

ORDINANCE NO. 485

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORTH PLAINS, OREGON, IMPLEMENTING AN AMENDMENT TO TEXT OF THE ZONING AND DEVELOPMENT CODE REGARDING MARIJUANA LAND USE REGULATIONS

WHEREAS, the City of North Plains (“City”) initiated an amendment to the text of the Zoning and Development Code regarding marijuana land use regulations; and

WHEREAS, the City submitted the proposed amendments to DLCDC on September 7, 2022; and

WHEREAS, the Planning Commission conducted a duly-noticed public hearing, and reviewed the proposed zoning code text amendments, public testimony and staff report at its meeting on October 12, 2022; and

WHEREAS, the City Council conducted a duly-noticed public hearing, and reviewed the proposed zoning code text amendments, Planning Commission recommendation, public testimony and staff report at its meeting on November 7, 2022; and

WHEREAS, the City Council considered the application, the evidence in the record and applicable criteria for the amendments proposed in Application File No. 22-115 (Zoning Code Text Amendment).

Now, therefore:

THE CITY OF NORTH PLAINS ORDAINS AS FOLLOWS:

Section 1. The City hereby adopts the proposed Zoning and Development Code Text Amendments related to marijuana land uses proposed in File 22-115, attached hereto as Exhibit “A” and incorporates them into the North Plains Comprehensive Plan.

Section 2. In support of its decision, the City Council adopts the findings within the Planning Commission Recommendation for File No. 22-115, dated October 12, 2022, and signed October 13, 2022, attached hereto as Exhibit “B”.

Section 3. This Ordinance shall become effective on the 30th day after its adoption.

INTRODUCED on the 7th day of November 2022, **ADOPTED** on the 21st day of November, 2022 and **EFFECTIVE** on the 21st day of December, 2022.

CITY OF NORTH PLAINS, OREGON



By: _____
Teri Lenahan, Mayor

ATTEST:



By: _____
Lori Lesmeister, City Recorder

CONDITIONAL USE PERMITS

§ 155.070 PURPOSE AND SCOPE.

The purpose of a conditional use is to provide for those uses which possess unique and special characteristics making impractical their inclusion as outright permitted uses in the underlying zoning district. Such uses shall not be incompatible with the type of uses permitted in surrounding areas. Location and operation of designated conditional uses shall be subject to review and authorized only by issuance of a conditional use permit.

(Prior Code, § 16.180.000) (Ord. 434, passed 12-5-2016)

§ 155.071 APPLICATION AND FEE.

A pre-application conference pursuant to the application review section of this chapter is required. The City Manager may waive this requirement. An application for a conditional use 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 addresses the review criteria of this section. Depending on the scale of the project, the city may also determine that a simultaneous request for a design review permit pursuant to §§ 155.045 through 155.057 of this chapter is required. Conditional use permit requests shall be subject to the quasi-judicial public notice and public hearing requirements as described in the § 155.072 of this chapter.

(Prior Code, § 16.180.005) (Ord. 434, passed 12-5-2016)

§ 155.072 REVIEW CRITERIA.

A conditional use may be authorized upon adequate demonstration by the applicant that the proposed use satisfies all relevant requirements of this chapter and the following general criteria:

- (A) The use is listed as a conditional use in the underlying zoning district;
- (B) The use is consistent with those goals and policies of the Comprehensive Plan which apply to the proposed use;
- (C) The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features;
- (D) The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zoning district; and

(E) The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.

(Prior Code, § 16.180.010) (Ord. 434, passed 12-5-2016)

§ 155.073 CONDITIONS OF APPROVAL.

(A) In approving an application for a conditional use, the Planning Commission may impose conditions to protect the area surrounding the proposed use and to preserve the basic purpose and intent of the underlying zoning district.

(B) These conditions may include, but are not limited to, the following:

- (1) Increasing the required parcel area or yard dimensions;
- (2) Limiting the height, size or location of the buildings and structures;
- (3) Controlling the location and number of vehicle access points;
- (4) Increasing the road width;
- (5) Increasing the number of required off-street parking or loading spaces;
- (6) Limiting the number, size, location or lighting of signs;
- (7) Requiring fencing, screening or landscaping to protect adjacent or nearby property;
- (8) Prescribing exterior finish for buildings or additions thereto;
- (9) Designating areas and prescribing improvements for open space;
- (10) Prescribing a time limit within which to fulfill any established conditions; and
- (11) Prescribing limits on traffic, noise, vibrations, dust, fumes or any other factors that may affect surrounding properties.

(Prior Code, § 16.180.015) (Ord. 434, passed 12-5-2016)

§ 155.074 GENERAL REQUIREMENTS.

Any conditional use authorized pursuant to this chapter shall be subject to the following additional requirements.

(A) A conditional use shall be subject to the standards of the zoning district in which it is located, except as these standards have been modified in authorizing the conditional use. No modification of a zoning district standard shall have the effect of rezoning the property.

(B) A conditional use may be enlarged or altered pursuant to the following.

(1) Major alterations of a conditional use including changes, alterations or deletion of any conditions imposed shall be processed as a new conditional use permit application.

(2) Minor alterations of a conditional use may be approved by the city as a limited land use permit pursuant to §§ 155.025 through 155.033 of this chapter if requested prior to issuance of building permits for the conditional use. Minor alterations are those changes which may affect the siting and dimensions of structural and other improvements relating to the conditional use, and may include small changes in the use itself. Any change which would affect the basic type, character, arrangement or intent of the conditional use originally approved shall be considered a major alteration.

(Prior Code, § 16.180.020) (Ord. 434, passed 12-5-2016)

§ 155.075 MARIJUANA BUSINESSES

(A) Requirements; general. The purpose of these standards is to provide for those marijuana-related businesses and uses which possess unique and special characteristics making impractical their inclusion as outright permitted uses in the underlying zoning district. Such uses shall not be incompatible with the type of uses permitted in surrounding areas. Location and operation of designated conditional uses shall be subject to review and authorized only by issuance of a conditional use permit. These regulations are in addition to all other requirements of this subchapter, including §§ 155.072, 155.073 and 155.074 of this chapter.

(1) No structure shall be located within 1,000 feet of a school, ~~Jessie Mays Community Center~~ or any other marijuana facility.

(2) ~~No marijuana facility shall be located within 1,000 feet of any other marijuana facility.~~

~~*Note: Renumber following section*~~

(2) ~~All sales and services must be located inside the structure. No drive-thru facilities.~~

~~No structure shall be located within 2,000 feet of a medical marijuana facility.~~

(3) No structure shall be located within 100 feet of a residentially-zoned property, as measured from the property line.

(4) No structure shall be located within 500 feet of any public park.

(5) Construction of the building must be of permanent material and placed on a permanent concrete foundation. Mobile business is strictly prohibited. Exterior colors must be of neutral earth tones.

(6) Security bars on windows, if utilized, shall not be visible from public right-of-way.

(7) Inside of the building shall not be visible from outside the structure.

(8) Access must be limited to employees and customers over 21 years old.

~~Signage is limited to wall signs. No monument signage is permitted.~~

(Prior Code, § 16.180.025)

(B) Marijuana business requirements; C-2 (Highway Commercial) Zone.

~~(1) Structure must be set back 50 feet from street frontage and ten feet from any side or rear property line.~~

Note: Renumber following section

(2) Hours of operation shall be limited to Sunday through Thursday, 10:00 a.m. to 8:00 p.m., and Friday and Saturday, 10:00 a.m. to 10:00 p.m.

~~(3) All sales must be located inside the structure. No drive-thru facilities.~~

~~(4) Access must be limited to employees and customers over 21 years old.~~

(5) Odor shall not be detectable from outside the structure.

(Prior Code, § 16.180.030)

(C) Marijuana business requirements, M-2 (General Industrial) Zone.

~~(1) Structure must be set back 25 feet from street frontage and ten feet from any side or rear property line.~~

Note: Renumber following section

(2) Structure must be made of tilt up concrete or masonry or similar material as reviewed and approved with the conditional use permit.

~~(3) Access must be limited to employees and customers over 21 years old as authorized by the operator.~~

(4) The marijuana business must comply with all applicable local, county, state and federal requirements for wastewater disposal, odor control, materials storage and debris disposal.

(Prior Code, § 16.180.035) (Ord. 434, passed 12-5-2016)

§ 155.076 COMPLIANCE WITH CONDITIONS.

Compliance with conditions imposed in granting a conditional use permit and adherence to the approved plot plan shall be required. Any departure from these conditions of approval and approved plans constitutes a violation of this chapter. The Planning Commission may revoke any conditional use permit for failure to comply with any prescribed condition of the conditional use permit approval or for any other violation of this chapter.

(Prior Code, § 16.180.040) (Ord. 434, passed 12-5-2016)

§ 155.077 REVOCATION OF PERMIT.

A violation of any section of this chapter or of any condition attached to the approval of a conditional use shall be punishable by revocation of the conditional use permit, or a fine not to exceed \$100, or by both such revocation and fine. Each day the violation is allowed to continue shall constitute a separate violation.

(Prior Code, § 16.180.035) (Ord. 434, passed 12-5-2016)

§ 155.143 USE TABLE.

Below is a table summarizing permitted uses in residential, commercial and industrial zoning districts. Refer to this table in conjunction to the corresponding chapters of this chapter.

	R-7.5	R-5	R-2.5	NC	C-1	C-2	M-1	M-2	IPU
	R-7.5	R-5	R-2.5	NC	C-1	C-2	M-1	M-2	IPU
COMMERCIAL, OFFICE AND RETAIL									
Accessory structures/uses to commercial, office and retail ¹	-	-	-	See §§ 155.255 through 155.261	P	P	-	-	
Alcoholic beverage establishment	-	-	-		P	P	C	C	
Amusement enterprise, indoor	-	-	-		P	P	C	C	
Amusement enterprise, outdoor	-	-	-		C	C	C	C	
Animal care facility	-	-	-		C	P	-	-	
Art studio/gallery	-	-	-		P	P	-	-	
Bus depot/terminal	-	-	-		-	C	P	P	
Catering establishment	-	-	-		P	P	-	-	
Child care, certified center ²	C	C	C		C	C	-	-	C
Child care, certified family home ²	P	P	P		P	P	-	-	
Child care, registered home ²	P	P	P		P	P	-	-	
Clinic, medical and dental	-	-	-		P	P	C	C	
Conference/convention center	-	-	-		C	P	C	C	
Drive-in/thru window	-	-	-		C	P	C	C	
Dry cleaners and laundry	-	-	-		P	P	C	C	
Farm/logging/lumber supply/equipment sales and service	-	-	-		C	C	P	P	
Fraternal lodge, fraternity or sorority	C	C	C		C	C	-	-	
Fuel sales and automobile service station ³	-	-	-		-	P8	C	C	
Funeral homes, mortuaries and taxidermist	-	-	-	C	P	C	C	C	
Franchise disposal service vehicle storage and repair, established as of September 2011	-	-	-	-	P	-	-		
Garden/greenhouse, commercial	-	-	-	-	P	P	P		
Hotels and motels	-	-	-	P	P	C	C		
Medical or retail marijuana facility or business dispensary ⁴					C				
Marijuana retail facility ⁴					C				
Office, business	-	-	-	P	P	P	P		
Parking as a primary use	-	-	-	P	P	C	C		
Radio/TV station/studios	-	-	-	C	C	C	C		
Recycling drop-off center	-	-	-	-	P	-	-		
Restaurant, including fast food	-	-	-	P	P	C	C		
Retail sales and service	-	-	-	P	P	P	P		
Retail sales and service-single tenant over 30,000 square feet	-	-	-	C	C	C	C		

Retail sales, manufactured homes	-	-	-		-	-	C	C		
RV/travel trailer park								C		
Storage, self service	-	-	-		-	C	P	P		
Vehicle wash	-	-	-		-	C	C	C		
INDUSTRIAL AND MANUFACTURING										
Accessory structures/uses to industrial and manufacturing ¹	-	-	-	See §§ 155.255 through 155.261	-	-	P	P		
Auction yard, excluding livestock	-	-	-		-	-	-	-	P	
Auction yard, livestock	-	-	-		-	-	-	-	C	
Bulk storage tanks/cold storage facility	-	-	-		-	-	C	C	P	
Industrial, heavy	-	-	-		-	-	-	-	P	
Industrial, light	-	-	-		-	-	C	P	P	
Marijuana wholesale , production or processing facility or business site ⁴									C	
Marijuana wholesaler									C	
Scientific testing/research laboratory	-	-	-			-	C	P	P	
Storage, outdoor ⁵	-	-	-			-	-	C	C	
Storage, self service/RV, boats, vehicles	-	-	-		-	C	P	P		
Truck stop/freight/trucking terminal and truck repair	-	-	-		-	-	P	P		
Utility facility	C	C	C		C	C	P	P	P	
Vehicular sales, rental, repair and service, including autos, trucks, RVs and trailers	-	-	-		-	P	P	P		
Warehousing	-	-	-		-	-	P	P		
Waste/recycling services or facilities	-	-	-		-	-	P	P		
Wholesale/services	-	-	-		C	C	P	P		
Wireless telecommunication facilities	-	-	-		C	C	C	C	C	
Wireless telecommunication tower	-	-	-		-	-	C	P	C	
PUBLIC, CIVIC AND INSTITUTIONAL										
Cemetery or mausoleum, when associated with another use such as a church or funeral home									C	
Civic/governmental use	C	C	C	See §§ 155.255 through 155.261	P	P	C	C	P	
Educational facility	C	C	C		C	C	C	C	C	P
Hospital/sanitarium	-	-	-		-	C	-	-		
Parks, open space and trails										P
Places of worship	C	C	C		C	C	-	-		P
RESIDENTIAL										
Accessory dwellings ¹	P	P	P		-	-	-	-		
Accessory structures/uses related to residential uses ¹	P	P	P		-	-	-	-	-	
Bed and breakfast inn		C	C		C	C	-	-		
Cottage cluster ⁹	-	-	P							

Duplex dwelling	-	P	P	See §§ 155.255 through 155.261	-	-	-	-	
Extended care facility/convalescent/nursing home	C	C	C		C	C	-	-	
Home occupations ⁶	P	P	P		P	P	-	-	
Live/work townhome ⁷	-	-	-		P	-	-	-	
Manufactured home ⁸	P	P	-		-	-	-	-	
Manufactured home park ⁸	-	C	C		-	-	-	-	
Mixed-use development ⁷	-	-	-		P/C	-	-	-	
Multi-family dwelling ⁹	-	-	P		-	-	-	-	
Planned unit development ¹⁰	P	P	P		P	P	P	P	
Residential facility	-	-	P ⁶		-	-	-	-	
Residential home	P	P	P		-	-	-	-	
Single-family attached dwelling/townhouse ¹¹	-	P	P		-	-	-	-	
Single-family detached dwelling ¹²	P	P	-		-	-	-	-	
Triplex dwelling	-	-	P		-	-	-	-	

NOTES TO TABLE:

P = Permitted; subject to design review, if applicable

- = Not permitted

C = Conditional use, subject to design review and requires a conditional use permit

1 = Subject to §§ 155.500 through 155.502 of this chapter

2 = Permitted if child care home is part of a single-family residential use

3 = Subject to §§ 155.445 through 155.452 of this chapter

4 = Subject to the **provisions of §155.075 siting standards identified in the underlying zoning district**

5 = Subject to § 155.451 of this chapter

6 = Subject to §§ 155.430 through 155.432 of this chapter

7 = Permitted in C-1 with no residential on ground floor street-facing building elevation; condition in C-1 with residential on ground floor street-facing building elevation

8 = Subject to §§ 155.515 through 155.518 of this chapter; Permitted on lots in R-2.5 only if received a building permit prior to February 28, 2022, otherwise prohibited

9 = Subject to § 155.056 of this chapter

10= Subject to §§ 155.610 through 155.614 of this chapter

11= Subject to §§ 155.485 through 155.487 of this chapter

12= Permitted in R-2.5 only if received a building permit prior to February 28, 2022, otherwise prohibited

(Prior Code, Ch. 16.15) (Ord. 477, passed 2-22-2022)

C-2 GENERAL COMMERCIAL DISTRICT

§ 155.235 PURPOSE.

The purpose of the C-2 District is to provide areas for the broad range of retail and service operations, as well as mixed-use developments and live/work townhomes, which are dependent upon highway accessibility and visibility.

(Prior Code, § 16.040.000) (Ord. 431, passed 10-3-2016)

§ 155.236 PERMITTED USES.

Permitted uses are subject to the requirements of §§ 155.045 through 155.057 of this chapter, if applicable. Refer to § 155.143 of this chapter:

- (A) Accessory uses/structures related to commercial, office and retail, subject to §§ 155.500 through 155.502 of this chapter;
- (B) Alcoholic beverage establishment;
- (C) Amusement enterprise, indoor;
- (D) Animal care facility;
- (E) Art studio/gallery;
- (F) Catering establishment;
- (G) Child care, certified home, if part of a single-family residential use;
- (H) Child care, registered home, if part of a single-family residential use;
- (I) Civic/governmental use;
- (J) Clinic, medical and dental, excluding marijuana-related uses;
- (K) Conference/convention center;
- (L) Drive-in/thru window;
- (M) Dry cleaners and laundry;
- (N) Franchise-disposal-service vehicle storage and repair, established as of September 2011;
- (O) Fuel sales, subject to §§ 155.445 through 155.452 of this chapter;
- (P) Funeral homes, mortuaries and taxidermist;
- (Q) Garden/greenhouse, commercial, excluding marijuana-related uses;

- (R) Home occupations, subject to §§ 155.430 through 155.432 of this chapter;
 - (S) Hotels and motels;
 - (T) Office, business;
 - (U) Parking as primary use;
 - (V) Planned unit development, subject to §§ 155.610 through 155.614 of this chapter;
 - (W) Recycling drop-off center;
 - (X) Restaurants;
 - (Y) Retail sales and service, excluding marijuana-related uses; and
 - (Z) Vehicular sales, rental, repair and service.
- (Prior Code, § 16.040.005) (Ord. 431, passed 10-3-2016)

§ 155.237 CONDITIONAL USES; PERMITS.

(A) Conditional uses subject to the requirements of §§ 155.045 through 155.057 of this chapter, if applicable. Refer to § 155.143 of this chapter.

(B) The following uses and their accessory structures may be permitted in the C-2 District when authorized by the Planning Commission pursuant hereto:

- (1) Amusement enterprise, outdoor;
- (2) Bed and breakfast;
- (3) Bus depot;
- (4) Child care, certified center;
- (5) Educational facility;
- (6) Extended care facility/convalescent/nursing home;
- (7) Farm/logging/lumber supply/equipment sales and service;
- (8) Fraternal lodge;
- (9) Hospital/sanitarium;
- (10) Industrial, light;
- (11) Live/work townhomes shall not occupy more than 25% of front building elevation on the ground floor;
- (12) Mixed-use developments shall not occupy more than 25% of front building elevation on the ground floor;

- (13) Places of worship;
- (14) Radio/television station/studios;
- (15) Retail sales and service-single tenant over 30,000 square feet;
- (16) Scientific testing/research laboratory;
- (17) Storage, self-service;
- (18) Storage, self-service/RV;
- (19) Utility facilities;
- (20) Vehicle wash;
- (21) Wholesales/services;
- (22) Wireless telecommunication facilities;
- (23) Medical ~~or retail~~ marijuana ~~facility or business; subject to the provisions of §155.075. dispensary; structure/building shall not be located within 1,000 feet of any public school or Jessie Mays Community Center, within 500 feet of any public park or within 100 feet of any residential zone;~~
- ~~— (24) Marijuana retail facility; structure/building shall not be located within 1,000 feet of any public school or Jessie Mays Community Center, within 500 feet of any public park or within 100 feet of any residential zone.~~

(Prior Code, § 16.040.010) (Ord. 431, passed 10-3-2016)

§ 155.238 LIMITATIONS ON USE.

(A) The following conditions and limitations shall apply to development in the C-2 District.

(B) The Commission may impose the following conditions before a building permit will be issued for the proposed development:

(1) Limit or prohibit access to streets not designated as major streets on an officially adopted plan where the principal uses along the street in the block are residential;

(2) Require sight or sound barriers; and

(3) The use shall not be objectionable in relationship to surrounding residential zones because of odor, dust, smoke, cinders, fumes, noise, glare, heat or vibration.

(Prior Code, § 16.040.020) (Ord. 431, passed 10-3-2016)

§ 155.239 DIMENSIONAL STANDARDS.

The following dimensional standards shall be the minimum requirements for all development in the C-2 District, except for modifications permitted under §§ 155.530 through 155.533 and §§ 155.610 through 155.614 of this chapter.

(A) Lot size.

- (1) The minimum lot area shall be 5,000 square feet.
- (2) The minimum lot width shall be 50 feet at the street line.

(B) Setback requirements.

- (1) Front yard: 20 feet;
- (2) Side yard:

Adjacent to a residential zone	10 feet
Adjacent to any other zone	None required
Adjacent to street	20 feet

(3) Rear yard:

Adjacent to a residential zone	10 feet
Adjacent to any other zone	None required
Adjacent to street	20 feet

(C) Height of buildings. Buildings in the C-2 District shall not exceed a height of 45 feet.
(Prior Code, § 16.040.025) (Ord. 431, passed 10-3-2016)

§ 155.240 PARKING REQUIREMENTS.

Parking requirements for commercial uses are specified in §§ 155.670 through 155.676 of this chapter.

(Prior Code, § 16.040.030) (Ord. 431, passed 10-3-2016)

M-2 GENERAL INDUSTRIAL DISTRICT

§ 155.295 PURPOSE.

The purpose of the M-2 District is to provide for a broad range of industrial processing and manufacturing uses.

(Prior Code, § 16.055.000) (Ord. 431, passed 10-3-2016 ; Ord. 477, passed 2-22-2022)

§ 155.296 PERMITTED USES.

Permitted uses are subject to the requirements of §§ 155.045 through 155.057 of this chapter, if applicable. Refer to § 155.143 of this chapter:

- (A) Accessory uses related to industrial and manufacturing, subject to §§ 155.500 through 155.502 of this chapter;
- (B) Auction yard, excluding livestock;
- (C) Bulk storage tanks/cold storage plant;
- (D) Bus depot/terminal;
- (E) Farm/logging/lumber supply/equipment sales and service;
- (F) Garden/greenhouse, commercial, excluding marijuana-related uses;
- (G) Industrial, heavy;
- (H) Industrial, light;
- (I) Office, business;
- (J) Planned unit development, subject to §§ 155.610 through 155.614 of this chapter;
- (K) Retail sales and service, excluding marijuana-related uses;
- (L) Storage, self-service;
- (M) Scientific testing/research laboratory;
- (N) Storage, self-service/RV;
- (O) Truck stop/freight/trucking terminal and truck repair;
- (P) Utility facility;
- (Q) Vehicular sales, rental, repair and service;
- (R) Warehousing;

- (S) Waste/recycling services;
- (T) Wholesales/services, excluding marijuana-related uses; and
- (U) Wireless telecommunication tower.

(Prior Code, § 16.055.005) (Ord. 431, passed 10-3-2016 ; Ord. 477, passed 2-22-2022)

§ 155.297 CONDITIONAL USES.

(A) Conditional uses are subject to the requirements of §§ 155.045 through 155.057 of this chapter, if applicable. Refer to § 155.143 of this chapter.

(B) The following uses and their accessory structures may be permitted in the M-2 District when authorized by the Planning Commission pursuant to §§ 155.070 through 155.077 of this chapter:

- (1) Civic/governmental;
- (2) Alcoholic beverage establishment;
- (3) Restaurant, with or without drive-thru or walk-up window;
- (4) Mixed-use buildings, such as a brewery with tasting room or restaurant;
- (5) Educational facility;
- (6) Amusement enterprise, indoor or outdoor;
- (7) Clinic, medical and dental;
- (8) Conference/convention center;
- (9) Dry cleaners and laundry;
- (10) Fuel sales;
- (11) Funeral homes, mortuaries and taxidermist;
- (12) Hotels and motels;
- (13) RV park and travel trailer park;
- (14) Parking as primary use;
- (15) Radio/television station/studios;
- (16) Retail sales and service-single tenant over 30,000 square feet;
- (17) Retail sales, manufactured homes;
- (18) Vehicle wash;

(19) Auction yard, livestock;

(20) Storage, outdoor, subject to §§ 155.445 through 155.452 of this chapter;

(21) Wireless telecommunication facilities;

(22) Marijuana wholesale production or processing facility or business, including ancillary retail uses; subject to the provisions of §155.075. site located within a permanent hard-sided structure; structure/building shall not be located within 1,000 feet of any public school or Jessie Mays Community Center, within 500 feet of any public park or within 100 feet of any residential zone; and

~~—(23) Marijuana wholesaler; structure/building shall not be located within 1,000 feet of any public school or Jessie Mays Community Center, within 500 feet of any public park or within 100 feet of any residential zone.~~

(Prior Code, §16.055.010) (Ord. 431, passed 10-3-2016; Ord. 477, passed 2-22-2022)

§ 155.298 LIMITATIONS ON USE.

The following conditions and limitations apply to development in the M-2 District.

(A) Vehicular access.

(1) Access points to an industrial site shall be located to minimize traffic congestion and, to the extent possible, to avoid directing traffic into residential areas.

(2) Where possible within industrial districts, access shall be designed to serve more than one industrial site.

(B) Landscaping.

(1) Properties abutting a residential zone shall provide and maintain a dense evergreen landscape buffer that will attain a mature height of at least seven feet or such other screening measures as may be prescribed by the Commission in the event differences in elevation should defeat the purpose of this requirement.

(2) Yards adjacent to streets shall be planted and continuously maintained with lawn, shrubs

or trees suited to the site and climate.

(3) Other yards and unused property shall be maintained in grass or other suitable ground cover.

(Prior Code, §16.055.015) (Ord. 431, passed 10-3-2016; Ord. 477, passed 2-22-2022)

§ 155.299 DIMENSIONAL STANDARDS.

The following dimensional standards shall be the minimum requirement for all development in the M-2 District, except for modifications permitted under §§ 155.530 through 155.533 and §§ 155.610 through 155.614 of this chapter.

(A) Lot size.

- (1) The minimum lot size shall be 5,000 square feet.
- (2) The minimum lot width shall be 50 feet at the front building line.

(B) Setback requirements.

(1) Front yard.

Adjacent to a residential zone	20 feet
Adjacent to any other zone	None required

(2) Side yard.

Adjacent to a residential zone	20 feet
Adjacent to any other zone	None required
Adjacent to street	20 feet

(3) Rear yard.

Adjacent to a residential zone	20 feet
Adjacent to any other zone	None required
Adjacent to street	20 feet

(C) Height of buildings. Buildings in the M-2 District shall not exceed a height of 80 feet. (Prior Code, § 16.055.020) (Ord. 431, passed 10-3-2016 ; Ord. 477, passed 2-22-2022)

§ 155.300 PARKING REQUIREMENTS.

Off-street parking and loading requirements for industrial uses are specified in §§ 155.670 through 155.676 of this chapter.

(Prior Code, § 16.055.025) (Ord. 431, passed 10-3-2016 ; Ord. 477, passed 2-22-2022)

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**
) **22-115- Marijuana and Psilocybin**
) **Zoning Code Text Amendment**
) **PC Hearing Date: October 12, 2022**

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

-
- 155.012 Definitions
- 155.070-155.077 Conditional Use Permits
- 155.143 Zoning Use Table
- 155.235-155.240 C-2 General Commercial District
- 155.295-155.298 M-2 General Industrial Zone; and

Whereas, the Planning Commission conducted a duly-noticed public hearing, and reviewed the proposed zoning code changes and staff report at its meeting on October 12, 2022; and

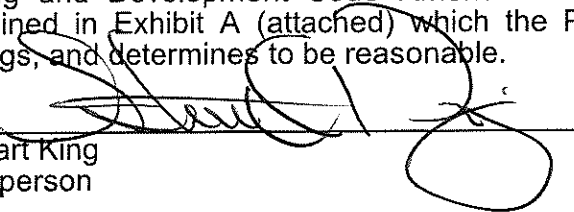
Whereas, the Planning Commission considered the submitted staff report and reviewed the proposed text amendments for compliance with the North Plains Comprehensive Plan, which incorporates the Statewide Planning Goals, and

Whereas, staff proposed an addition to the Conditional Use Permit standards to require a 1,000 foot buffer between two marijuana uses and a 1,000 foot buffer between two psilocybin uses, 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 **22-115** Zoning and Development Code Update 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 the proposed Zoning and Development 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

10/13/2022
Date

Zoning and Development Code Update
File# 22-115
Planning Commission Recommendation to City Council
Exhibit A FINDINGS

General Findings

1. Finding: Applications for zoning code and comprehensive plan text amendments and/or zoning map amendments require Type IV legislative reviews and decisions. The Planning Commission conducts a public hearing on the matter and forwards a recommendation to the City Council. The City Council is the City's decision-making body.
2. Finding: The proposed Zoning Code Update is applicable citywide. As such, public notice was published in a newspaper of general circulation on October 22, 2022 and was included in the City Newsletter.
3. Finding: The Zoning Code Update complies with Section 155.127 of the North Plains Zoning Ordinance, specifically subsection (A) Comprehensive Plan & Zoning Amendments Review Criteria, Text Amendment, as addressed in the staff report to Planning Commission dated October 5, 2022. The proposed code changes comply with the North Plains Comprehensive Plan and Statewide Planning Goals.
4. Finding: Procedures: In accordance with ZDO Chapter 155.032 Application Review and Procedures, on October 12, 2022, the Planning Commission conducted a public hearing to discuss and make a recommendation regarding this application.

Specific Findings based on North Plains Municipal Code (NPMC)

(Code text is **Bold**. All findings are from the Staff Report to Planning Commission)

COMPLIANCE WITH CITY OF NORTH PLAINS MUNICIPAL CODE

COMPREHENSIVE PLAN & ZONING AMENDMENTS

§155.127 Review Criteria

(A) Text Amendment

An amendment to the text of the Comprehensive Plan or this Ordinance shall be based upon a need for such an amendment identified by the City Council or the Planning Commission. Such an amendment shall be consistent with the following review criteria:

(1) Impact of the proposed amendment on land use and development patterns within the city, as measured by:

(a) Traffic generation and circulation patterns in compliance with the Transportation System Plan (TSP);

- (b) Demand for public facilities and services, in compliance with the City utility master plans;
- (c) Level of park and recreation facilities;
- (d) Economic activities;
- (e) Protection and use of natural resources;
- (f) Compliance of the proposal with existing adopted special purpose plans or programs, such as public facilities improvements.

Finding: *The adoption of the proposed Zoning Code text amendment is a necessary factual basis for the City to review proposed land use developments. The proposed text amendments do not affect the traffic generation and circulation patterns, level of park and recreation facilities, economic activities, protection and use of natural resources or compliance with special purpose plans or programs. This standard is met.*

(2) The proposed amendment complies with all applicable Statewide Planning Goals and administrative rule requirements.

Finding: *Oregon's 19 Statewide Planning Goals are addressed below. Though several of the goals are not applicable to the proposed zoning code text amendments, those that are applicable are responded to in detail.*

Goal 1 Citizen Involvement

The proposed changes to the Zoning and Development Code do not specifically address citizen involvement.

This land use application is subject to a City of North Plains Type IV land use review, which includes a significant citizen involvement component. This process has been established by the city and determined to be consistent with this goal. The mandatory public notice of the action and decision, and the hearings on this case before the Planning Commission and City Council are all avenues of citizen participation.

Goal 2 Land Use Planning

This statewide goal requires that land use decisions 1) have an adequate factual base, 2) that alternatives have been considered, and 3) that implementation measures are consistent with and adequate to carry out comprehensive plan.

The process identified above was utilized in the drafting of this proposed Zoning Code Amendment. Alternatives have been considered throughout the drafting of the proposed code language updates, including several publicly-noticed work sessions with the Planning Commission and City Council. The proposed changes are consistent with and adequate to carry out the Comprehensive Plan.

Goal 3 Agricultural Lands

This goal does not apply because the City does not include area designated for agricultural use.

Goal 4 Forest Lands

This goal does not apply because the City does not include area designated for forest use.

Goal 5 Open Spaces, Scenic and Historic Areas, and Natural Resources

There are no proposed changes to text regarding Goal 5 open spaces, scenic and historic areas and natural resources. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 6 Air, Water and Land Resources Quality

There are no proposed changes to text regarding air, water, or land resources. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 7 Areas Subject to Natural Hazards

There are no proposed changes to text regarding areas subject to natural hazards. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 8 Recreational Needs

There are no proposed changes to text regarding recreational needs. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 9 Economic Development

There are no proposed changes to text specifically regarding economic development. The proposed text amendment does include regulations pertaining to marijuana and psilocybin businesses. Revision of the regulations pertaining to marijuana and psilocybin businesses supports economic development in the city. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 10 Housing

There are no proposed changes to the text regarding housing. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 11 Public Facilities and Services

There are no proposed changes to text regarding public facilities and services. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 12 Transportation

The Transportation Planning Rule (TPR), OAR 600-012.0060, requires that, where an amendment to a comprehensive plan or zoning regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures that assure that allowed land uses are consistent with the function, capacity, and performance standards of the facility. The proposed zoning code text amendment does not propose any changes to an existing or planned transportation facility and, as such, the proposed zoning code text amendment does not affect the transportation system of the City.

Goal 13 Energy Conservation

There are no identifiable energy consequences of this land use action. The proposed text amendments will not result in any appreciable difference in waste production or recycling compared with development under the existing zoning.

Goal 14 Urbanization

There are no proposed changes to text regarding urbanization. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 15 Willamette River Greenway

Goal 16 Estuarine Resources

Goal 17 Coastal Shorelands

Goal 18 Beaches and Dunes

Goal 19 Ocean Resources

The City is not within the plan boundary for the Willamette River Greenway, does not have any estuarine resources, and is not on the Oregon Coast, so goals 15 through 19 do not apply.

As discussed above, the proposed text amendments are generally consistent with the Statewide Planning Goals.

(3) The amendment is appropriate as measured by at least one of the following criteria:

(a) It corrects identified error(s) in the provisions of the plan.

(b) It represents a logical implementation of the plan.

(c) It is mandated by changes in federal, state, or local law.

(d) It is otherwise deemed by the City Council to be desirable, appropriate, and proper.

Finding: *The proposed text amendments generally represent a logical implementation of the Comprehensive Plan. The proposed amendment is appropriate and this standard is met.*

(4) Compliance with the statewide Transportation Planning Rule. When a development application includes a Comprehensive Plan, Zone Map or Text Amendment, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060, the Transportation Planning Rule. "Significant" means the proposal would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors). This would occur, for example, when a street classification, requiring traffic to exceed the levels associated with a "collector" street classification, requiring a change in the classification to an "arterial" street as identified by the City's Transportation System Plan (TSP); or

- (b) Change the standards implementing a functional classification system; or**
- (c) As measured at the end of the planning period identified in the North Plains TSP or Comprehensive Plan; or**
- (d) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance identified in the North Plains TSP or Comprehensive Plan; or**
- (e) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the North Plains TSP or Comprehensive Plan.**

(5) Amendments that affect Transportation Plans. Except as provided in subsection 6 Exceptions, amendments to the Comprehensive Plan or land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity and level of service of the facility identified in the North Plains TSP. This shall be accomplished by one of the following:

- (a) Adopting measures that demonstrate that allowed land uses are consistent with the planned function of the transportation facility; or**
- (b) Amending the North Plains TSP or Comprehensive Plan to provide transportation facilities, improvements, or services adequate to support the proposed land uses; such amendments shall include a funding plan to ensure the facility, improvement, or service will be provided by the end of the planning period; or**
- (c) Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes of transportation; or**
- (d) Amending the planned function, capacity or performance standards of the transportation facility; or**
- (e) Providing other measures as a condition of development or through a development agreement or similar funding method, specifying when such measures will be provided.**

(6) Exceptions. Amendments to the Comprehensive Plan or land use regulation with a significant effect on a transportation facility, where the facility is already performing below the minimum acceptable performance standard identified in the North Plains TSP or Comprehensive Plan, may be approved when all of the following criteria are met:

- (a) The amendment does not include property located in an interchange area, as defined under applicable law;**

(b) The currently planned facilities, improvements or services are not adequate to achieve the standard;

(c) The currently planned facilities, improvements or services at a minimum mitigate the impacts of the amendment in a manner that avoids further degradation to the performance of the facility by the time of the development; and

(d) The road authority provides a written statement that the proposed funding and timing for the proposed development mitigation are sufficient to avoid degradation to the facility.

***Finding:** The proposed text amendments do not include changes to the Transportation System Plan or significantly affect a transportation facility. The proposed text amendments are in compliance with the Transportation Planning Rule.*

§155.129 Findings

Findings justifying a decision on an application shall be made in writing, and shall be provided to the applicant.

***Finding:** The City Council's final decision will include written findings. As the City is the applicant, they will have the findings.*

§155.129 Conditions

The granting of an approval of any land use action under Chapter 16.200 may be subject to such conditions as are reasonably necessary to protect the public health, safety or general welfare from potentially damaging effects resulting from approval of the permit, or to fulfill the public need for service demands created by approval of the request.

***Finding:** Staff does not find it necessary to subject this decision to any conditions of approval.*

Before the City Council of the City of North Plains

In the matter of an application for adoption of)
an update to the text of the Zoning and)
Development Code regarding Marijuana and)
Psilocybin Land Uses)
City of North Plains, APPLICANT)

NOTICE OF DECISION-
22-115 Zoning and Development Code Text
Amendment
CC Hearing Date: November 7, 2022
CC Adoption Date: November 21, 2022
Effective Date: December 21, 2022

The City of North Plains (“City”) initiated an amendment to the Zoning and Development Code to implement updates regarding regulations pertaining to marijuana and psilocybin land uses. The City submitted the proposed amendments to the Oregon Department of Land Conservation and Development (“DLCD”) on September 7, 2022.

The North Plains Planning Commission conducted a duly-noticed public hearing and reviewed the Zoning and Development Code amendments and staff report at its meeting on October 12, 2022 and recommended approval of the proposed amendments. The North Plains City Council conducted a duly-noticed public hearing and reviewed the proposed text amendments, Planning Commission recommendation, public testimony and staff report at its meeting on November 7, 2022.

The City Council considered the application, the evidence in the record and applicable criteria for the amendments proposed in Application File No. 22-115 (Marijuana and Psilocybin Land Use Regulations Zoning and Development Code Text Amendment). Having considered the application and the evidence in the record, the City Council duly approved File No. 22-115, conducted a first reading on November 7, 2022, conducted a second reading and adopted Ordinances 485 and 486 on November 21, 2022 with an effective date of December 21, 2022.

In support of its decision, the City Council adopted the findings and conclusions contained in the Planning Commission recommendation dated October 12, 2022 (signed October 13, 2022) as its findings, determining them to be reasonable and to constitute substantial evidence in support of the proposed amendments.

Accordingly, the Zoning and Development Code Text Amendments shall take effect pursuant to Ordinance Nos. 485 and 486 as signed by the Mayor of North Plains. The decision, with associated findings, is available anytime for review at northplains.org or at City Hall, 31360 NW Commercial Street, during business hours.

The decision described herein may be appealed to the Oregon Land Use Board of Appeals within twenty-one (21) days of the date of signature of this notice. Any party with legal standing may file an appeal. Appeals may be filed by submitting a Notice of Intent to Appeal consistent with applicable legal requirements. If you have questions about this decision, or the appeal process, please contact Planning Manager Steve Miller at 503-647-5555 or visit North Plains City Hall at 31360 NW Commercial Street.

Teri Lenahan
Mayor

Date

for inspection by calling or emailing City Manager Andy Varner. Copies can be provided at a reasonable cost. The City's staff report and recommendation to the Planning Commission will be available for review no later than one week prior to the public hearing.

Failure to raise an issue in sufficient detail during the comment period or at the public hearing may preclude an appeal to the Land Use Board of Appeals or Appeals/Circuit Court on that issue. Only comments on the applicable criteria are considered relevant evidence. The hearing will be opened for presentation by the city and the applicant and then opened to the public. The hearing can be closed or continued at the discretion of the Planning Commission. If the hearing is closed, the Commission has the right to extend the time for additional information to be submitted by the public or the applicant. After the comment period closes on the final public hearing, 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.

File: File # 115 File # 116

Name: Emil Chiu

Address: 9986 NW 307th Ave, North Plains, OR 97133

Email Address: elchiu59@gmail.com

Date: October 12, 2022

COMMENTS (PLEASE INCLUDE AN ADDITIONAL SHEET IF NEEDED, OR SUBMIT VIA EMAIL):

file # 115
 I am the homeowner and I do not want marijuana & Psilocybin business move into our North Plains community that will provide quick & easy access to adversely harm our neighborhood and decrease the value of our homes. I am against file #115

file # 116
 I am against file #116 for the following reasons:
 - It harms and destroys small business "Bed & Breakfast Inn" and consumers lose the opportunity to enjoy this type of service.
 - short term renters are difficult to track their criminal background.
 It opens the flood gate of high crime rate, drug and human trafficking.

Submit written or verbal comments at the public hearings on October 12, 2022 at 6:00 PM; OR:
 MAIL: 31360 NW Commercial Street, North Plains, OR 97133
 E-MAIL: andy.varner@northplains.org

Please contact City Manager Andy Varner at (503) 647-5555 with any questions. Thank you!

Notice to mortgagee, lien holder, vendor or seller: if you receive this notice it shall be promptly forwarded to the purchaser.