ORDINANCE NO. 468

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORTH PLAINS, OREGON, IMPLEMENTING AN UPDATE TO THE ZONING AND DEVELOPMENT CODE CHAPTER 16.210

WHEREAS, the City of North Plains Planning Commission initiated proceedings to amend the Zoning and Development Ordinance, Chapter 16 of the Municipal Code; and

WHEREAS, the applicable section of the Zoning and Development Ordinance is 16.210 Temporary Use Permits; and

WHEREAS, the City submitted the proposed amendments to DLCD on December 4, 2019; and

WHEREAS, the Planning Commission conducted a duly-noticed public hearing, and reviewed the proposed text amendments and staff report at its meeting on March 11, 2020; 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 April 20, 2020; and

WHEREAS, the proposed Zoning Code Text Amendment includes language to permit the construction of model homes on sites with preliminary subdivision approval prior to the final plat recording; and

WHEREAS, having considered the application, the evidence in the record and applicable criteria for the amendments proposed in Application File No. 19-127B (Zoning Code Update) to amend Section 16.210 the Zoning and Development Ordinance (Chapter 16 of the Municipal Code).

Now, therefore:

THE CITY OF NORTH PLAINS ORDAINS AS FOLLOWS:

Section 1. The City hereby adopts the Zoning Code Text Amendments proposed in File 19-127B, attached hereto as Exhibit “A” and incorporates them into the North Plains Zoning and Development Code, Chapter 16 of the Municipal Code.

Ordinance No. 468
Section 2. In support of its decision, the City Council adopts the findings within the Planning Commission Recommendation for File No. 19-127B, dated March 11, 2020 and signed March 13, 2020, attached hereto as Exhibit “B”.

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

INTRODUCED on the 20th day of April, 2020, ADOPTED on the 4th day of May, and EFFECTIVE on the 3rd day of June, 2020.

CITY OF NORTH PLAINS, OREGON

By: ____________________________

Teri Lenahan, Mayor

ATTEST:

By: ____________________________

Lori Lesmeister, City Recorder
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 a Limited Land Use (Type I) Permit 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. Using 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 or offices for the purpose of facilitating the sale of real property in any subdivision or tract of land within the City, but for no other purpose, based on the following criteria:

1. 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;
2. The property to be used for a temporary sales office shall not be permanently improved for that purpose;
3. Conditions may be imposed regarding temporary utility connections, and as necessary to protect public health, safety, or welfare.

C. Temporary Building, Trailer, Kiosk or Structure. Temporary 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, 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:

1. The temporary trailer or building shall be located within the specified property line setbacks of the parcel of land on which it is located;
2. The primary use on the property to be used for a temporary trailer is already
developed or has received land use approval;
3. Ingress and egress are safe and adequate as demonstrated by an approach permit approved by the road authority, as applicable;
4. There is adequate parking for the customers or users of the temporary use;
5. The use will not result in vehicular congestion on streets;
6. The use will pose no impediment or hazard to pedestrians in the area of the use;
7. 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;
8. The building complies with applicable building codes;
9. 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
10. 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
11. Conditions may be imposed regarding temporary utility connections, and as necessary to protect public health, safety, or welfare.

D. Model Home constructed prior to subdivision plat recording. Using 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 construction of model homes prior to subdivision plat recording, based on the following criteria:

1. The subdivision is located within the City Limits.
2. The proposed subdivision includes four (4) lots or more (not a partition).
3. Land use approval for the subdivision has not expired.
4. The final plat for the approved subdivision has been submitted to the City and County surveyor for review according to the provisions of Section 16.135.055.
5. Safe and adequate pedestrian and vehicle access is provided to the model home(s), with all streets serving the model home(s) constructed according to approved engineering plans, with a minimum of a sidewalk to City standards along the frontage of each model home lot, curbs and the first lift of asphalt
completed.
6. Adequate fire access and water supply is provided, including fire hydrants.
7. Adequate parking is provided.
8. Any improvement to the property is designed and constructed to not preclude full compliance with all applicable development standards upon final plat approval. The applicant bears the sole and complete risk of altering or relocating the model home prior to final plat approval if such actions are necessary for it to comply with all applicable development standards upon final plat approval.
9. Each model home must be located and constructed on a separate preliminary lot intended for a dwelling unit as shown on the preliminary plat and in conformance with all applicable development standards, including but not limited to: setbacks, lot coverage, height, facade design, and access. The lot on which the model home is located is not a final approved lot for any purpose. A model home approval is not the basis for an adjustment, variance, vested right or nonconforming use.
10. Security in a form and amount acceptable to the City is provided for construction of all public utilities as identified on the approved public improvement plans.
11. The total number of model homes:
   i. Does not exceed three (3), or one for every eight (8) acres of land within an approved master plan, whichever is greater (no rounding up is permitted);
   ii. Does not exceed one (1), or one for every eight (8) acres of land proposed for subdivision in a preliminary plat that is not within an approved master plan, whichever is greater (no rounding up is permitted).
12. The applicant obtains a temporary use permit and building permit for each structure.
13. The temporary use application for a model home must include authorization from the owner, binding its successors and assigns, for the city to enter the property and take such actions as are necessary to demolish and remove any structure that has been declared a nuisance pursuant to Chapter 7.10 of the Municipal Code.
14. If final plat approval is not obtained prior to the expiration of the preliminary plat approval, each model home must be removed and the property restored and made safe by the applicant or owner. This must occur no later than 60 days after the expiration of the preliminary plat approval.
shall be declared a nuisance. The city will enter the property and abate the nuisance by taking such actions as are necessary to demolish and remove the structure in compliance with the owner authorization and performance bond required in subsection 16.210.010.D.13.


16.210.015 Conditions of Approval
In issuing a temporary permit, the City 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 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.
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
19-127B- Zoning Code Update
Comprehensive Plan Text Amendment
PC Hearing Date: March 11, 2020

Whereas, the City of North Plains initiated an update to the following Chapters of the Zoning and Development Code:
- 16.020 R-7 Zoning District
- 16.025 R-5 Zoning District
- 16.030 R-2.5 Zoning District
- 16.045 NC Zoning District
- 16.105 Accessory Structures
- 16.125 Lot Development Standards
- 16.145 Public Facilities
- 16.150 Street Standards
- 16.210 Temporary Uses; 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 March 11, 2020; 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

Whereas, the Planning Commission determined that more time is needed to craft the language of the majority of the code chapters before sending a recommendation to the City Council; and

Whereas, the Planning Commission identified one chapter ready for review by the City Council, Chapter 16.210 (Temporary Uses) regarding the placement of multiple model homes on a development site prior to the recoding of the plat; and

Whereas, the Planning Commission previously separated the review of the proposed zoning code amendments into two land use reviews, 19-127A (Zoning Code Chapters 16.045 and 16.170) and 19-127B (Zoning Code Chapters 16.020, 16.025, 16.030, 16.045 [Additional Changes forthcoming], 16.105, 16.125, 16.145, 16.150 and 16.210); and

Whereas, City File 19-127A was previously approved and the Planning Commission now separates the review of the remaining proposed zoning code amendments into two land use reviews, 19-127B (Zoning Code Chapter 16.210) and 19-127C (Zoning Code Chapters 16.020, 16.025, 16.030, 16.045, 16.105, 16.125, 16.145 and 16.150); 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 19-127B Zoning Code Update (proposing changes to only Chapter 16.210 of the Zoning and Development Code) 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 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

Date: 3/13/2020

19-127B Zoning Code Amendment- PC Recommendation to City Council
General Findings

1. Finding: Applications for zoning code 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 December 25, 2019 and was included in the City Newsletter.


4. Finding: Procedures: In accordance with ZDO Chapter 16.170 Application Review and Procedures, on March 11, 2020, 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

16.200 COMPREHENSIVE PLAN & ZONING AMENDMENTS

16.200.015 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, demand for public facilities and services, 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. 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 regarding economic development. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

**Goal 10 Housing**  
The proposed changes to the temporary use section of the zoning code affects model homes, which eventually become housing but are not used as housing while under the temporary use permit. 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. No changes are proposed to street or transportation network standards. 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 identifiable impacts to the urbanization factors in the statewide planning goals, so this proposal is consistent.

**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 or 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.

### 16.200.020 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.

### 16.200.025 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.