

**CITY OF NORTH PLAINS PLANNING COMMISSION
REGULAR SESSION AGENDA
NORTH PLAINS SENIOR CENTER, 31450 NW Commercial Street
WEDNESDAY, APRIL 9, 2014, 7:00 P.M.**

1. **CALL TO ORDER**

2. **FLAG SALUTE**

3. **ROLL CALL**

4. **PUBLIC COMMENTS**

(This time is provided for questions or statements by persons in the audience on any item of Planning Commission business, except those items which appear on this agenda. Comments shall be limited as determined by the Chairperson.)

5. **CONSENT AGENDA:** *(The items on the Consent Agenda are normally considered in a single motion. Any item may be removed for separate consideration upon request by any member of the Planning Commission.)*

A. Approval of this Regular Session Agenda

B. Approval of March 12, 2014 Regular Session Minutes

6. **NEW BUSINESS**

A. Interview of Applicant for Planning Commission - Applicant Garth Eimers

B. Discussion of Medical Marijuana Dispenseries

C. Review of Home Occupation

7. **UNFINISHED BUSINESS**

8. **STAFF REPORT**

City Manager

9. **ADJOURNMENT**

The Planning Commission meetings are temporarily scheduled to be held at Jessie Mays Community Hall, 30975 NW Hillcrest Street, North Plains, Oregon, while the Senior Center is in the middle of a remodel. Meetings will be held on the following dates at 7:00 p.m.:

Wednesday, May 14, 2013

Wednesday, June 11, 2014

Wednesday, July 9, 2014



CITY OF NORTH PLAINS

31360 NW Commercial St. North Plains, Oregon 97133

APPLICATION FOR APPOINTMENT TO THE PLANNING COMMISSION

Information provided in this application is considered public and may be used upon announcing your appointment. The Planning Commission usually meets once a month for approximately 2½ hours. From time to time special meetings are held to meet deadlines or conduct of public hearings. Preparation for each meeting usually involves an equal amount of time. The Planning Commission's regular meetings are the second Wednesday of each month at 7:00 p.m. at the Jessie Mays Community Hall.

Each position is a four-year term. If the application is submitted to fill a vacancy, the appointee will serve for the time remaining in that term. Each applicant is interviewed by the Planning Commission and the City Council. The Commission will relay its recommendation to the City Council for review at the Council's next scheduled meeting. The Council interview will occur prior to making it appointment to the Commission. Plan to attend both meetings for your application consideration

Name: GARTH EIMERS

Mailing Address: 11045 NW CAMI PL

Street Address: SAME

City NORTH PLAINS State OR Zip 97133

Home Phone: _____ Work Phone: _____ Cell Phone: 360 317 5608

E-mail Addresses: thezins@aol.com

Occupation: WRITER

Please answer the following questions: There is no "right" answer to any question. If additional space is needed, use the back of this page or attach a separate page.

- Why would you like to serve on the Planning Commission?
I ALWAYS CONTRIBUTE TO THE COMMUNITY WHERE I LIVE AND I HAVE "PLANNING COMMISSION" EXPERIENCE
- What do you think are the most important issues now facing North Plains?
MANAGING GROWTH
- Do you have any special interests or qualifications that you would bring to the Planning Commission?
PREVIOUS CHAIR, PLANNING COMMISSION - FOREST GROVE
PREVIOUS CHAIR, ORCAS PORT COMMISSION (ELECTED)
PREVIOUS CHIEF EMS SYSTEM SJC FPD #2
Thank you for applying. Your interest is appreciated!



CITY OF NORTH PLAINS

31360 NW Commercial Street, North Plains, Oregon 97133

Date: March 11, 2014

To: City Council

From: Martha DeBry, City Manager

Subject: Discussion of Medical Marijuana Ordinance

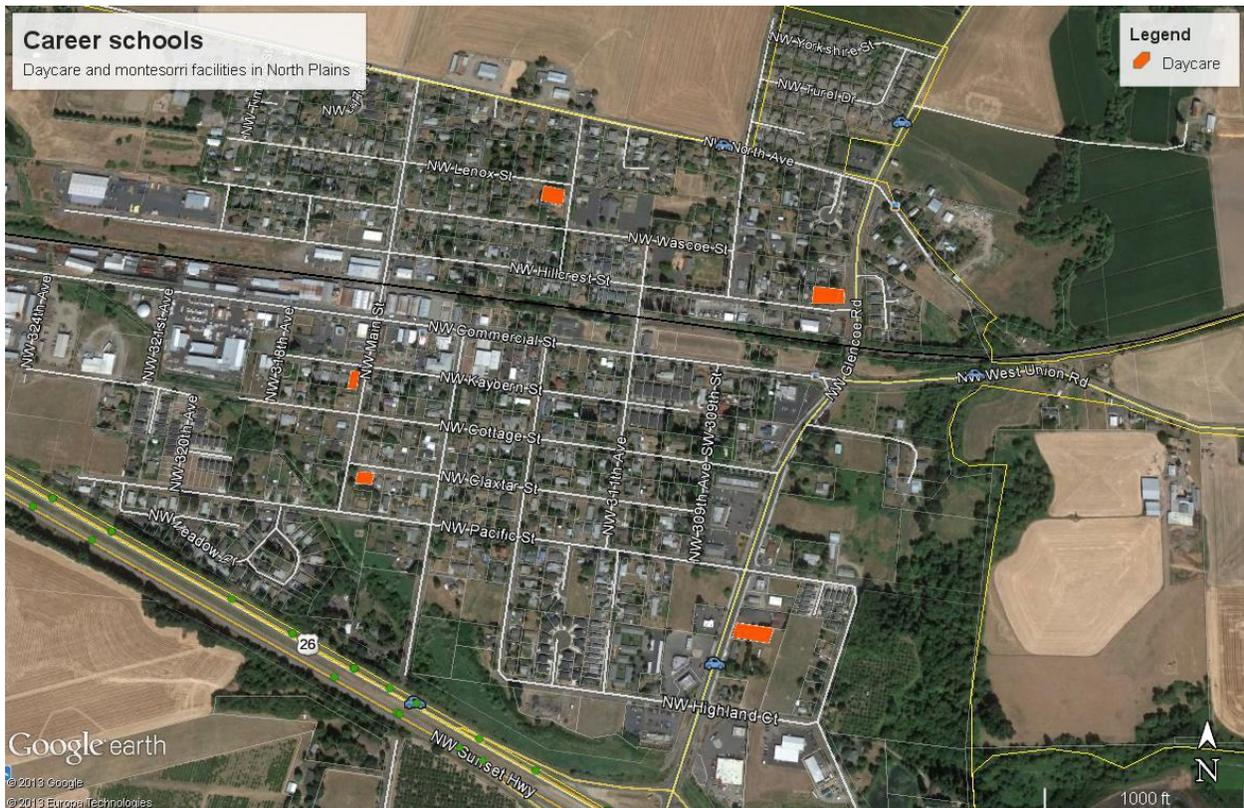
Request: Council consider its position on adopting a moratorium on the siting of marijuana dispensaries.

Background: State law recently enacted allows medical marijuana facilities to be located in areas zoned as for commercial, industrial or mixed use. Key provisions in State law are:

- No dispensary may open or operate within 1,000 feet of a primary or secondary school
- No dispensary may open or operate within 1,000 feet of another dispensary. *Applications for competing locations will be processed on a first-come, first-served basis*
- Dispensaries must be located only in areas zoned commercial, industrial or agriculture.
- All medical marijuana distributed through dispensaries must be tested for pesticides, mold and mildew, and may not be distributed if contaminants are found
- There must be a strong security system in place
- All product brought into and dispensed from the facility must be accounted for
- The Oregon Health Authority will visit and inspect each dispensary and audit its financial records at least once a year

For North Plains, the 1,000 feet of a primary school extends to the west and north of Main and Hillcrest, and west and north of 318th and Commercial.

The law also prohibits location within 1,000 feet of schools classified as “Career – private, proprietary, professional, technical, business or other schools of instruction, organizations or persons offering any instruction or training for the purpose or purported purpose of instruction, training or preparing persons for any profession at a physical location attended primarily by minors.” If the City can define pre-schools or Montessori schools as career school then technically no place on Commercial Street and most of Glencoe are prohibited from hosting dispensaries. The remaining locations where dispensaries can be located are industrial areas to the west of 318th/320th and south of Commercial or north of West Union.



Many local agencies are struggling with interpreting this new rule, and incorporating it into existing zoning ordinances. At present it is not an outright permitted use within the City, but would have to be considered as a conditional use. Twenty one (21) Oregon Cities (including Cave Junction, Clatskanie, Culver, Dallas, Fairview, Falls City, Grants Pass, Gresham, Harrisburg, Hermiston, John Day, Madras, Medford, Redmond, Sandy, Scappoose, Stayton, Toledo, Wilsonville, Winston and Wood Village) have implemented rules that effectively ban medical marijuana dispensaries, and another fourteen (14) have implemented moratoriums including Baker City, Beaverton, Coos Bay, Cornelius, Dayton, Florence, Gladstone, Hillsboro, Milwaukie, North Bend, Phoenix, Tualatin, Tigard and Sherwood.

Under Senate Bill 1531 local governments have until May 1, 2014 to enact a moratorium, which must expire by May 1, 2015.

The City of Hillsboro recently adopted an ordinance similar to the draft Ordinance included in the Council packet. This version provides a moratorium for 240 days versus 120 days. If adopted, the North Plains ordinance would need to be updated in the future.

In February, Washington County Law Enforcement Council, on which Police Chief Bill Snyder serves as Vice Chair, provided the following announcement:

"It is the position of the Washington County Law Enforcement Council (LEC) to oppose the establishment of Medical Marijuana Dispensaries within the city and county limits of Washington County. The possession, distribution, and manufacture of marijuana, although permissible under provisions of the Oregon Medical Marijuana Program (OMMP) and related statutes and rules, are a violation of Federal Law.

While the member agencies of LEC will consistently and fairly enforce established laws and ordinances of our communities, we believe the proliferation of marijuana use and availability outside the scope of the OMMP is a serious public health concern and has negative implications for the welfare of our community. We believe expanding the availability of marijuana, even under the auspices of the OMMP, will harm the general welfare of our community because of the significant potential to increase marijuana use among our youth, place a higher burden on emergency room care, drug treatment and other health care systems, increase marijuana-related exposure cases, and increase illegal interstate drug trafficking. Marijuana impairment doubles the risk of deadly traffic crashes and is a major causal factor in high school dropouts.

We believe medical marijuana dispensaries will have additional potential negative secondary effects on the community. These secondary effects include, but are not limited to the following: criminal activity, loitering, increased traffic, noise, litter, and a loss of trade for other businesses located nearby by interference. Local government control of land use and organized development helps promote local community values.

The member agencies of LEC have an ethical duty and statutory obligation to ensure the safety of our communities. Medical marijuana dispensaries are harmful to the surrounding community and its residents and constitute a public nuisance contrary to our community values which support Washington County as a safe place to live, work, and raise a family."

Mayor Hatcher suggested that this issue be presented to Council for consideration, as Washington County communities share a tradition of adopting rules that are supportive of each other. With six (6) cities already imposing moratoriums, it would be prudent for North Plains to align its policies with the neighboring agencies. The larger cities of Hillsboro, Tualatin and Sherwood are taking a lead in vetting policies and ordinances. Staff recommends that Council discuss its approach to the medical marijuana issue. Beaverton has already adopted both an ordinance and moratorium.

Helpful links that explain the State law in more detail are below:

State Statute: http://www.oregon.gov/osp/des/docs/med_mj_patient_info.pdf

Rules for dispensaries: <http://www.oregon.gov/oha/mmj/Pages/rules.aspx>

Dispensary registration:

http://www.oregonlive.com/politics/index.ssf/2014/03/medical_marijuana_in_oregon_nu.html

Status of regulations in other communities:

http://www.oregonlive.com/politics/index.ssf/2014/03/medical_marijuana_in_oregon_wh.html

Fiscal Impact: The ordinance will not have any direct fiscal impact on the City. At this time there are no dispensaries, or any requests to locate dispensaries in town. The City also has no special permits or taxes associated with marijuana dispensary.

Environmental Issues: NA

Sample Motion: No motion item is for discussion only.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF NORTH PLAINS TEMPORARILY PROHIBITING THE LOCATION OF MEDICAL MARIJUANA FACILITIES WITHIN THE CITY OF NORTH PLAINS

WHEREAS, in the 2013 Special Session, the Oregon Legislature approved House Bill 3460 which creates a medical marijuana registration system and allows for medical marijuana facilities to be located in areas zoned for commercial, industrial, or mixed use; and

WHEREAS, House Bill 3460 also includes further specific restrictions on the location of medical marijuana facilities related to proximity to schools attended by minors and to other medical marijuana facilities; and

WHEREAS, this use and these restrictions are not currently included in North Plains Municipal Code; and

WHEREAS, the Planning Commission will shortly begin the process of amending the zoning ordinances to add zoning regulations for medical marijuana facilities, a process expected to take up to eight months, and

WHEREAS, the North Plains City Council believes that siting medical marijuana facilities within the City absent zoning regulations endangers the health, peace, and welfare of the City of North Plains.

NOW, THEREFORE, THE CITY OF NORTH PLAINS ORDAINS AS FOLLOWS:

Section 1. Effective with the adoption of this ordinance, no person shall site a medical marijuana facility (as described in House Bill 3460 of the 2013 Oregon Special Legislative Session) within the city limits of North Plains.

Section 2. The prohibition on siting of medical marijuana facilities shall be in effect for two hundred and forty (240) days from the effective date of this Ordinance, or until the effective date of an adopted amendment to the Municipal Code establishing zoning regulations for such facilities, whichever occurs first.

Section 3. The City Manager is charged with enforcement of this temporary prohibition.

INTRODUCED on the xx day of _____, 2014, **AND ADOPTED** this xxth day of _____, 2014.

CITY OF NORTH PLAINS, OREGON

By: _____
David Hatcher, Mayor

ATTEST:

By: _____
Margaret L. Reh, Deputy City Recorder

DRAFT

CHAPTER 16.85
Home Occupations

16.85.000 General Provisions

The purpose of this section is to encourage those who are engaged in small commercial ventures which could not necessarily be sustained if it were necessary to lease commercial quarters, or which by the nature of the venture, are appropriate in scale and impact to be operated within a residence. Home occupations are encouraged for their contribution in reducing the number of vehicle trips often generated by conventional businesses. Two types of home occupations are contemplated by this Code:

- 1) Administrative Home Occupations meeting the standards in subsections 1-8, below, are allowed by right, provided the owner has a current business license and all other uses and structures on the subject property are in conformance with the applicable zoning; and
- 2) Home Occupations exceeding any of the threshold standards in subsections 1-8 may receive approval through the Conditional Use Home Occupation procedure under Chapter 16.180, and must obtain an applicable city business license.

16.85.005 Standards for Administrative Home Occupations

1. Appearance of Residence:
 - a. The home occupation shall be restricted to lawfully-built enclosed structures and be conducted in such a manner as not to give an outward appearance of a business and may not exceed 25% of the floor area of the dwelling; or occupy no more than 500 square feet of a garage, either attached or detached; or occupy no more than 500 square feet of any other outbuilding
 - b. The home occupation shall not eliminate any required off street parking spaces for the dwelling.
 - c. The home occupation shall not result in any structural alterations or additions to a structure that will change its primary use or building code occupancy classification.
 - d. The home occupation shall not violate any conditions of development approval (i.e., prior development permit approval).
 - e. No products and or equipment produced or used by the home occupation may be displayed to be visible from outside any structure.

2. Storage:

- a. Outside storage, visible from the public right-of-way or adjacent properties that exceed what is customary for a single family residence in the vicinity, is prohibited.
- b. On-site storage of hazardous materials (including toxic, explosive, noxious, combustible or flammable) beyond those normally incidental to residential use is prohibited.
- c. Storage of inventory or products and all other equipment, fixtures, and activities associated with the home occupation shall be allowed in any structure.

3. Employees:

- a. Other than family members residing within the dwelling located on the home occupation site, there shall be not more than two (2) ~~one (1)~~ full-time equivalent employees at the home occupation site at any given time. As used in this chapter, the term "home occupation site" means the legal lot on which the home occupation is conducted. Exceptions to this are reviewed on an individual basis, and may be allowed. An example of a possible particular exemption is a hair salon.
- b. Additional individuals may be employed by or associated with the home occupation, so long as they do not report to work or pick up/deliver at the home occupation site.
- c. The home occupation site shall not be used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch of employees to other locations.

Commented [j1]: Amend for greater flexibility?

4. Advertising and Signs:

Signs shall comply with all applicable sign regulations. In no case shall a sign in the Residential District exceed four (4) square feet of surface area on all sides.

5. Vehicles, Parking and Traffic:

- a. One (1) commercially-licensed vehicle associated with the home occupation is allowed at the home occupation site. It shall be of a size that would not overhang into the public right-of-way when parked in the driveway or other location on the home occupation site.

- b. There shall be no more than ~~twenty (20) three (3)~~ commercial vehicle deliveries to or from the home occupation site daily. There shall be no commercial vehicle deliveries during the hours of 5 p.m. to 8 a.m.
- c. There shall be no more than ~~two (2) one (1)~~ client's or customer's vehicle at any one time and no more than ~~sixteen (16) eight (8)~~ per day at the home occupation site.

6. Business Hours.

There shall be no restriction on business hours, except that clients or customers are permitted at the home occupation from 8 a.m. to 7 p.m. only, Monday through Saturday subject to subsections 1 and 5, above.

7. Prohibited Home Occupation Uses:

- a. Any activity that produces radio, TV, or other electronic interference; noise, glare, vibration, smoke, or odor beyond allowable levels as determined by local, state or federal standards, or that can be detected beyond the property line; is prohibited.
- b. Any activity involving on-site retail sales, including garage sales exceeding the thresholds of a temporary use, is prohibited, except that the sale of items that are incidental to a permitted home occupation is allowed. For example, the sale of lesson books or sheet music from music teachers, art or craft supplies from arts or crafts instructors, computer software from computer consultants and similar incidental items for sale by home business is allowed subject to 1-6, above.
- c. The following uses and uses with similar objectionable impacts because of motor vehicle traffic, noise, glare, odor, dust, smoke or vibration, are prohibited:
 - (1) Ambulance service;
 - (2) Animal hospital, veterinary services, kennels or animal boarding;
 - (3) Auto and other vehicle repair, including auto painting; and
 - (4) Repair, reconditioning or storage of motorized vehicles, boats, recreational vehicles, airplanes or large equipment on-site.

8. Enforcement: The City Manager or designee may visit and inspect the site of a home occupation in accordance with this chapter periodically to ensure compliance with all applicable regulations, during normal business hours, and with reasonable notice.

16.85.010 Standards for Home Occupations that require a Conditional Use Permit

The purpose of this Section is to encourage those who are engaged in small commercial ventures that do not conform to the ~~Standards for Administrative Home Occupations provision for an Administrative Home Occupation that allow home occupations as outright permitted uses that do not require a Conditional Use Permit~~. This section provides a process for more intense home occupations to be allowed with Conditional Use Permit approval by the Planning Commission and notice to surrounding property owners.

These home occupations may be permitted, with conditions of approval when appropriate, in order to increase the benefits of people working and living in the same place, while protecting neighboring residents from adverse impacts of home occupation activities. These benefits to the business owner and to the general public include: reduced number of commute-to-work trips, day-time “eyes on the street” at the residence, and a neighborhood-scale version of mixed residential and commercial uses.

A. Approval Process and Criteria.

1. Home Occupation Permit. Applications for proposals that cannot meet all of the standards required for an Administrative Home Occupation shall be processed as a Conditional Use procedure, as governed by Chapter 16.180 using the approval criteria in subsection 2, below. In addition to the application requirements for a quasi-judicial procedure, the applicant shall provide:

- a. A written narrative or letter:
 - (1) Describing the proposed home occupation;
 - (2) Demonstrating compliance with those standards in Section 16.85.005 That can be met, and explaining why the other standards in Section 16.85.005 above cannot be met and;
 - (3) Demonstrating compliance with the criteria in subsection 2 below;
- b. A site plan, not necessarily to scale but with accurate measurements, of the lot proposed for the home occupation, including:
 - 1. The property lines and their dimensions;

2. Outlines of the foundations of all buildings proposed for home occupation use with dimensions for each wall, and the distances from each wall to the nearest property line;
 3. Boundaries and dimensions of driveways and parking areas, indicating areas for use by home occupation employees and customers;
 4. Outlines of the foundations of abutting residences, and the distances from the shared property line to the nearest wall of each neighboring residence; and
 5. Identifying the buildings and areas of those buildings in which home occupation activities will take place, and identifying which activities will take place in which buildings and areas.
- c. The Planning Commission shall approve, approve with conditions, or deny an application for a conditional use home occupation based on all of the following criteria:
- a. The proposed use will not be materially detrimental to the stated purposes of applicable Code requirements and to other properties within a radius of 100 feet of the subject property;
 - b. Impacts to surrounding properties may exist but can be mitigated;
 - c. Existing physical and natural systems, such as, but not limited to drainage, natural resources, and parks, will not be adversely affected any more than would occur if the development occurred in compliance with an administrative home occupation.

16.85 - 5