ORDINANCE NO. 470


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 sections of the Zoning and Development Code include:
   16.105 Accessory Use Structures
   16.135 Subdivisions
   16.145 Public Facility Service Requirements
   16.150 Street Standards

WHEREAS, the City submitted the proposed amendments to DLCD on June 3, 2020; and

WHEREAS, the Planning Commission conducted a duly-noticed public hearing, and reviewed the proposed text amendments and staff report at its meeting on July 8, 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 August 3, 2020; and

WHEREAS, the proposed Zoning Code Text Amendment includes language addressing accessory structures, accessory dwelling units, residential fences, subdivision submittals, public facility requirements and street standards; and

WHEREAS, having considered the application, the evidence in the record and applicable criteria for the amendments proposed in Application File No. 20-022 (Zoning Code Update) to amend Chapters 16.105, 16.135, 16.145 and 16.150 of 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 20-022, attached hereto as Exhibit “A” and incorporates them into the North Plains Zoning and Development Code, Chapter 16 of the Municipal Code.

Ordinance No. 470
Section 2. In support of its decision, the City Council adopts the findings within the Planning Commission Recommendation for File No. 20-022, dated July 8, 2020 and signed July 15, 2020, attached hereto as Exhibit “B”.

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

INTRODUCED on the 3rd day of August, 2020, ADOPTED on the 17th day of August, 2020, and EFFECTIVE on the 16th day of September, 2020.

CITY OF NORTH PLAINS, OREGON

By: ________________________________
    Teri Lenahan, Mayor

ATTEST:

By: ________________________________
    Lori Lesmeister, City Recorder

Ordinance No. 470
Chapter 16.105
Accessory Uses, Structures, and Dwellings

16.105.000 Requirements for Accessory Uses and Structures

A. Accessory Structures on Residential Lots

On all residential lots, accessory structures with a floor area greater than 200 square feet associated with a single family dwelling, other than fences or walls, shall be either recessed behind, or flush with, the front elevation of the dwelling. All accessory structures utilized for dwelling purposes must meet the requirements of Section 16.105.005, below.

B. Commercial Activity Associated with Accessory Structures

Commercial activities on residential lots must comply with the Home Occupation standards of identified in Chapter 16.085.

C. Setbacks

In all residential zoning districts, and the residential portions of the NC zoning district, the following setbacks shall apply to accessory structures greater than 200 square feet in size:

1. Rear:
   a. All portions of an accessory structure up to 10 feet in height shall be setback a minimum of 5 feet from the rear property line.
   b. All portions of an accessory structure over 10 feet in height shall be setback a minimum of 10 feet from the rear property line.
   c. These standards may result in a “stair-stepped” setback requirement, with portions of the same building meeting different setback requirements.

2. Side:
   a. All portions of an accessory structure up to 10 feet in height shall be setback a minimum of 3 feet from the interior side property line.
   b. All portions of an accessory structure over 10 feet in height shall be setback a minimum of 5 feet from the interior side property line.
   c. These standards may result in a “stair-stepped” setback requirement, with portions of the same building meeting different setback requirements.

3. Street Side:
   a. Accessory structures shall meet the same street side setback standards as primary structures in the underlying zone.

16.105.005 Requirements for Accessory Dwellings

An accessory dwelling is a secondary housing unit that is smaller than the existing primary
structure on a residential 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. Utility Connection. The structure is permanently built and connected to utilities in a manner similar to the primary structure;

C. Unit. A maximum of one accessory dwelling unit is allowed per dwelling unit on the same lot;

D. Building Height. The building height of detached accessory dwellings (i.e., separate cottages) shall not exceed 25 feet;

E. Buffering. A 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; and

F. 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 and Walls

Fences and walls may be located in any required yard or along the edge of any yard, subject to the maintenance of clear-vision areas. Fences and walls shall not exceed a height of three (3) feet along the front property line or within a front yard setback. A fence or wall may not exceed six (6) feet in height on a residential lot without approval of a variance.

On residential lots, the fence height may be measured from the elevation of the ground where the fence sits (Figure 1., below) or from the finished floor elevation of the first floor of the home located on the same lot (Figure 2., below). For residential lots where the home sits at an elevation above the location of the fence, a retaining wall or other approved method shall be used to raise the base height of the fence equal with the finished floor elevation of the first floor of the home.
Chapter 16.135
Subdivisions

16.135.000 Definition

“Subdivision”, for the purpose of this Chapter is meant 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 minimum 18 x 24 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 percent: 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 floodplain.

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 (a minimum 250-foot radius of the site) 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. The vicinity map shall identify the grade(s) of adjacent properties in relation to the grade(s) of the proposed subdivision.

14. Proposed fences within and surrounding the subdivision.

15. Proposed deed restrictions, if any, in outline form.

16. The location of existing sewage disposal facilities, water mains, culverts, storm drainage facilities, fences and electric lines within and adjacent to the subdivision.

17. Dimensions and area (square footage) of each proposed lot and tract.

18. Proposed lot and tract numbers (or other designator such as letter for tracts).
19. Proposed sites, if any, allocated for development.

20. All subdivisions must show how layout of streets will interface with and accommodate all adjacent properties.

21. 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 drainageways.

   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 chapter16.185;

B. The proposed streets, roads, sidewalks, bicycle lanes, pathways, utilities, fences and surface water management facilities are laid out so as to conform or transition to adjoining property as to width, grade, general direction and in all other respects. All proposed public improvements and dedications are identified on the preliminary plat;

C. For subdivisions in residential zones or proposing residential development, the plat shall include municipal park area, with a minimum size of 400 square feet per dwelling unit in the subdivision.

D. All proposed private common areas and improvements (e.g. homeowners association property) are identified on the preliminary plat;
E. Evidence that any required State and federal permits have been obtained, or shall be obtained before approval of the final plat;

F. 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;

G. A Traffic Impact Study (TIS) has been provided, if applicable, in accordance with the provisions of Chapter 16.170; and

H. 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. If a Floodplain Development Permit or Significant Natural Resource Overlay Permit is required for the development of the subdivision, the Floodplain Development Permit or Significant Natural Resource Overlay Permit must be approved PRIOR to approval of the subdivision preliminary plat. In most cases, this will require two separate hearings before the Planning Commission.


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. Access easements may be required to be granted to the City for the purpose of providing access to adjoining undeveloped properties.

E. 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 access 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.

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. Such conditions may include requirement that all fences constructed with the approved subdivision meet the standards of Development Code Section 16.105.010.

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 two years after the date of the approval of the tentative plan. If the subdivider cannot complete the recording of the final plat within the two-year time period, the subdivider may petition the City for an extension of the subdivision approval in accordance with the provisions of Section 16.080, Termination of Approvals and Extensions.

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 two years of the date of approval of the tentative plan. Final plats of subsequent phases may be submitted after the two 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 two years 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 plat notes.

6. Identification of land to be dedicated for any purpose, public or private, to distinguish it from lots intended for sale.

7. All plats must be signed and sealed in accordance with ORS 92.140.

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.

4. A copy of any dedication requiring separate documents.
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 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 or 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 subdivider shall, without delay, submit the mylar 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 City signature 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 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. In addition, model homes are permitted subject to the provisions of Chapter 16.210 Temporary Permits.

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 16.145
Public Facility and Service Requirements

16.145.000 Purpose

To ensure the health, safety, and the economic stability of the community, and to establish a quality system of public improvements, the City shall require any buildings or other development for which public facilities and public rights-of-way are not fully provided or improved to current City standards, to install said improvements. The purpose of this section is to identify those public facilities and services that are necessary at a minimum level to accommodate development.

16.145.005 Application of Public Facility Standards

The provisions of Chapter 16.145 Public Facility and Service Requirements shall apply to development within the City of North Plains as listed in the following table. No development permit shall be approved unless the following required improvements are provided to City standards prior to occupancy or operation unless an exception is approved by the City per Chapter 16.145.115 or future provision of the improvement is assured per Chapter 16.145.120.

<table>
<thead>
<tr>
<th>Public Facility Improvements Requirements Table</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fire Hydrant</td>
</tr>
<tr>
<td>---</td>
</tr>
<tr>
<td>Residential Development</td>
</tr>
<tr>
<td>Partitions, Subdivisions and Manufactured Home Parks</td>
</tr>
<tr>
<td>New Commercial, Industrial, Mixed-Use, Institutional, Public or Semi-Public Buildings</td>
</tr>
<tr>
<td>Commercial, Industrial, Institutional, Public or Semi-Public Expansions</td>
</tr>
</tbody>
</table>

N = Not required  Y = Yes, required  C=Conditional, required in some cases

Note: Street lights shall be installed per City Standards.
**Y1 Street Improvements for Single Family Homes**
New single family homes located on existing improved streets must pay the City's Systems Use Fee prior to issuance of a building permit. New single family homes which are located adjacent to a City street must meet the City's street standards. Extension of County roads must meet the County road standards.

**Y2 Sewer Line Extensions for Single Family Homes**
Clean Water Services has jurisdiction over sewer line extensions. CWS generally requires extension of the sewer lines to serve new hook-ups.

**C1 Fire Hydrants for Commercial Expansions**
A fire hydrant is required when:
1. The total floor area of the building, including existing area and expanded area, is greater than or equal to 2500 square feet; or
2. A use is proposed which is classified as a Hazardous (H) use under the Uniform Building Code.

**C2 Street Improvements for Commercial, Institutional, Public, Semi-Public & Industrial Expansions**
Lots fronting on County roads must obtain access permits from the Washington County Department of Land Use and Transportation. The City will require improvement to full City standards when the use meets any of the following criteria:

- a. The use generates an average of 100+ trips per day per 1000 gross square feet of building as documented in the Trip Generation Manual of the Institute of Transportation Engineers or other qualified source; or
- b. The use includes daily shipping and delivery trips by vehicles over 20,000 pounds gross vehicle weight.

**C3 Communications Infrastructure**
Communications infrastructure, including but not limited to conduit for communication utilities, shall be installed to adequately serve the approved level of development. Communications infrastructure shall be required when other public utility or roadway improvements are required of a development, and as required by City standards.

**16.145.010 Public Facility Standards**
All public improvements shall conform to City standards and specifications found in the Public Works Design Standards and installed in accordance with Chapter 16.145. Except for public projects constructed consistent with an existing facility plan or projects otherwise approved by the City, public improvements shall not be undertaken until land use approval has been granted, a public improvement plan review fee has been paid, all improvement plans have been approved by the City, and an improvement permit has been issued. The following public facility standards shall be applicable to all development as specified in the Application Review section of this chapter.

**A. Streets**
Street improvements required by Chapter 16.145.005 Public Facility & Service Standards shall be provided in compliance with City standards.
B. **Storm Drainage and Sewage Disposal**

No development permit shall be approved for any property until the City has reviewed and approved provisions for storm water drainage and Sanitary Sewer service in accordance with the City of North Plains Public Works Design Standards and Clean Water Services standards.

C. **Water Supply**

No development permit shall be approved for any property unless all affected water mains are either:

1. Fully improved to a standard providing both adequate potable water and fire flows, as established by the applicable State Plumbing Code and approved by the City Engineer; or

2. Improved to a standard providing adequate potable water flows pursuant to the City Water Master Plan and approved by the City and the Tualatin Valley Fire & Rescue.

D. **Communications Infrastructure**

No development permit shall be approved for any property until the City has reviewed and approved provisions for communications infrastructure. Generally, public telecommunication and franchise utility conduits (including but not limited to: electric power, telephone, natural gas, lighting, cable television and broadband internet) shall be installed to serve all newly created lots and developments in North Plains.

E. **Underground Facilities**

1. Except as otherwise provided, all utility facilities, including but not limited to, electric power, telephone, natural gas, lighting, cable television, and telecommunication cable, shall be placed underground, unless specifically authorized for above ground installation, because the points of connection to existing utilities make underground installation impractical, or for other reasons deemed acceptable by the City.

2. Exception. Surface-mounted transformers, surface-mounted connection boxes and meter cabinets, temporary utility service facilities during construction, high capacity electric and communication feeder lines, and utility transmission lines operating at fifty thousand (50,000) volts or more may be located above ground. The City reserves the right to approve location of all surface-mounted transformers.

**16.145.115 Exceptions**

All exceptions to the Public Facility Standards section of Chapter 16.145.005 shall be reviewed and approved by the Planning Commission at a public hearing conducted
pursuant to the Application Review Chapter. The Planning Commission may approve an exception to the Public Facility Standards if one or more of the following conditions exists:

A. The exception is necessary to preserve significant natural features, such as trees, sensitive areas or critical habitat;

B. The exception allows the construction of an alternative public facility that will increase efficiency in design or use of materials; or

C. The proposed exception results in a superior design and/or future use of the public facility.

16.145.120 Methods to Assure Facilities and Services

A legal and enforceable document, contract or process which assures the City that a public improvement will be accomplished is required prior to commencement of public infrastructure construction. Assurances shall be provided in a format approved by the City.

16.145.125 Determination of Impacts from Change of Use, new construction, alterations and/or additions

If the applicant intends to assert that he/she cannot legally be required to comply with the development standards required by this section, the building permit or site review application shall include a “rough proportionality” report, prepared by a qualified civil or traffic engineer, as appropriate showing:

A. The estimated extent, on a quantitative basis, to which the public improvements will be used by persons served by the building or development, whether the use is for safety or convenience;

B. The estimated level, on a quantitative basis, of improvements needed to meet the estimated future use by persons served by the building or development;

C. The estimated impact, on a quantitative basis, of the building or development on the public infrastructure system of which the improvements will be a part; and

D. The estimated level, on a quantitative basis, of improvements needed to mitigate the estimated impact on the public infrastructure system.

16.145.130 Requirement for Public Work Permit

No person, firm or corporation shall commence construction of improvements within a public right-of-way or upon public property without first obtaining a Public Works Construction Permit on a form or forms provided by the City. The Public Works Construction Permit shall be issued for a period of time outlined in the City’s Public Works Design Standards.

16.145.135 Fees

The applicant for a Public Works Construction Permit shall pay permit fees for
administration and inspection costs to be established by City Council Resolution.

16.145.140 Performance and Maintenance Security
The applicant shall file with the City prior to the issuance of a Public Works Construction Permit, security in form and amount acceptable to the City.

The applicant shall in addition provide security guaranteeing the improvements against any and all defects in workmanship and materials and the maintenance of excavated and filled trenches for period of one year from and after the date of completion of the improvements.

The provision of this Section shall not apply to any applicant having a franchise to use public rights-of-way or property for installation, maintenance and operation of public or private utilities.

16.145.145 Insurance Required
Prior to issuance of a Public Works Construction Permit, the applicant shall demonstrate compliance with all required insurance policies.

16.145.150 Indemnification
As a condition of the issuance of a permit, the applicant shall defend, indemnify and hold the city, its officers, employees, representatives, and agents harmless from and against any and all claims, demands, judgments, expenses, costs, or charges, including appeals, arising out of or related to the work covered by the permit.

16.145.155 Restoration
The permit holder is required to restore the surface of public places to the condition existing prior to the interruption in accordance with City standards. The City is authorized to restore the public place surface to its preexisting condition if the permit holder fails to do so and to assess the costs of the restoration against the permit holder.

16.145.160 Damage to Substructures
In the event any pipe, conduit, manhole, vault, buried cable, wire, or any other structure located below the surface of any public place should be damaged by the permit holder or his agents, representatives or designees, the substructure shall be repaid by the owner thereof and the expense of such repair shall be charged to the permit holder.

The permit holder shall be liable for any damage caused to any public property by the work performed in connection with the excavation permit, including but not limited to the damage to water lines, sewer lines, and other city owned or public utilities.

16.145.165 Protection of Adjoining Property
The permit holder shall at all times, at its own expense, preserve and protect from damage any adjoining property by providing proper foundations and taking other
measures suitable for that purpose. If it is necessary to enter upon private property for the purpose of taking appropriate protective measures, the permit holder shall obtain a license from the owner of such private property. The permit holder shall, at the holder's own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of the excavation work and shall be responsible for all damage resulting from the failure to protect such structures.

16.145.170 Care of Excavated Material

All material excavated from trenches shall be placed by permit holder in a location which shall not constitute a hazard or danger to persons lawfully using the public place or places being excavated, and shall not be placed within a public right-of-way without prior written approval from the City. During the work performed under any permit, the permit holder shall keep all streets and public places thoroughly cleaned of all rubbish, excess earth, rock, or other debris and dust resulting from such work. All cleanup operations at the location of such excavation shall be accomplished at the expense of the permit holder. In the event the permit holder fails or refuses to comply with the provisions of this section, the City, after notice to the permit holder, may direct the cleanup and removal of all rubbish, excess earth, rock, or other debris and dust and assess the cost thereof against the permit holder.

16.145.175 Construction Standards

All work performed under the permit shall be in accordance with standards established by the City, which standards may include but not be limited to methods of excavation, backfilling, restoration of surface, and restoration standards. Work in streets under Washington County jurisdiction shall also meet applicable County requirements. Work on sanitary or storm sewers under the jurisdiction of the Clean Water Services shall meet the standards of that agency.

16.145.180 Limitations of Liability

Nothing contained in the above sections, inclusive, shall cause the city or its employees, agents, or representatives to be liable for damages or injury to any person or property which may result from or arise out of the performance of any work under a public works construction permit.

16.145.185 Penalties

Any person violating any provisions of the above sections, inclusive, shall, upon conviction thereof be fined in an amount not to exceed $500. Each day that any such violation is permitted to continue shall constitute a separate offense and shall be punishable as a separate offense under the provisions of this section.
Chapter 16.150
Street Standards

16.150.000 Purpose

A. To provide for safe efficient, and convenient multi-modal movement in the City of North Plains.

B. To provide adequate access to all proposed developments in the City of North Plains.

C. To provide adequate area in all public rights-of-way for sidewalks, sanitary sewers, storm sewers, waterlines, natural gas lines, power lines and other utilities commonly and appropriately placed in such rights-of-way.

16.150.005 Scope

The provisions of this Subsection shall be applicable to:

A. The construction, dedication or creation of all new public or private streets in all subdivisions, partitions or other developments in the City of North Plains.

B. The extension or widening of existing public or private street rights-of-way, easements, or street improvements, including those which may be proposed by an individual or the City, or which may be required by the City in association with other development approvals.

C. The construction or modification of any utilities or sidewalks in public rights-of-way or private street easements.

16.150.010 General Provisions

The following general provisions shall apply to the dedication, construction, improvement or other development of all public streets in the City of North Plains:

A. The location, width, and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of the land to be served by the streets.

B. Development proposals shall provide for the continuation of existing principal streets where necessary to promote appropriate traffic circulation in the vicinity of the development. All new developments may be required to provide for joint-use access to all adjacent undeveloped or underdeveloped parcels.

C. Reserve strips Reserve strips controlling the access to streets will not be approved unless necessary for the protection of the public welfare or of substantial property rights, and in these cases they may be required. The control and disposal of the land composing such strips shall be placed within the
jurisdiction of the City under conditions approved by the Planning Commission.

D. **Alignment**: Road alignment shall conform to the City of North Plains Public Works Design Standards.

E. **Future extension of streets**: Where necessary to give access to or permit a satisfactory future development of adjoining land, streets shall be extended to the boundary of a tract being developed and the resulting dead-end streets may be approved without turnarounds. Reserve strips may be required to preserve the objectives of street extensions.

F. **Intersection angles**: Streets shall be laid out to intersect at angles as near to right angles as practical. Intersection design shall conform to the City of North Plains Public Works Design Standards.

G. **Existing streets**: Whenever existing public streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of subdivision or development.

H. **Cul-de-sacs**: Cul-de-sacs shall be used only when exceptional topographical constraints, existing development patterns, or compliance with other standards in this code preclude a street extension and circulation. A cul-de-sac shall not be more than four hundred (400) feet in length and shall not provide access to more than 20 dwelling units.

All cul-de-sacs shall terminate with a turnaround in accordance with the specifications in the Public Works Design Standards. The radius of circular turnarounds may be larger when they contain a landscaped island, parking bay in their center, Tualatin Valley Fire and Rescue submits a written request, or an industrial use requires a larger turnaround for truck access.

Public easements, tracts, or right-of-way shall provide paved pedestrian and bicycle access ways at least 6 feet wide where a cul-de-sac or dead-end street is planned, to connect the ends of the streets together, connect to other streets, or connect to other existing or planned developments in accordance with the standards of this Chapter, the TSP, Public Works Design Standards or other provisions identified in this Code.

I. **Street names**: No street names shall be used which will duplicate or be confused with the names of existing streets, except for extensions of existing streets. Street names and number shall conform to the established pattern in the City and shall be subject to the approval of the Planning Commission.

J. **Grades and curves**: Grades and curves shall conform to the City of North Plains Public Works Design Standards. Where existing conditions, particularly topography, make it otherwise impractical to provide buildable sites, the City Engineer may accept steeper grades and sharper curves.
K. **Alleys:** Alleys shall be provided in commercial and industrial districts unless other permanent provisions for access to off-street parking and loading facilities are made as approved by the City Engineer. Alleys shall be constructed consistent with the North Plains Public Works Design Standards.

L. **Sidewalks:** shall conform to the City of North Plains Public Works Design Standards. Curbs and sidewalks shall be required along both sides of all public streets. All new development upon lots, tracts or parcels of land adjacent to a public street will be required to construct curbs and sidewalks.

M. **Bike Lanes:** shall be provided where required by the City’s Transportation System Plan and shall be designed and constructed in compliance with the City’s Public Works Design Standards.

N. **Street trees:** shall be provided and shall be a species identified on the Washington County Approved Street Trees list.

O. **Access Spacing Standards:** shall comply with Washington County’s standards on County roads and the City of North Plains Transportation System Plan and Public Works Design Standards on City roads.

**16.150.015 General Right-of-Way and Improvement Widths**

Construction specifications for all street and right-of-way improvement widths shall comply with the criteria of the North Plains Transportation System Plan. These standards shall be the minimum requirements for all streets, except where modifications are permitted under this chapter or the Street Standard adopted by the City Council of North Plains, whichever is less restrictive. Refer to Street Design Standards in the Transportation System Plan for detailed diagrams depicting street right-of-way, improvements, and roadway width requirements. Washington County roads are subject to County roadway standards.

**16.150.020 Modification of Right-of-Way and Improvement Width**

The Planning Commission may allow modification to the public street standards of this chapter when both of the following criteria are satisfied.

A. The modification is necessary to provide design flexibility in instances where:

1. Unusual topographic conditions require a reduced width or grade separation of improved surfaces; or

2. Parcel shape or configuration precludes accessing a proposed development with a street which meets the full standards of the City of North Plains; or

3. A modification is necessary to preserve trees or other natural features determined by the Planning Commission to be significant to the aesthetic character of the area; or
4. A Planned Unit Development is proposed and the modification of street standards is necessary to provide greater privacy or aesthetic quality to the development.

B. Modification of the Street Standards of this chapter shall only be approved if the Planning Commission finds that the specific design proposed provides adequate vehicular access based on anticipated traffic volumes. If there is insufficient area of on-street parking, the Planning Commission may require additional off-street parking and require that the street be posted to prohibit parking along one or both sides of the street.

16.150.025 **Construction Specifications**

Construction specifications for all public improvements shall comply with the criteria of the most recently adopted City of North Plains Transportation System Plan and Public Works Design Standards.
Before the City Council of the City of North Plains

In the matter of an application for adoption of a Zoning and Development Code Text Amendment, City of North Plains, APPLICANT

NOTICE OF DECISION-
Zoning Code Text Amendment
CC Hearing Date: August 17, 2020

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 chapters of the Zoning and Development Code include: 16.105 Accessory Use Structures; 16.135 Subdivisions; 16.145 Public Facility Service Requirements and 16.150 Street standards; and

WHEREAS, the Planning Commission conducted a duly-noticed public hearing and reviewed the text amendments and staff report at its meeting on July 8, 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 August 3, 2020; and

WHEREAS, the proposed Zoning Code Text Amendment includes language addressing accessory structures, accessory dwelling units, residential fences, subdivision submittals, public facility requirements and street standards; and

WHEREAS, the Planning Commission and City Council considered the submitted staff report and reviewed the proposed Zoning Code Text Amendment for compliance with the North Plains Comprehensive Plan, which incorporates the Statewide Planning Goals, and thereafter closed the hearing; and

WHEREAS, having considered the application and the evidence in the record, the City Council approved File No. 20-022 Zoning Code Text Amendment and conducted a first reading on August 3, 2020, conducted a second reading and adoption of Ordinance 470 on August 17, 2020, and made the updated Zoning Code Text Amendment effective September 16, 2020.

Now therefore, the City of North Plains Ordains as Follows:

The City Council approves the Zoning Code Text Amendment, file 20-022, based on the findings and conclusions contained in the Planning Commission recommendation dated July 8, 2020, which the City Council hereby adopts as its findings, and determines to be reasonable.

This updated Zoning Code Text Amendment shall take effect pursuant to Ordinance No. 470 as signed by the Mayor of North Plains. This decision, with associated findings, is available anytime for review at cityofnp.org or at City Hall, 31360 NW Commercial Street, during business hours.

This decision may be appealed to the Oregon Land Use Board of Appeals within twenty-one (21) days of the date 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 City Manager Andy Varner at 503-647-5555 or visit North Plains City Hall at 31360 NW Commercial Street.

Teri Lenahan
Mayor

August 17, 2020

Date