM on the first meeting of each month. I would welcome Council feedback, but **future work session dates and potential topics** I foresee include:

- July 2: TSP Joint Worksession with Planning Commission – starting at 5.30PM
- August 6: Being a Business Friendly Community

May 30- from Mike Rodia, Oregon State Beekeeper's Association Community Consultant  
(in response to certain hive requirements)

Mr Varner,

NONE of those requirements you list have ever been shown by *any studies or experience* to provide any particular benefit to neighbors, the public, governments or to beekeepers to minimize or eliminate problems (which are very few and seldom). Model Ordinances based on those requirements have been adopted by governmental agencies for at least the last 30 years because they are easily observable, and from an enforcement point of view, easily cited if violated. But just because they can be easily enforced does not mean they will accomplish anything, because in reality they are seldom used and serve mainly to let government and the public believe they have addressed, which in reality, is a non-issue. Honeybees in the urban environment have been there for many years and have caused few problems.

For example, limiting the number of hives does not translate into fewer bees in the neighbors' yards. Honey bees travel (forage) up to two miles or more for nectar, pollen or water. They will only visit the neighbor's yards if the yards are a particular good sources for these items. So limiting or adding hives may make no difference on whether bees will or will not go to a given area. Bees have no idea what property boundaries or set-backs are. Rather if the beekeeper employs barriers or distance (which will vary as there is no set limit) the bees can be encouraged to fly up and over adjacent property. The Best Practices address all of the issues, that you might be concerned about, and directs the beekeeper to consider them and practice their beekeeping to eliminate any potential problems. A specific set of limiting rules are not necessary and for the most part in-effective.

The 2015 legislative committee (with representatives from the League of Oregon Cities, Association of Oregon Counties, Department of Agriculture, Oregon State University, The Oregon State Beekeepers and others) that was responsible for HB 2653 (2015) considered and rejected proposing or suggesting a Model Ordinance because the committee determined that any model ordinance would not be necessary nor appropriate. Rather, if beekeepers are trained to and practice nuisance-free beekeeping there will be few if any problems. The OSU Best Practices\* are the guide that beekeepers are now and in the future being trained to follow. That document was prepared by a committee of experts in beekeeping and represents the current best determination of how honeybees can be kept and managed in the residential environment with little or no issues. I think you will find that for the most part Residential Beekeeping is a non-issue. Any problems are addressed by considering the Best Practices and working with the Beekeeper. As beekeepers we (they) do not need to be cited. We want and will be good neighbors and will make changes, if needed.

Ralph (Mike) Rodia, Agricultural Liaison, Oregon State Beekeepers Association

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May 30, from Briana Van Roekel (resident who testified at the last meeting)

Hi Andy,

Thank you for the information. I did review the OSU Best practices and I think it provides awesome information and some great suggestions!

We did attend the beekeepers meeting last night and learned some valuable information. From talking with members of the association the approaches cities take on beekeeping is diverse and the bottom line is that it is pretty tough to regulate. For instance, the City of Hillsboro's policy prohibits beekeeping if a person within a certain distance is allergic to bees; however, what most people consider being allergic to bees is a local reaction (swelling) and not an actual allergic reaction, enforcing this would entail obtaining medical records showing that it is an allergic reaction. This is outlined in the OSU Best Practices as well as other information about flight patterns that can help understand why having backyard beekeeping should not be a concern for residents of North Plains.

I received responses from the city of Beaverton and Hillsboro regarding their beekeeping policies, and they both take very different approaches. Beaverton's policy is that they do not regulate beekeeping and rather the city deals with it on more of a case-by-case basis if the hives warrant a public health concern. Whereas, the city of Hillsboro has an extremely specific regulation that is listed below.

Beaverton's beekeeping approach: The City of Beaverton does not regulate the keeping of bees and/or hives. Should the keeping of a bee hive on private property occur and warrant a public health concern, we have the option to bring the issue before City Council via Beaverton Code 5.05.145 General Nuisance.

Hillsboro's approach is listed in bullet points below.

- Bee hives / colonies may only be kept on single family residential property;
- No more than three bee hives / colonies may be kept;
- Bee hives / colonies may not be kept when a person who has a medically certified allergy to the sting of bees resides within 300 feet of the hives / colonies and has submitted to the city medical documentation and a written request that the hives / colonies be removed;
- Products generated, such as honey, may not be sold from a residential property;
- Bees must be contained consistent with the following standards:
- All portions of the hives / colonies enclosure must be located behind the front building plane of the dwelling; and
- All portions of the hives / colonies must either be located a minimum of 10 feet from any property line unless there is no barrier, such as a fence or hedge, that is at least six feet in height on all relevant property lines, in which case a minimum of 15 feet applies.
- Beekeeping equipment must be kept consistent with the following standards:
- All portions of the hives / colonies enclosure must be kept and maintained in a clean and sanitary condition at all times to prevent any condition which may be dangerous or detrimental to the health of the public or animals or constitute a nuisance; and

- Unused equipment may not be in the open or otherwise accessible to bees.
- Additionally, a notification process is required to notify those around you that you will be keeping bees.

Based on our understanding of the current code in North Plains, because beekeeping is not addressed we are going to assume that it is not prohibited within city limits and bring one of our hives into our backyard, unless you feel the code states that beekeeping is strictly not allowed in city limits.

My recommendation is that North Plains clarify the language to clarify the stance on beekeeping within city limits. I feel the approach taken by city of Beaverton is a simplified process and a great way to begin addressing beekeeping in North Plains, and then if issues arise the language can become more specific. Many of the bulleted points in Hillsboro's policy in my eyes are out of touch with OSU's Best Practices and would be difficult to enforce. When we attended the Tualatin Valley Beekeepers Association meeting I asked Hillsboro residents about the policy and they had a similar perspective. My hope is that the language adopted by City of North Plains will serve both backyard beekeepers with flexibility and authority to do what is best for their bees while keeping residents happy and safe. Plus, I'm sure North Plains residents would love some local honey!

Please let me know if you have additional questions or concerns.

Sincerely,  
Briana Van Roekel

\*In 2015 the Oregon Legislature passed HB 2653 relating to residential beekeeping and as a result OSU released Residential Best-Practice Guidelines for Nuisance-Free Beekeeping in Oregon (<https://catalog.extension.oregonstate.edu/sites/catalog/files/project/pdf/em9186.pdf>). The document answers common questions, such as the difference between an allergic reaction and a local reaction (commonly people who say they are allergic actually experience local reactions). It also details information about flight patterns and bee behaviors that can help understand why having backyard beekeeping should not be of concern in residential areas.

# 2018 City Council Meeting Calendar Schedule

2018 City Council Meeting Dates-7:00 p.m.			
1/2	4/2	7/2	10/1
1/16	4/16	7/16	10/15
2/5	5/7	8/6	11/5
2/20	5/21	8/20	11/19
3/5	6/4	9/4	12/3
3/19	6/18	9/17	12/17

2018 Schedule for Board and Commission Meetings					
7:00 p.m. Planning 2nd Wednesday Commission		7:00 p.m. 3rd Wednesday Library Board		4th Wednesday 6:00 p.m. Parks Board	
1/10	Lenahan	1/17	Lenahan	1/24	Martinez
2/14	Simmons	2/21	Sheldon	2/28	Gonzales
3/14	Sheldon	3/21	Gonzales	3/28	Gonzales
4/11	Kindel	4/18	Simmons	4/25	Gonzales
5/9	Gonzales	5/16	Kindel	5/23	Gonzales
6/13	Eimers	6/20	Martinez	6/27	Martinez
7/11	Lenahan	7/18	Gonzales	7/25	Martinez
8/8	Martinez	8/15	Eimers	8/22	Martinez
9/12	Eimers	9/19	Lenahan	9/26	Martinez
10/10	Simmons	10/17	Simmons	10/24	Martinez
11/14	Gonzales	11/21	Kindel	11/28	Martinez
12/12	Kindel	12/19	Sheldon	12/26	Martinez

Filename: City Council\2017 Calendar of Meetings

## ***June 2018 Council Calendar***

<b><u>MEETING</u></b>	<b><u>PRIMARY</u></b>	<b><u>ALTERNATE</u></b>	<b><u>NOTE</u></b>	<b><u>DATE</u></b>
City Council			1st Monday at 7:00pm	6/4
Washington County Coordinating Committee (WCCC)	Lenahan	Varner	2nd Monday at 12:00 noon	6/11
Planning Commission	Simmons		2nd Wednesday 7:00pm at NP Senior Center	6/13
Washington County Office of Community Development Policy	Lenahan	Kindel	2nd Thursday 7:00pm	6/14
City Council			1st Monday at 7:00pm	6/18
Library Board	Sheldon		3rd Wednesday at 7:00pm at NP Library	6/20
Parks Board	Gonzales		4th Wednesday at 6:00pm at NP City Hall	6/27
Metro Policy Advisory Committee (MPAC)	Lenahan	TBD	4th Wednesday at 5:00pm	6/27
Metropolitan Area Communications Commission (MACC)	Gonzales	Sheldon		