



City of Tualatin

TUALATIN CITY COUNCIL

Monday, November 25, 2013

CITY COUNCIL CHAMBERS
18880 SW Martinazzi Avenue
Tualatin, OR 97062

WORK SESSION begins at 5:00 p.m.
BUSINESS MEETING begins at 7:00 p.m.

Mayor Lou Ogden

Council President Monique Beikman

Councilor Wade Brooksby Councilor Frank Bubenik

Councilor Joelle Davis Councilor Nancy Grimes

Councilor Ed Truax

Welcome! By your presence in the City Council Chambers, you are participating in the process of representative government. To encourage that participation, the City Council has specified a time for citizen comments on its agenda - *Item C*, following Announcements, at which time citizens may address the Council concerning any item not on the agenda with each speaker limited to three minutes, unless the time limit is extended by the Mayor with the consent of the Council.

Copies of staff reports or other written documentation relating to each item of business referred to on this agenda are available for review on the City website at www.tualatinoregon.gov/meetings, the Library located at 18878 SW Martinazzi Avenue, and on file in the Office of the City Manager for public inspection. Any person with a question concerning any agenda item may call Administration at 503.691.3011 to make an inquiry concerning the nature of the item described on the agenda.

In compliance with the Americans With Disabilities Act, if you need special assistance to participate in this meeting, you should contact Administration at 503.691.3011. Notification thirty-six (36) hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.

Council meetings are televised *live* the day of the meeting through Washington County Cable Access Channel 28. The replay schedule for Council meetings can be found at www.tvctv.org. Council meetings can also be viewed by live *streaming video* on the day of the meeting at www.tualatinoregon.gov/meetings.

Your City government welcomes your interest and hopes you will attend the City of Tualatin Council meetings often.

PROCESS FOR LEGISLATIVE PUBLIC HEARINGS

A **legislative** public hearing is typically held on matters which affect the general welfare of the entire City rather than a specific piece of property.

1. Mayor opens the public hearing and identifies the subject.
2. A staff member presents the staff report.
3. Public testimony is taken.
4. Council then asks questions of staff, the applicant, or any member of the public who testified.
5. When the Council has finished questions, the Mayor closes the public hearing.
6. When the public hearing is closed, Council will then deliberate to a decision and a motion will be made to either *approve*, *deny*, or *continue* the public hearing.

PROCESS FOR QUASI-JUDICIAL PUBLIC HEARINGS

A **quasi-judicial** public hearing is typically held for annexations, planning district changes, conditional use permits, comprehensive plan changes, and appeals from subdivisions, partitions and architectural review.

1. Mayor opens the public hearing and identifies the case to be considered.
2. A staff member presents the staff report.
3. Public testimony is taken:
 - a) In support of the application
 - b) In opposition or neutral
4. Council then asks questions of staff, the applicant, or any member of the public who testified.
5. When Council has finished its questions, the Mayor closes the public hearing.
6. When the public hearing is closed, Council will then deliberate to a decision and a motion will be made to either *approve*, *approve with conditions*, or *deny the application*, or *continue* the public hearing.

TIME LIMITS FOR PUBLIC HEARINGS

The purpose of time limits on public hearing testimony is to provide all interested persons with an adequate opportunity to present and respond to testimony. All persons providing testimony **shall be limited to 3 minutes**, subject to the right of the Mayor to amend or waive the time limits.

EXECUTIVE SESSION INFORMATION

An Executive Session is a meeting of the City Council that is closed to the public to allow the City Council to discuss certain confidential matters. An Executive Session may be conducted as a separate meeting or as a portion of the regular Council meeting. No final decisions or actions may be made in Executive Session. In many, but not all, circumstances, members of the news media may attend an Executive Session.

The City Council may go into Executive Session for certain reasons specified by Oregon law. These reasons include, but are not limited to: ORS 192.660(2)(a) employment of personnel; ORS 192.660(2)(b) dismissal or discipline of personnel; ORS 192.660(2)(d) labor relations; ORS 192.660(2)(e) real property transactions; ORS 192.660(2)(f) information or records exempt by law from public inspection; ORS 192.660(2)(h) current litigation or litigation likely to be filed; and ORS 192.660(2)(i) employee performance of chief executive officer.



OFFICIAL AGENDA OF THE TUALATIN CITY COUNCIL MEETING FOR NOVEMBER 25, 2013

A. CALL TO ORDER

Pledge of Allegiance

B. ANNOUNCEMENTS

1. Proclamation Declaring December 8-14, 2013 Human Rights Week in the City of Tualatin
2. Starry Nights and Holiday Lights Announcement

C. CITIZEN COMMENTS

This section of the agenda allows citizens to address the Council regarding any issue not on the agenda. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.

D. CONSENT AGENDA

The Consent Agenda will be enacted with one vote. The Mayor will first ask staff, the public and Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under, 1) Items Removed from the Consent Agenda. The entire Consent Agenda, with the exception of items removed from the Consent Agenda to be discussed, is then voted upon by roll call under one motion.

1. Consideration of Approval of the Minutes for the City Council Work Session and Meeting of November 12, 2013.
2. Consideration of **Resolution No. 5175-13** Amending the City of Tualatin Fee Schedule and Rescinding Resolution No. 5141-13

E. SPECIAL REPORTS

1. Vision Action Network Update
2. Quarterly Financial Update

F. GENERAL BUSINESS

1. Consideration of **Ordinance 1360-13** Annexing Property Located at 22120 SW Grahams Ferry Road. (Tax Map 2S1 35BA Tax Lot 5300) and Withdrawing the Territory from the Washington County Enhanced Sheriff Patrol District and the County Urban Road Maintenance District (ANN-13-02)

2. Consideration of **Ordinance No. 1362-13** Relating to Keeping of Backyard Chickens; and Adding Chapter 6-15 to the Tualatin Municipal Code. SECOND READING
3. Consideration of **Ordinance No. 1363-13** Amending the Tualatin Development Code (TDC) Chapter 40 Low Density Residential Planning District (RL) to Include Chicken Keeping as a Permitted Use; and Amending TDC 40.020 (PTA-13-02)
4. Consideration of **Ordinance No. 1364-13** Relating to Business Licenses; Amending Tualatin Municipal Code 9-1-020 and 9-1-090; and Declaring an Emergency. SECOND READING

G. ITEMS REMOVED FROM CONSENT AGENDA

Items removed from the Consent Agenda will be discussed individually at this time. The Mayor may impose a time limit on speakers addressing these issues.

H. COMMUNICATIONS FROM COUNCILORS

I. ADJOURNMENT

City Council Meeting

B. 1.

Meeting Date: 11/25/2013

ANNOUNCEMENTS: Proclamation Declaring December 8-14, 2013 Human Rights Week in the City of Tualatin

ANNOUNCEMENTS

Proclamation Declaring December 8-14, 2013 Human Rights Week in the City of Tualatin

Attachments

[Human Rights Week Proclamation](#)

Proclamation

Proclamation Declaring December 8-14, 2013 as Human Rights Week in the City of Tualatin

WHEREAS the General Assembly of the United Nations approved the Universal Declaration of Human Rights on December 10, 1948, declaring the "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world;" and

WHEREAS the basic human rights addressed in the Universal Declaration include economic, social, and cultural rights, as well as civil and political rights, all considered to be equally important in fostering human dignity and freedom; and

WHEREAS the Universal Declaration calls for all people and governments to promote and respect recognized rights, while providing standards of achievement for governments throughout the world; and

WHEREAS each year, the international community commemorates this event and recommits itself to the broader achievement of human rights; and

WHEREAS numerous community, civic, religious and non-profit organizations, such as the Human Rights Council of Washington County and other organizations and individuals work to ensure equal rights and protections for all residents; and

WHEREAS the City of Tualatin and the Human Rights Council of Washington County share this commitment of civil and human rights for all.

NOW, THEREFORE, BE IT PROCLAIMED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, Oregon that:

The citizens of Tualatin are hereby encouraged to join in celebrating Human Rights Week from December 8 – 14, 2013.

INTRODUCED AND ADOPTED this 25th day of November, 2013.

CITY OF TUALATIN, OREGON

BY _____
Mayor

ATTEST:

BY _____
City Recorder

City Council Meeting

B. 2.

Meeting Date: 11/25/2013

ANNOUNCEMENTS: Starry Nights and Holiday Lights Announcement

ANNOUNCEMENTS

Starry Nights and Holiday Lights Announcement

SUMMARY

Announcement of the 2013 Starry Nights and Holiday Lights event. Everyone is invited to come be a part of a special night filled with tens of thousands of twinkling lights, hundreds of song-filled voices, and the lighting of the floating holiday tree.

Attachments

[2013 SNHL Presentation](#)

★ ★ ★ *The City of Tualatin's* ★ ★ ★
Starry Nights & Holiday Lights

★ *Friday, December 6, 2013 5:30-8:30 pm* ★



★ *Join us at The Lake at Tualatin Commons for:* ★

- *The lighting of Tualatin's floating holiday tree.*
- *Children's choirs from Tualatin schools.*
- *Refreshments and a visit from Santa!*

★ **FREE** ★

*The Tualatin Commons is located at 8325 SE Nyberg Street, Tualatin, OR 97062
For more information call 503-691-3061 or go to www.tualatinoregon.gov*





Performances by:
Magic Years Preschool Choir
Byrom Elementary Choir
Bridgeport Elementary Holiday Choir
Tualatin High School Crimsonnaires
Tualatin Elementary Choir
Hazelbrook Middle School Choir
Twality Middle School Small Ensembles
Twality Middle School Concert Choir
Tualatin High School Brass Ensemble





STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos

FROM: Nicole Morris, Deputy City Recorder

DATE: 11/25/2013

SUBJECT: Consideration of Approval of the Minutes for the City Council Work Session and Meeting of November 12, 2013.

ISSUE BEFORE THE COUNCIL:

The issue before the Council is to approve the minutes for the City Council Work Session and Meeting of November 12, 2013.

RECOMMENDATION:

Staff respectfully recommends that the Council adopt the attached minutes.

Attachments: [City Council Work Session Minutes of November 12, 2013](#)
[City Council Meeting Minutes of November 12, 2013](#)



OFFICIAL MINUTES OF TUALATIN CITY COUNCIL WORK SESSION FOR NOVEMBER 12, 2013

Present: Mayor Lou Ogden; Council President Monique Beikman; Councilor Wade Brooksby; Councilor Frank Bubenik; Councilor Joelle Davis; Councilor Nancy Grimes; Councilor Ed Truax

Staff Present: City Manager Sherilyn Lombos; City Attorney Sean Brady; Police Chief Kent Barker; Assistant City Manager Alice Rouyer; Community Services Director Paul Hennon; Deputy City Manager Sara Singer; Planning Manager Aquilla Hurd-Ravich; Deputy City Recorder Nicole Morris; Management Analyst Ben Bryant; Human Resources Manager Janet Newport; Finance Director Don Hudson; Public Works Director Jerry Postema

CALL TO ORDER

Mayor Ogden called the meeting to order at 5:02 p.m.

1. ***Seneca Street Extension & Council Building Public Involvement.***

Deputy City Manager Sara Singer presented the Seneca Street and Council Building public involvement summary. She gave an overview of the public involvement plan including the outreach goals and the materials used to reach stakeholders. Several meetings were held in October and November. The key questions developed by the City Council regarding the Seneca Street extension and the Council Building were addressed in each meeting.

Riverpark, CIO 6, Martinazzi Woods, Ibach, Midwest, East Tualatin, and the Commercial Citizen Involvement Organizations (CIO) presented feedback and survey results from their respective outreach meetings.

Deputy City Manager Singer presented the City's outreach results. Manager Singer attended the Chamber of Commerce Economic Development Council, Advisory Committee Joint meetings, conducted an online survey, and received email comments as part of the outreach process. Manager Singer presented the online survey results summary.

Council Discussion and Questions

Councilor Bubenik asked what the difference in cost would be if Council waits to construct Seneca Street.

Councilor Grimes asked if the City had completed a facilities study and if projected needs for space are known.

Council President Beikman asked about reconfiguration of parking if the street were to go through.

Councilor Bubenik asked about the possibility of a phased approach in relation to the construction of a new building at the Police Department site.

Councilor Davis asked about CIO discussions in relation to Seneca Street businesses. She also asked about street width, location of street extension, parking, pedestrian safety, and traffic flow.

Council President Beikman asked about the costs of conducting a facilities study, and the cost of additional traffic studies to look at alternative options to the Seneca Street extension.

Councilor Bubenik asked about the possibility of purchasing existing buildings in town that could meet the City's needs.

Mayor Ogden asked about deadlines for when decisions need to be made. He wants to know if Seneca Street is the best solution and how good of an option it really is.

Councilor Davis expressed concerns over spending more money on traffic studies, she feels enough data has already been gathered. She asked what a facilities study would look like.

Mayor Ogden wants to know what the benefit to the area would be if the best traffic solution is put in place. He also asked how long it would take to complete a facilities study.

Councilor Davis asked for the hard deadlines for making decisions in regards to the Seneca Street extension and the Council Building.

City Manager Lombos stated that staff will gather information regarding the timing and scope of an additional traffic study, information regarding parking at the existing site, the deadline decision regarding the street extension, and cost information for the street extension for the next work session. Information regarding the scope, timeline and cost for a facilities study will be presented at a future meeting.

2. *Council Meeting Agenda Review, Communications & Roundtable.*

Councilor Bubenik attend the ACTION breakfast with Mayor Ogden. He also spoke to the reorganization of the Washington County Children and Families Commission.

ADJOURNMENT

The work session adjourned at 6:53 p.m.

Sherilyn Lombos, City Manager

_____ / Nicole Morris, Recording Secretary

_____ / Lou Ogden, Mayor



OFFICIAL MINUTES OF THE TUALATIN CITY COUNCIL MEETING FOR NOVEMBER 12, 2013

Present: Mayor Lou Ogden; Council President Monique Beikman; Councilor Wade Brooksby; Councilor Frank Bubenik; Councilor Joelle Davis; Councilor Nancy Grimes; Councilor Ed Truax

Staff Present: City Manager Sherilyn Lombos; City Attorney Sean Brady; Police Chief Kent Barker; Assistant City Manager Alice Rouyer; Community Services Director Paul Hennon; Finance Director Don Hudson; Planning Manager Aquilla Hurd-Ravich; Deputy City Recorder Nicole Morris; Assistant Planner Colin Cortes; Associate Planner Cindy Hahn; Public Works Director Jerry Postema

A. CALL TO ORDER

Pledge of Allegiance

Mayor Ogden called the meeting to order at 7:02 p.m.

B. ANNOUNCEMENTS

1. Tualatin Youth Advisory Council Report for November 2013

Members of the Youth Advisory Council (YAC) presented a PowerPoint on their latest activities and upcoming events. Six new committee members were introduced to the Council. YAC members participated in the West Coast Giant Pumpkin Regatta by running the craft tent, face painting, and concessions booth. They thanked Whole Foods and Lee's Farm for their generous donations to the event. Four YAC members will be attending the National League of Cities this week.

2. New Employee Introductions: Nancy Beall, Office Assistant II- Library and Emily Antonelli , Library Assistant

Community Services Director Paul Hennon introduced Nancy Bealle, Office Assistant II-Library and Emily Antonelli, Library Assistant. The City Council welcomed them.

C. CITIZEN COMMENTS

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Chad Darby spoke in regards to the Seneca Street extension. He believes the City should complete a facilities study before making a rushed decision regarding the street. He encouraged the Council to wait and see what the impacts of the CenterCal project will have on the area before making any decisions.

D. CONSENT AGENDA

The Consent Agenda will be enacted with one vote. The Mayor will first ask staff, the public and Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under, I) Items Removed from the Consent Agenda. The entire Consent Agenda, with the exception of items removed from the Consent Agenda to be discussed, is then voted upon by roll call under one motion.

MOTION by Council President Monique Beikman, SECONDED by Councilor Frank Bubenik to approve the consent agenda.

Vote: 7 - 0 MOTION CARRIED

1. Consideration of Approval of the Minutes for the City Council Meeting of October 28, 2013

E. SPECIAL REPORTS

1. Vision Action Network Update

REMOVED TO COUNCIL MEETING ON NOVEMBER 25, 2013

2. Quarterly Financial Update

REMOVED TO COUNCIL MEETING ON NOVEMBER 25, 2013

F. PUBLIC HEARINGS – Quasi-Judicial

1. Consideration of a Petition Requesting Annexation of Property at 22120 SW Grahams Ferry Road (Tax Map 2S1 35BA, Tax Lot 5300) and Withdrawing the Territory from the Washington County Enhanced Sheriff Patrol District and the County Urban Road Maintenance District (ANN-13-02)

*Note: This item followed the presentation of agenda item H.1

Mayor Ogden opened the hearing for a petition requesting annexation of property at 22120 SW Grahams Ferry Road and withdrawing the territory from the Washington County Enhanced Sheriff Patrol District and the County Urban Road Maintenance District (ANN-13-02). He read the rules of the hearing in accordance with ORS 107.763(5) and (6) and ORS 197.796(3)(b).

Mayor Ogden stated for the record that he drove the driveway at this property and spoke with the owner. He stated this visit will not influence his position on this matter.

Assistant Planner Colin Cortes entered the staff report and testimony from agenda

H.1 into the record.

Ken Gertz spoke on behalf of the applicant stating this property is a necessary piece to completion of the surrounding subdivision. He stated that once divided this property will be eight lots.

Citizen Comment

There was no comment either in support or opposition.

Council Questions

None

Council Deliberations

None

MOTION by Council President Monique Beikman, SECONDED by Councilor Ed Truax to direct staff to prepare an ordinance granting ANN-13-02 and removing the property from the Washington County Enhanced Sheriff Patrol and Washington County Urban Road Maintenance District.

Vote: 7 - 0 MOTION CARRIED

G. PUBLIC HEARINGS – *Legislative or Other*

1. Consideration of Plan Text Amendment (PTA) 13-02 Amending the Tualatin Development Code (TDC) Chapter 40 Low Density Residential Planning District (RL) to Include Chicken Keeping as a Permitted Use in Single-Family Residential Areas of the City. Amending TDC 40.020(2).

Planning Manager Aquilla Hurd-Ravich entered the staff report and testimony presented during agenda item H.2 into the record.

MOTION by Councilor Joelle Davis, SECONDED by Councilor Frank Bubenik to direct staff to prepare the Plan Text Amendment (PTA) 13-02 amending the Tualatin Development Code (TDC) Chapter 40 Low Density Residential Planning District (RL) to include chicken keeping as a permitted use in Single-Family Residential Areas of the City and amend TDC 40.020(2).

Vote: 6 - 1 MOTION CARRIED

Nay: Councilor Ed Truax

H. GENERAL BUSINESS

1. Consideration of **Resolution No. 5172-13** Authorizing Execution of an Annexation Agreement With Patricia A. Bither, Trustee of the Patricia A. Bither Revocable Living Trust, to Govern Annexation of 2.59 Acres of Land Located at 22120 SW Grahams Ferry Road (Tax Map 2S1 35BA Tax Lot Lot 5300)

**Note: This item preceded agenda item F.1

Assistant Planner Colin Cortes and Planning Manager Aquilla Hurd-Ravich presented Resolution No. 5172-13 authorizing execution of an Annexation Agreement with Patricia A. Bither to govern annexation of 2.59 acres of land located at 22120 SW Grahams Ferry Road. Assistant Planner Cortes explained that this property will be designated in the Low Density Planning District and the agreement sets the framework for identifying expected attributes of a preliminary subdivision plan and addresses existing and future development. He noted that the analysis and findings show that the petition meets the annexation requirements set for by the Tualatin Development Code (TDC).

PUBLIC COMMENT

No comment in support or opposition.

COUNCIL QUESTIONS

Councilor Truax asked about the septic system on the lot and when it would be required to connect to city services. Assistant Planner Cortes stated upon system failure it would have to connect to city services. Planning Manager Hurd-Ravich added that upon subdivision it would be required to connect the divided lots to city services.

Mayor Ogden asked if the current driveway would be allowed to remain in place. Assistant Planner Cortes stated that upon redevelopment the owner could create a tract for this driveway or divide the driveway land among adjacent tax lots.

Ken Gertz, Developer for Gertz Fine Homes, spoke on behalf of the applicant. He stated they are currently looking at three options for the driveway. Options include dedicating the strip to the properties on the north, subdividing and deeding to the properties to the south, or selling the strip to the City to use as an access path. Mr. Gertz stated that all are feasible options the applicant is considering.

MOTION by Council President Monique Beikman, SECONDED by Councilor Ed Truax to adopt Resolution No. 5172-13 authorizing execution of an Annexation Agreement With Patricia A. Bither, Trustee of the Patricia A. Bither Revocable Living Trust, to govern annexation of 2.59 acres of land located at 22120 SW Grahams Ferry Road (Tax Map 2S1 35BA Tax Lot Lot 5300).

Vote: 7 - 0 MOTION CARRIED

2. Consideration of **Ordinance 1362-13** relating to keeping of backyard chickens; and Adding Chapter 6-15 to the Tualatin Municipal Code.

**Note: This item preceded agenda item G.1

Planning Manager Aquilla Hurd-Ravich and Associate Planner Cindy Hahn noted they would be making one presentation for both agenda items H. 2- proposed Ordinance 1362-13 and G. 1- Plan Text Amendment 13-02.

Planning Manager Hurd-Ravich stated the issue before Council is a proposed amendment to the Low Density Single Family Residential District (RL) to add chicken keeping as a permitted use. The proposed amendment will not allow chickens in other residential planning districts. It is also being asked to separately consider an ordinance to change the municipal code to regulate chickens. She presented the proposed development code language and municipal code regulations and language. Maps identifying RL sample subdivisions where chicken keeping would be possible were presented.

PUBLIC COMMENT

Comment in Support:

Laurie Jarmer spoke in support of chicken keeping. She expressed concerns regarding the proposed 25ft setback and would like to see this changed to 15ft.

Geoff Scott thanked the Council and Staff for all their work on the ordinance. He expressed concerns regarding the proposed setbacks noting that neighboring cities are less restrictive with only 10ft setbacks.

Tonya Peterson spoke in support of chicken keeping.

Anna Christenson spoke in favor of chicken keeping. She expressed concerns regarding the proposed 25ft setbacks. She noted that other cities in Oregon have adopted 25ft setbacks from adjacent dwellings not from property lines.

Anneliese Chapman spoke in favor of chicken keeping but not in favor of the ordinance as presented.

Jeannine Alexander spoke in support of chicken keeping and in opposition to the proposed setbacks in the ordinance.

Connie Price spoke in support of chicken keeping and in opposition to the proposed setbacks in the ordinance.

Dan Harris spoke in support of chicken keeping and would like to see the proposed ordinance have a more realistic setback of 10ft from the property line.

Comment in Opposition:

Dianne Yates spoke to the negative consequences for neighborhoods and the community if chicken keeping is allowed.

Chad Darby spoke in opposition to the ordinance as presented. He stated that the proposed ordinance would exclude a majority of Tualatin residents if a 25ft setback is put in place.

Tim Thornburg spoke in opposition of the 25ft setback and instead would like to see a lot size restriction implemented. He also feels that this ordinance will be difficult to enforce.

Planning Commissioner Nic Herriges presented the Planning Commission's recommendations to the Council. Two motions were presented at their meeting. The first motion presented the idea of permitting chicken keeping in residential areas, the motion passed. The second motion addressed the issue regarding the 25ft setback, the motion passed. The Commission wants to be sure to balance the ability of a reasonable number of people keeping chickens against the needs and concerns of their neighbors.

COUNCIL QUESTIONS

Mayor Ogden asked staff if they had prepared maps showing examples of a 10ft setback. Planning Manager Hurd-Ravich presented maps identifying chicken keeping areas if a 10ft setback is implemented.

Councilor Brooksby asked if neighboring cities had lot size restrictions. Planner Hahn noted that Hillsboro requires a minimum lot size of 7,000 square feet with a 10ft setback.

Mayor Ogden asked how noise and smell are addressed in the ordinance. City Attorney Sean Brady stated that noise complaints are addressed through the noise ordinance.

COUNCIL DELIBERATIONS

None

MOTION by Councilor Joelle Davis, to amend the proposed ordinance to reduce the setback to 10ft from the property line and eliminate the need to send notices to neighboring residences.

Hearing no second the motion failed.

MOTION by Councilor Frank Bubenik, SECONDED by Councilor Nancy Grimes to amend the proposed ordinance to require a 10ft setback from all property lines and a 25ft setback from neighboring residences.

Vote: 6 - 1 MOTION CARRIED

Nay: Councilor Ed Truax

MOTION by Councilor Joelle Davis, to amend the proposed ordinance to eliminate the need to send notices to neighboring residences.

Mayor Ogden stated that he believes a notification to neighbors is not necessary.

Councilor Davis stated that she believes a notice will cause unnecessary tension amongst neighbors.

Councilor Grimes stated that notifications should be looked as an informational/educational item regarding the ordinance.

Council President Beikman believes this is the neighborly approach and will help inform neighbors and reduce tensions.

Hearing no second the motion failed.

MOTION by Councilor Joelle Davis, SECONDED by Councilor Nancy Grimes for first reading of Ordinance 1362-13 relating to keeping of backyard chickens; and Adding Chapter 6-15 to the Tualatin Municipal Code as amended.

Discussion

Councilor Truax stated that he is not in favor of the ordinance. He feels it will create a burden to residents and staff and an opportunity for conflict amongst neighbors.

Vote: 6 - 1 MOTION CARRIED

Nay: Councilor Ed Truax

3. Consideration of **Ordinance No. 1364-13** Relating to Business Licenses; Amending Tualatin Municipal Code 9-1-020 and 9-1-090; and Declaring an Emergency.

Finance Director Don Hudson presented proposed changes to the business license code. He stated the proposed ordinance makes two changes to the Tualatin Municipal Code (TMC) Chapter 9-1-020 and two changes to TMC Chapter 9-1-090. Changes to TMC Chapter 9-1-080 include removing reference to gross receipts related to a contractor eligible for a Metro Business License and adds language that prohibits the issuance of a license to any person that engages in a business activity that violates city, state, or federal law. Changes to TMC Chapter 9-1-090 include allowing the ability of the City Manager or the City Manager's designee to waive any late fees, charges or penalties as determined to be reasonable and adds clarifying language allowing the City Manager to delegate authority to prescribe administrative rules or policies to implement the requirements of the business license ordinance.

COUNCIL QUESTIONS

Councilor Truax asked why this would constitute an emergency. City Attorney Brady stated that staff is trying to make these clarifications before business license renewals occur in January.

Councilor Bubenik asked if this is following the pattern of other cities in the state adding language to their codes to prevent medical marijuana dispensaries. City Attorney Brady stated that this would prohibit medical marijuana dispensaries from receiving business licenses.

PUBLIC COMMENT

No comment in support or opposition.

Comments neutral in nature:

Stephen Titus asked that clarifications also be made to the code regarding the definition of business locations and assessed penalties and fees.

COUNCIL DISCUSSION

Councilor Truax expressed concerns regarding adding language prohibiting medical marijuana dispensaries. He believes that this will lead to future litigation for

the city.

Councilor Bubenik spoke in opposition of the proposed language prohibiting medical marijuana dispensaries as state guidelines for these facilities will not be released until March. He would like to see this discussion occur at a later date to discuss all the city's options.

Mayor Ogden spoke in support of the proposed language. Stating that he prefers the city comply with the federal law on this issue.

Council President Beikman does not want medical marijuana dispensaries to become an issue like hookah bars have become in neighboring cities.

MOTION by Councilor Nancy Grimes, SECONDED by Council President Monique Beikman for first reading of Ordinance No. 1364-13 relating to business licenses; amending Tualatin Municipal Code 9-1-020 and 9-1-090; and declaring an emergency.

Vote: 4 - 3 MOTION CARRIED

Nay: Councilor Wade Brooksby
Councilor Frank Bubenik
Councilor Ed Truax

I. ITEMS REMOVED FROM CONSENT AGENDA

Items removed from the Consent Agenda will be discussed individually at this time. The Mayor may impose a time limit on speakers addressing these issues.

J. COMMUNICATIONS FROM COUNCILORS

Mayor Ogden addressed the death of city employee Dave Lagassey and sent the Councils condolences to his family. Mayor Ogden declared that City flags be flown at half staff on November 13th in his honor. A moment of silence was held.

K. ADJOURNMENT

Mayor Ogden adjourned the meeting at 9:36 p.m.

Sherilyn Lombos, City Manager

_____ / Nicole Morris, Recording Secretary

_____ / Lou Ogden, Mayor



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos

FROM: Don Hudson, Finance Director

DATE: 11/25/2013

SUBJECT: Consideration of **Resolution No. 5175-13** Amending the City of Tualatin Fee Schedule and Rescinding Resolution No. 5141-13

ISSUE BEFORE THE COUNCIL:

Whether to update and amend the City of Tualatin Fee Schedule

RECOMMENDATION:

Staff recommends adoption of the attached resolution amending the City of Tualatin Fee Schedule and rescinding Resolution No. 5141-13

EXECUTIVE SUMMARY:

The City Council recently adopted an ordinance relating to towing from private property, which requires tow companies towing vehicles from private property to obtain an annual license issued by the City of Tualatin. Along with providing the required information, the tow company must pay an annual license fee in an amount established by resolution of the City Council. The attached resolution adds this license fee in the amount of \$25.00 to cover the costs to issue the license and maintain the list of licensed tow companies.

Also, on tonight's agenda is the second reading of Ordinance 1362-13, relating to the keeping of backyard chickens. Included in that ordinance is the requirement to obtain a license to keep chickens. The attached resolution includes a \$50.00 license fee, should the ordinance be approved, and is based upon an analysis of other entities fees, as well as the cost to the City to approve and issue the license.

Attachments: [Resolution 5175-13](#)

RESOLUTION NO. 5175-13

RESOLUTION AMENDING THE CITY OF TUALATIN FEE SCHEDULE AND
RESCINDING RESOLUTION NO. 5141-13

WHEREAS the City Council has the authority to set fees for materials and services provided by the City; and

WHEREAS new fees have been created by ordinance since the fee schedule was last evaluated; and

WHEREAS Resolution No. 5141-13, adopted May 28, 2013, which last amended the City of Tualatin Fee Schedule, must now be rescinded.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. Fees for private property tow company licensing and licenses to keep chickens are established as set forth in "Exhibit A", which is attached and incorporated by reference.

Section 2. All other fees provided in the City of Tualatin Fee Schedule remain unchanged, as set forth in "Exhibit A", which is attached and incorporated by reference.

Section 3. The fees shall be effective December 1, 2013.

Section 4. Resolution No. 5141-13 is rescinded effective December 1, 2013.

INTRODUCED AND ADOPTED this 25th day of November, 2013.

CITY OF TUALATIN, OREGON

BY _____
Mayor

APPROVED AS TO LEGAL FORM

ATTEST:

BY _____
City Attorney

BY _____
City Recorder

CITY OF TUALATIN FEE SCHEDULE

Administration Department:

Agenda Packet same as photocopy rate
 Ordinances or Portions Thereof same as photocopy rate

Photocopies:

Per page/side (up to 8.5"x14")0.25
 Per page/side (11"x17").....0.50
 Color - per page/side (up to 8.5"x14").....1.00
 Color - per page/side (11"x17").....1.50
 Certified Copies – per document..... 5.00
 Thumb Drive (2 GB) 10.00
 CD/DVD20.00
 Storage Retrieval Fee25.00
 Staff Time:
 -Up to 30 minutesno charge
 -Over 30 minutes employee cost

Community Development Department - Planning:

Amendment to Comprehensive Plan Map.....2,090.00
 Amendment to Comprehensive Plan Text/Landmark
 Designation/Removal of Landmark Designation.....2,090.00
 Annexation1,425.00
 Appeal Proceeding to Council.....135.00
 Appeal Expedited Process to Referee, Deposit per ORS 197.375.....300.00
 Architectural Review Application, Nonexpedited Process:
 Estimated Project Value:
 Under \$5,000.....115.00
 \$5,000 - \$24,999.99550.00
 \$25,000 - \$99,999.99990.00
 \$100,000 - 499,999.991,645.00
 \$500,000 and greater2,410.00
 Architectural Review Application, Expedited Process:
 Estimated Project Value:
 Under \$5,000.....115.00
 \$5,000 - \$24,999.991,100.00
 \$25,000 - \$99,999.992,185.00
 \$100,000 - 499,999.993,290.00
 \$500,000 and greater5,040.00
 Architectural Review, Minor.....75.00
 Architectural Review, Single-family Level I (Clear & Objective)55.00
 Architectural Review, Single-family Level II (Discretionary)730.00
 Conditional Use Permit.....1,425.00
 Conditional Use Permit Renewal.....1,425.00
 Core Area Parking District Tax Appeal.....135.00
 Extension Request Reviewed by Staff.....200.00
 Extension Request Reviewed by Architectural Review Board.....1,150.00
 Interpretation of Development Code.....No Fee
 Industrial Master Plans1,820.00

CITY OF TUALATIN FEE SCHEDULE

Landmark Alteration/New Construction Review	60.00
Landmark Demolition Review.....	60.00
Landmark Relocation Review.....	60.00
License to Keep Chickens.....	50.00
Pre-Application Meeting	205.00
Reinstatement of Nonconforming Use.....	1,425.00
Request for Council Rehearing	165.00
Sign Code Interpretation	410.00
Sign Ordinance	8.00
Sign Code Variance	675.00
Sign Permit:	
New Sign or Structural Change to Existing Sign.....	135.00
Temporary Sign or Each Face Change to Existing Sign.....	70.00
Temporary Uses, 1 - 3 days	50.00
4 - 180 days.....	\$50.00 + 1.50/day
Over 3 days	not to exceed a total of \$200.00
Transitional Use Permit.....	1,530.00
Tree Removal Permit, 1 tree	290.00
each additional tree, \$10.00 not to exceed a total of	315.00
Variance:	
When primary use is a single family dwelling in RL or RML	285.00
When primary use is not a single family dwelling in RL or RML.....	1,425.00
Variance, Minor:	
When primary use is a single family dwelling in RL or RML	285.00
When primary use is not a single family dwelling in RL or RML	1,050.00
All Other Actions	325.00

Community Development Department - Engineering & Building:

Engineering Copies:	
1987 and earlier, aerial/contour maps	8.00
36" x 48"	5.00
24" x 36"	4.00
18" x 24" and 11" x 17"	3.00
Geographic Information System:	
Citywide aerial photo, 36" x 42"	30.00
Subdivision street map, 34" x 36"	15.00
Street map, 22" x 22"	8.00
Planning Districts, 34" x 44"	15.00
Planning Districts, 18" x 24"	8.00
Custom Mapping	55.00/hr, plus materials
Partition,* Nonexpedited & Expedited Processes.....	410.00
Partition,* Nonexpedited & Expedited Exten. /Modif.	135.00
Partition,* Nonexpedited, Appeal Proceeding to Council.....	135.00
Partition,* Expedited, Appeal to Referee, Deposit per ORS 197.375	300.00
Partition,* Minor Variance included & primary use is a single family dwelling in RL or RML	Add 135.00

CITY OF TUALATIN FEE SCHEDULE

Partition,* Minor Variance included & primary use is not a single family dwelling & not in RL or RML.....	Add 205.00
Property Line Adjustm't.,* primary use is a single family dwelling in RL or RML	70.00
Property Line Adjustm't.,* Minor Variance included & primary use is a single family dwelling in RL or RML.....	Add 135.00
Property Line Adjustm't.,* primary use is not a single family dwelling in RL or RML	300.00
Property Line Adjustm't.,* Minor Variance included & primary use is not a single family dwelling in RL or RML.....	Add 135.00
Property Line Adjustm't.* Appeal Proceeding to Council.....	135.00
Public Works Construction Code.....	50.00
Subdivision,* Nonexpedited and Expedited Processes.....	2,700.00
Subdivision,* Variance included & primary use is a single family dwelling in RL or RML	Add 270.00
Subdivision,* Variance included & primary use is not a single family dwelling in RL or RML	Add 340.00
Subdivision,* Minor Variance included & primary use is a single family dwelling in RL or RML	Add 135.00
Subdivision,* Minor Variance included & primary use is not a single family dwelling in RL or RML	Add 205.00
Subdivision,* Nonexpedited, Extension/Modif. by Council	620.00
Subdivision,* Expedited, Extension/Modif. by City Engineer	155.00
Subdivision,* Nonexpedited, Appeal Proceeding to Council	135.00
Subdivision,* Expedited Appeal to Referee, Deposit per ORS 197.375	300.00
Street Name Change	135.00
Street Vacation Application Deposit	340.00
Zone of Benefit Application Fee	675.00

* Subdivision, Partition and Property Line Adjustment applicants shall contact the Finance Department for a determination of L.I.D. assessment apportionment for the property proposed to be divided or adjusted.

Finance Department:

*L.I.D. Assessment Apportionment Fee	108.75
Lien Search Fee (per tax lot).....	29.85
Passport Photo.....	16.00
Private Property Tow Company License Fee	25.00
Recovery Charge Installment Payment Plan Application Fee	228.20
Returned Checks (per check for processing NSF check).....	36.25
Zone of Benefit Recovery Charge Administration Fee	120.50

CITY OF TUALATIN FEE SCHEDULE

Legal Services Department:

Development Code.....	60.00
Updates	0.25/page + postage
Tualatin Municipal Code.....	55.00
Thumb Drive Containing Municipal Code & Development Code...	10.00 + postage

Municipal Court

Traffic School and Compliance Program Fees:

Class A	275.00
Class B	155.00
Class C	125.00
Class D	100.00
Seat Belt Class.....	65.00
Vehicle Compliance Program.....	35.00
Collection Fee	25% of ordered amount
License Restatement Fee	70.00
Overdue Payment Letter Fee	10.00
Failure to Appear – Arraignments	40.00
Failure to Appear – Trials	100.00

Operations Department:

Street Tree and Installation (Single Family Only)	175.00
Street Tree Removal (excluding Stump Grinding)	300.00
Street Tree Stump Grinding	125.00
Tree-for-a-Fee Program	45.00
New Tree Grates – Full set of 2 halves	400.00
New Tree Grates – Half set.....	200.00
Tree Grates – Leveling Stone and fastening hardware	25.00
Tree Grates Improvements	175.00

Police Department:

Copies of Audio Tapes	14.00 including CD
Copies of Video Tapes	14.00 including CD
Copies of Photographs on CD.....	15.00 including CD
Copies of Police Reports (no charge to victims):	
1 - 10 pages.....	10.00
plus each page over 10	0.25
Alarm Permit, Initial Application.....	23.00
Alarm Permit, Annual Renewal	23.00
Alarm Permit, 1st False Alarm.....	No charge
Alarm Permit, 2nd False Alarm	No charge
Alarm Permit, 3rd False Alarm	85.00
Alarm Permit, 4th False Alarm	113.00
Alarm Permit, 5th False Alarm	169.00
Alarm Permit, 6 th and More False Alarms.....	225.00 per alarm
Alarm Permit, 10 or more False Alarms	500.00 Civil Infraction
Release of Towed (impounded) Vehicles.....	100.00



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos

FROM: Don Hudson, Finance Director

DATE: 11/25/2013

SUBJECT: Quarterly Financial Update

ISSUE BEFORE THE COUNCIL:

An update on the first quarter financial activities for fiscal year 2013-14.

RECOMMENDATION:

No action is required by the Council.

EXECUTIVE SUMMARY:

Tonight's report will provide the Council with an update of financial activities during the first quarter of fiscal year 2013-14.

This presentation will provide updates on departmental goals, information on items or projects that have been accomplished during the first quarter, a status of revenues and expenditures in the three operating funds (General Fund, Building Fund and Operations Fund), and an updated Fiscal Health model projection.

Staff will also provide an update of the certified property taxes for this fiscal year and the impact of PERS reforms passed during the recent special legislative session.

Attachments: [PowerPoint](#)



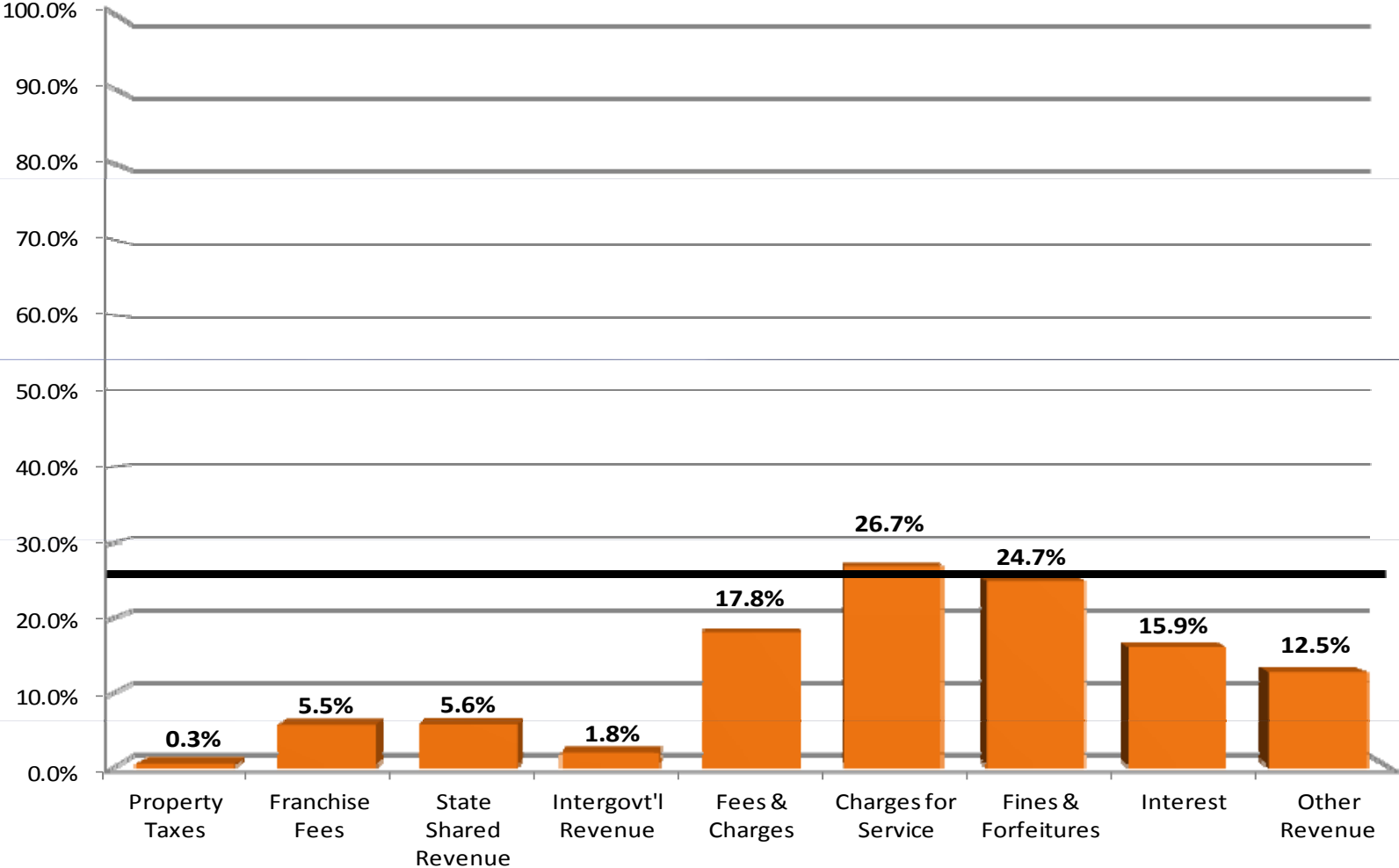
City of Tualatin

QUARTERLY FINANCIAL UPDATE

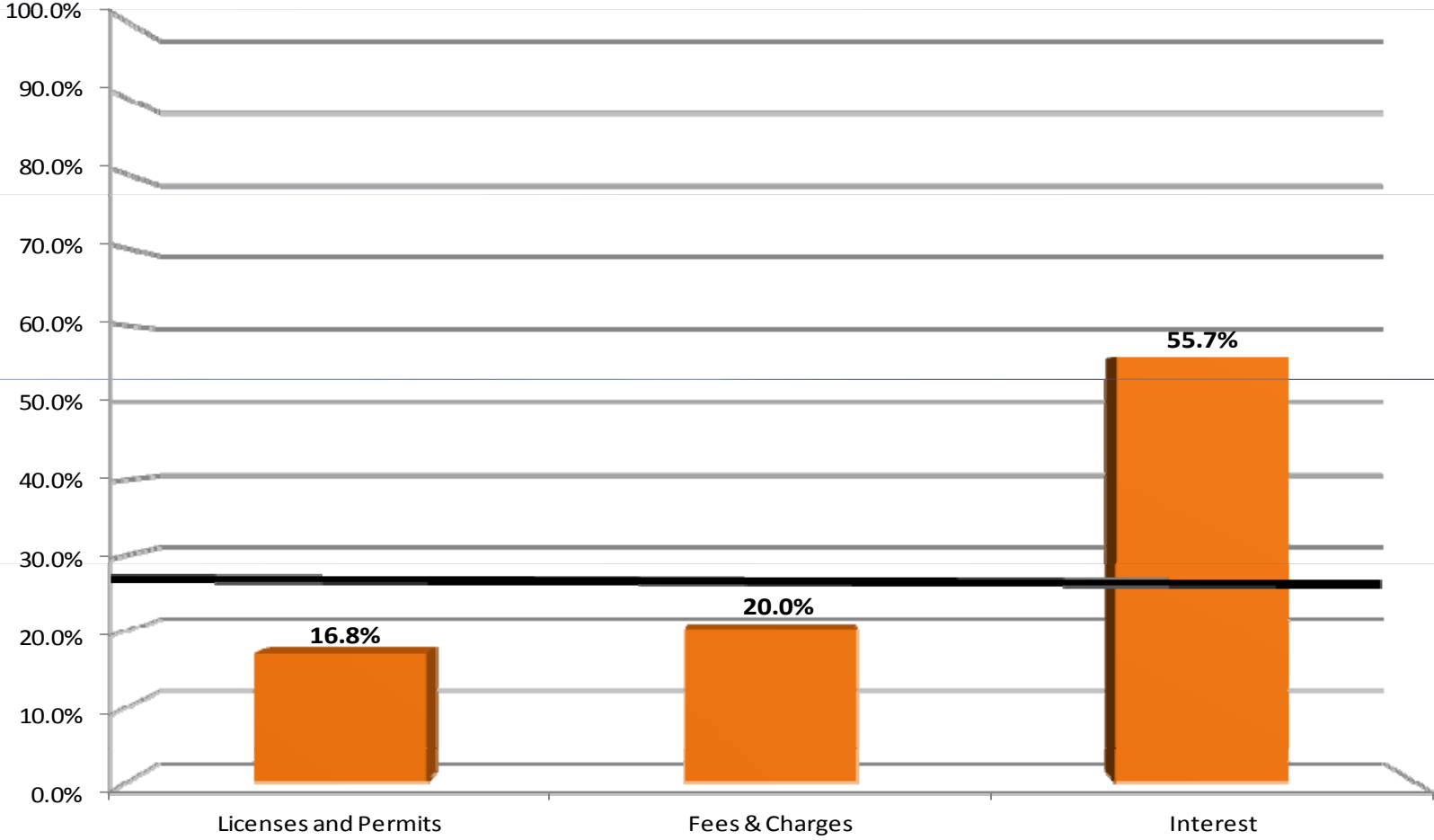
Fiscal Year 2013 – 2014

First Quarter, ending September 30, 2013

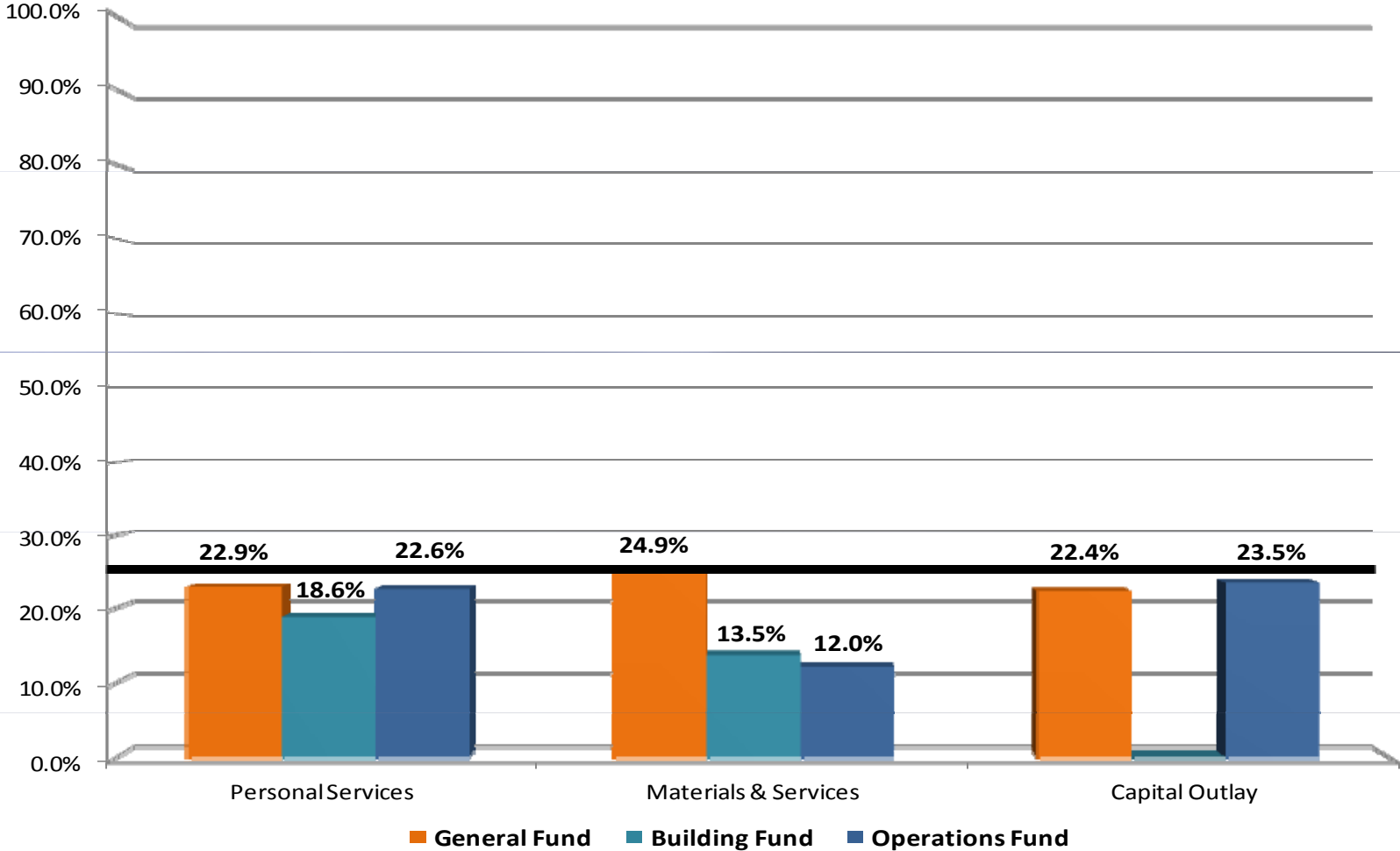
General Fund Revenue



Building Fund Revenue



Operating Expenditures



Lafky Park Playground Equipment



Martinazzi Avenue Project



Five-Year CIP

- ▣ To be discussed at
December 9th
Council Work
Session



**2015 - 2019
Capital Improvement Plan**

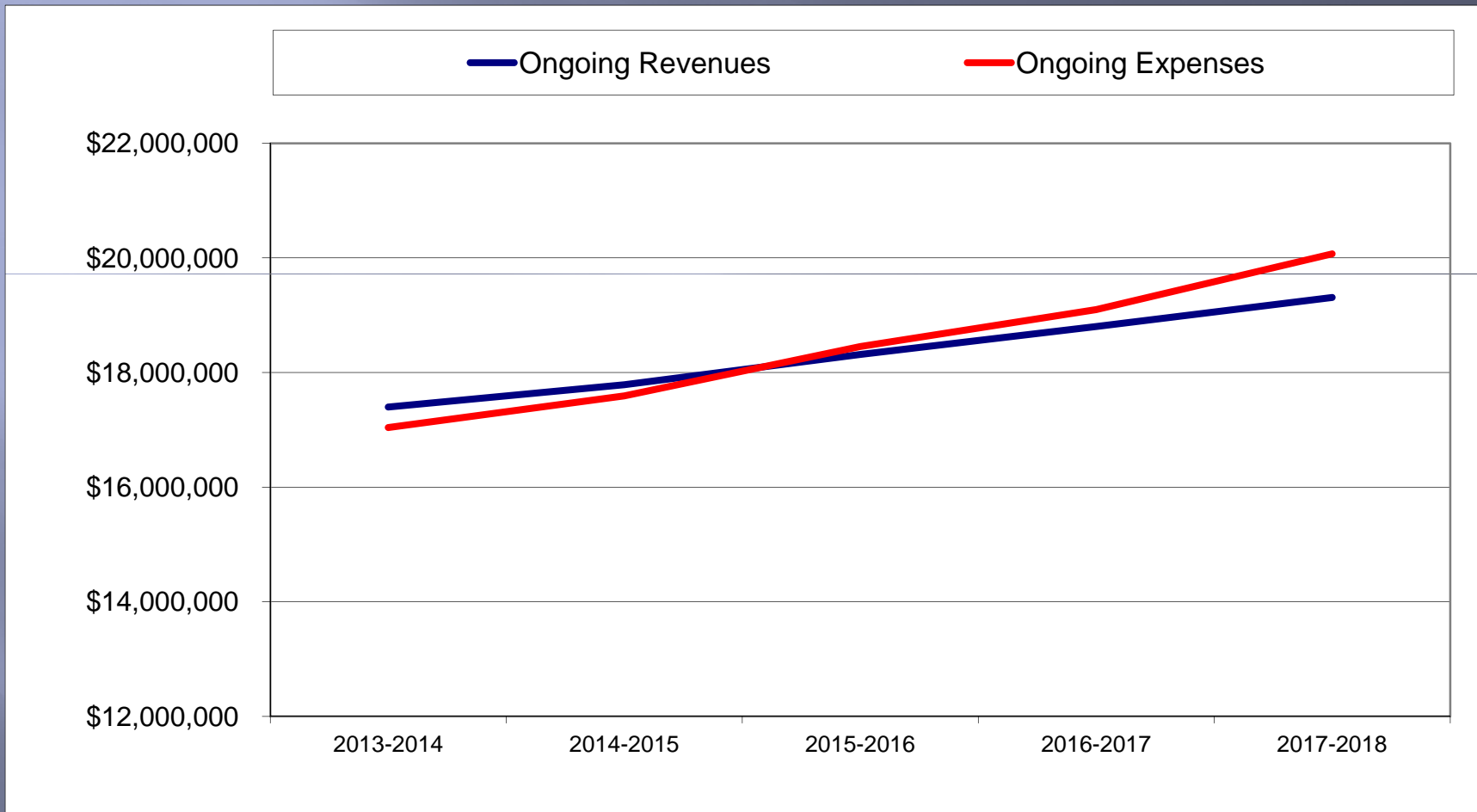
PERS

- ▣ SB 822 reduced employer contribution rate 2.5%
 - Deferred additional 1.9% of scheduled rate increase
- ▣ Special Session changes had no effect on 13-15 rates
- ▣ Rate increases for 15-17 projected to be less than anticipated
 - Unfunded Actuarial Liability decreased by \$3.1 billion as a result of SB 822 and higher investment earnings in 2012
 - Estimated increase in contribution rate of approx. 2.75%

Property Tax Revenue History



Fiscal Health Update



Questions?



City of Tualatin



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos

FROM: Linda Odermott, Paralegal
Sean Brady, City Attorney

DATE: 11/25/2013

SUBJECT: Consideration of **Ordinance 1360-13** Annexing Property Located at 22120 SW Grahams Ferry Road. (Tax Map 2S1 35BA Tax Lot 5300) and Withdrawing the Territory from the Washington County Enhanced Sheriff Patrol District and the County Urban Road Maintenance District (ANN-13-02)

ISSUE BEFORE THE COUNCIL:

The Council will consider Ordinance 1360-13 that would annex property known as Tax Lot 5300 on Washington County Assessor's Map 2S1 35BA located at 22120 SW Grahams Ferry Road and withdrawing the territory from the Washington County Enhanced Sheriff Patrol District and the County Urban Road Maintenance District.

RECOMMENDATION:

Staff recommends City Council adopt Ordinance 1360-13 granting ANN-13-02 and remove the property from the Washington County Enhanced Sheriff Patrol and Washington County Urban Road Maintenance District with an endorsement to Clean Water Services District.

EXECUTIVE SUMMARY:

On November 12, 2013, the City Council held a quasi-judicial hearing to decide whether to annex property located at 22120 SW Grahams Ferry Road to the City of Tualatin. At the close of the public hearing, Council approved the Staff Report and directed staff to bring back an ordinance granting Ann-13-02, which would annex the property.

FINANCIAL IMPLICATIONS:

There are no financial implications associated with the recommendation.

Attachments: [Ordinance](#)
[Exhibit A - Legal Description](#)
[Exhibit B - Map](#)
[Exhibit C - Findings and Analysis](#)

ORDINANCE NO. 1360-13

AN ORDINANCE ANNEXING TERRITORY LOCATED AT 22120 SW GRAHAMS FERRY ROAD INTO THE CITY OF TUALATIN AND WITHDRAWING THE TERRITORY FROM THE WASHINGTON COUNTY ENHANCED SHERIFF PATROL DISTRICT AND THE COUNTY URBAN ROAD MAINTENANCE DISTRICT (Tax Map 2S1 35BA Tax Lot 5300) (ANN-13-02)

WHEREAS, upon the application of Patricia A. Bither, as Trustee of the Patricia A. Bither Revocable Living Trust, UAD 9/27/02, a public hearing was held before the City Council of the City of Tualatin on November 12, 2013, relating to the annexation of the property comprised of approximately 2.59 acres of land located outside the City in the southwest of SW Grahams Ferry Road approximately ¼ mile west of SW Boones Ferry Road and more commonly known as 22120 SW Grahams Ferry Road and including Tax Lot 2S135BA 05300 (Lot 5300); and

WHEREAS, notice of public hearing was given as required by Tualatin Development Code 1.031; and

WHEREAS, the City of Tualatin is authorized to annex territory by ORS Chapter 222; and

WHEREAS, the subject territory qualifies for annexation under ORS 222.125; and

WHEREAS, the annexation of the subject territory has been requested by 100 percent of the property owners; and

WHEREAS, the annexation of the subject territory has been requested by 100 percent of the electors; and

WHEREAS, the applicant has requested an Expedited Annexation process in accordance with Metro Code Chapter 3.09.045; and

WHEREAS, Washington County has not opposed the annexation in accordance with the Urban Growth Management Agreement between the County and the City of Tualatin; and

WHEREAS, Metro does not oppose the annexation; and

WHEREAS, the subject territory is in the Washington County Enhanced Sheriff Patrol District and the County Urban Road Maintenance District; and

WHEREAS, ORS 222.520(1) authorizes cities to withdraw territory from districts concurrent with the annexation decision; and

WHEREAS, the Council conducted a public hearing on November 12, 2013, and heard and considered the testimony and evidence presented by the City staff and those appearing at the public hearing; and

WHEREAS, after the conclusion of the public hearing the Council determined the annexation is consistent with all applicable legal requirements of state law, Metro code, and City ordinances related to annexing property and voted to approve the application by a unanimous vote of 7-0; and

NOW THEREFORE, THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. The Property identified in the legal description attached as, Exhibit A, and as more fully depicted in the map in Exhibit B, which are incorporated herein by reference, is hereby annexed to and made a part of the City of Tualatin.

Section 2. The findings attached as Exhibit C, which are incorporated herein by reference, are hereby adopted.

Section 3. The City Recorder is directed to forward copies of this Ordinance to the Oregon Department of Revenue.

Section 4. Within five days of receipt of the required information from the Oregon Department of Revenue, the City Recorder is directed to send copies of this Ordinance and the approval from the Oregon Department of Revenue to Metro for filing with the Oregon Secretary of State.

Section 5. The annexation of the Property is effective from the date the annexation is filed with the Oregon Secretary of State, as provided in ORS 222.180.

Section 6. On the effective date of the annexation, the Property is withdrawn from the Washington County Enhanced Sheriff Patrol District and the County Urban Road Maintenance District.

Section 7. The City Recorder is directed to forward copies of this Ordinance and all other required materials to all public utilities and telecommunications utilities operating within the City in accordance with ORS 222.005.

Section 8. The City of Tualatin endorses the annexation of the subject territory into the Clean Water Services District.

INTRODUCED AND ADOPTED this 25th Day of November, 2013.

CITY OF TUALATIN, OREGON

BY _____
Mayor

APPROVED AS TO LEGAL FORM

ATTEST:

BY _____
City Attorney

BY _____
City Recorder

Ordinance 1360-13
Exhibit A

Preliminary Report

Order No.: **7000-2080365**

Page 6 of 6

Exhibit "A"

Real property in the County of Washington, State of Oregon, described as follows:

Beginning at a 5/8" rod on the southerly right-of-way of Mulloy Road as per survey 8208, said point being the most northeasterly corner of that property described in Book 460 page 19 of Washington County deeds & records, in the Northwest 1/4, of Section 35 T 2 S., R 1 W, of the W.M.; thence S 0°21'27" E 684.45 feet more or less to a 5/8" rod as per survey 8208; thence S 57°33' 43" W 349.77 feet; thence S 27°00'E 306.79 feet to a 5/8" rod; thence S 63° W 220.54 feet to a 5/8" rod; thence N 63°06'29" W 225.12 feet to a 5/8" rod and cap; thence N 28°47'29" E 240.87 feet to a 5/8" rod and cap set in the survey of July 1975; thence N 57°33'43" E 495.23 feet to a 5/8" rod; thence N 0°21'27" W 651.54 feet to a 5/8" rod on the southerly N/W of Mulloy Road (Graham's Ferry Road) and at the Northeast corner of that property described in Book 691 page 69 W.C.D.1-1.; thence N 31°43" E 31.93 feet to the point of beginning as per Survey 18,389 of August 1979.

NOTE: This legal description was created prior to January 1, 2008.

ANNEXATION CERTIFIED

BY VF

JUL 17 2013

**WASHINGTON COUNTY A & T
CARTOGRAPHY**

Exhibit 201AA
Legal Description

**Ordinance 1360-13
Exhibit B**

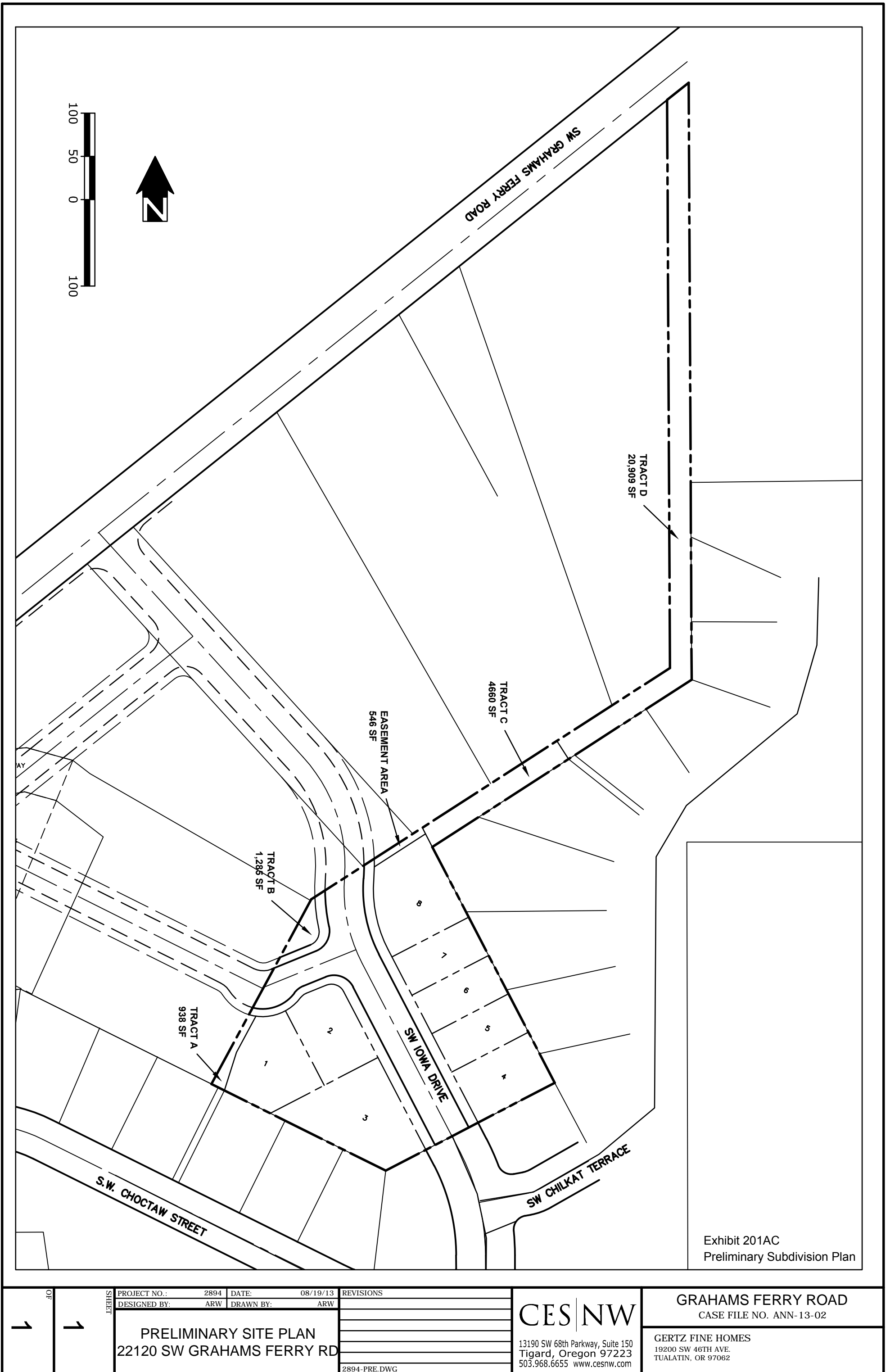


Exhibit 201AC
Preliminary Subdivision Plan

OF
1
1
SHEET

PROJECT NO.:	2894	DATE:	08/19/13	REVISIONS
DESIGNED BY:	ARW	DRAWN BY:	ARW	
PRELIMINARY SITE PLAN				
22120 SW GRAHAMS FERRY RD				
2894-PRE.DWG				

CES|NW
13190 SW 68th Parkway, Suite 150
Tigard, Oregon 97223
503.968.6655 www.cesnw.com

GRAHAMS FERRY ROAD
CASE FILE NO. ANN-13-02

GERTZ FINE HOMES
19200 SW 46TH AVE.
TUALATIN, OR 97062

Ordinance 1360-13
Exhibit C

ANN-13-02: ANALYSIS AND FINDINGS

The subject is a petition for annexation of a property known as the Bither Property and as Tax Lot 5300 on Washington County Assessor's Map 2S1 35BA located at 22120 SW Grahams Ferry Road and withdrawing the territory from the Washington County Enhanced Sheriff Patrol District and the County Urban Road Maintenance District. The applicant is Gertz Fine Homes, represented by Christy Wiegel, which represents Patricia A. Bither, trustee of the Patricia A. Bither Revocable Living Trust and owner of the 2.59-acre Lot 5300.

The City Council must find that the proposed annexation conforms to Tualatin Development Code (TDC) Objectives 4.050(20) and (21), the applicable criteria in Metro Code 3.09 and Oregon Revised Statutes (ORS), if the annexation is to be granted (TDC 31.067[5]). The Applicant has prepared application materials that address the annexation requirements (Attachment 101C) and staff has reviewed the Applicant's material and included pertinent excerpts below.

A. Metro Code, 3.09.050(d) states that an approving entity's final decision on a boundary change shall include findings and conclusions addressing the following criteria:

1) Consistency with directly applicable provisions in an urban service provider agreement or annexation plan adopted pursuant to ORS 195.065.

The application states: "At this time, there are no agreements, pursuant to ORS 195.065, in place between Tualatin and any service provider" (Attachment 101C). This is an accurate statement. There is not an urban service provider agreement that applies to this property. The application and proposed annexation agreement between the City and the property owner are not an annexation plan per ORS 195.065.

Therefore, there are no applicable provisions of an urban service agreement or annexation plan with which the proposed annexation can be reviewed for consistency.

The criterion does not apply.

2) Consistency with directly applicable provisions of urban planning or other agreements, other than agreements adopted pursuant to ORS 195.065, between the affected entity and a necessary party.

The application states: "The subject property is within the established Urban Boundary and is consistent with Tualatin's Urban Planning Area Agreement with Washington County". Staff concurs with the applicant's statement.

Ordinance 1360-13
Exhibit C

As required in the Urban Planning Area Agreement (UPAA) between the City of Tualatin and Washington County, the County was notified of this proceeding by first class mail. In accordance with the Tualatin Development Code (TDC) 1.030(6) and the UPAA, Section III (I), the Low Density Residential (RL) Planning District will be automatically applied to this property on the effective date of the annexation. Per Section III (G) of the UPAA, the County does not oppose this annexation.

The criterion has been met.

3) Consistency with specific directly applicable standards or criteria for boundary changes contained in comprehensive land use plans and public facility plans.

The applicable standards or criteria in the Tualatin Development Code for boundary changes are 4.050(20) and 4.050(21). TDC 4.060(1) is also relevant to boundary changes.

4.050(20) Initiate annexation of property within the Urban Growth Boundary planned for residential development only when petitioned to do so by owners of the affected property, including cases involving unincorporated “islands” of property surrounded by land annexed previously.

The property will be in the Low Density Residential (RL) Planning District upon annexation. The property owner initiated the annexation application. The requirement is met.

4.050(21) Territories to be annexed shall be in the Metro Urban Growth Boundary.

The property is currently within the existing Metro Urban Growth Boundary. The requirement has been met.

4.060(1) A long-range growth boundary is necessary to predict the amount and location of urban land needed in the future. The establishment of this boundary provides a framework for the orderly conversion of rural land to urban uses. The growth boundary establishes the City’s intent to annex and provide urban services to specific properties over a specific period of time. Thus, the growth boundary establishes the basis of a City annexation policy and provides landowners with some assurance as to the City’s intent for the future use of their land.

4.060(1) is not a directly applicable standard or criteria for boundary changes, but is relevant. As the annexation territory falls within Tualatin’s Planning Area which

Ordinance 1360-13
Exhibit C

accounts for future growth so considered a long-range growth boundary, the annexation is in support of the statement contained in TDC 4.060(1).

4) Consistency with specific directly applicable standards or criteria for boundary changes contained in the Regional Framework Plan or any functional plan.

The application states: "The Regional Framework Plan and Functional Plan have no provisions directly related to annexation. Because services and transportation facilities are available in the area and all property within the Urban Growth Boundary and Urban Planning Area Boundary were included in calculations for facility capacity, housing and employment, annexation would be consistent with the Framework and Functional Plans." Staff concurs with this statement.

The criterion has been met.

5) Whether the proposed change will promote or not interfere with the timely, orderly, and economic provisions of public facilities and services.

Sanitary sewer service and water services are available in existing lines located at the intersection of SW Iowa Drive and SW Choctaw Street. Access to the site is available via SW Grahams Ferry Road and SW Iowa Street, which currently terminates on the south side of the subject property.

Currently, there are no public stormwater services in the vicinity of the property and upon development, adequate stormwater treatment, detention and conveyance improvements to serve the property will need to be provided. The applicant was informed of the availability of public facilities at the Annexation pre-application meeting with City staff.

Future street rights-of-way, including their functional classifications and prospective alignments, were established as part of Tualatin's Transportation System Plan, which is incorporated into Chapter 11 of the Tualatin Development Code. State of Oregon planning rules stipulate the Transportation System Plan must be based on the current Comprehensive Plan land use map and must also provide a transportation system that accommodates the expected 20-year growth in population and employment that will result from implementation of the land use plan. Although actual alignment of roadways may be negotiated during the development process, the general capacity needs and the associated alignments of the transportation system in Tualatin have been established and planned for in the Tualatin Development Code. Existing and future arterials, collectors, and expressways that are in the general vicinity of the subject property have been established as part of the Transportation System Plan.

Ordinance 1360-13
Exhibit C

The general alignment and potential functional classification of these roads can be found in Figure 11-1 Tualatin Functional Classification Plan, in Chapter 11 of the TDC. The annexation itself will not have any effect on roadway needs. However, it is determined that because the roadway network and capacity planning has already been established as part of Tualatin's Transportation planning process, future development will not interfere with the provision of this type of service in the area. The ability of the transportation facilities, including SW Iowa Drive, to serve development on the subject property and the need for street improvements to serve the property will be determined in a land use process when development is proposed.

A proposed annexation agreement between the City and the property owner addresses the orderly provision of services and the adequacy and suitability of existing improvements on the subject property for existing and future development on the property. The orderly provision of services is ensured. The proposed Bither Annexation Agreement will establish the uses and property improvements that upon redevelopment will be in conformance with the Tualatin Development Code (TDC) and Tualatin Municipal Code (TMC).

Staff finds that because the subject property can be served by these public facilities, the annexation will not interfere with the timely, orderly and economic provision of public facilities and services.

The criterion has been met.

6) If the proposed boundary change is for annexation of territory to Metro, a determination by the Metro Council that the territory should be included in the Urban Growth Boundary shall be the primary criterion for approval.

This criterion is not applicable. The subject site is already within the Metro Service District Boundary and within the Urban Growth Boundary. The criterion does not apply.

7) Consistency with other applicable criteria for the boundary change in question under state and local law.

One item in the TDC and two items in ORS Chapter 222 apply to annexations.

TDC 4.050(21) states, "Territories to be annexed shall be in the Metro Urban Growth Boundary."

The territory to be annexed is currently within the existing Metro Urban Growth Boundary. The criterion has been met.

ORS 222.111(1) states, "When a proposal containing the terms of annexation is approved in the manner provided by the charter of the annexing city or by ORS

Ordinance 1360-13
Exhibit C

222.111 to 222.180 or 222.840 to 222.915, the boundaries of any city may be extended by the annexation of territory that is not within a city and that is contiguous to the city or separated from it only by a public right of way or a stream, bay, lake or other body of water. Such territory may lie either wholly or partially within or without the same county in which the city lies.”

The subject property is not currently within a city. The property proposed for annexation is contiguous to Tualatin on all sides except the northwest.

This criterion has been met.

ORS 222.520(1) states, “Whenever a part less than the entire area of a district named in ORS 222.510 becomes incorporated as or annexed to a city in accordance with law, the city may cause that part to be withdrawn from the district in the manner set forth in ORS 222.120 or at any time after such incorporation or annexation in the manner set forth in ORS 222.524. Until so withdrawn, the part of such a district incorporated or annexed into a city shall continue to be a part of the district.”

The subject territory is in the Washington County Enhanced Sheriff Patrol District and the Washington County Urban Road Maintenance District. As part of this annexation, the subject territory will be withdrawn from the Enhanced Sheriff Patrol District and the Urban Road Maintenance District. The City of Tualatin will provide police services. Because the proposed boundary change is consistent with state and local law, this criterion is met.

B. Metro 3.09.050(g) states that, “Only territory already within the defined Metro Urban Growth Boundary at the time a petition is complete may be annexed to the city or included in territory proposed for incorporation into a new city.”

The subject property is currently within Metro’s Urban Growth Boundary and was so at the time the petition for annexation was filed on July 22, 2013.

The criterion has been met.

C. Conclusion

Based on the application and the above analysis and findings, the approval criteria of Metro Code 3.09.050(d), the Tualatin Development Code, and Oregon Revised Statutes have been met.



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Alice Rouyer

FROM: Cindy Hahn, Associate Planner
Aquilla Hurd-Ravich, Planning Manager

DATE: 11/25/2013

SUBJECT: Consideration of **Ordinance No. 1362-13** Relating to Keeping of Backyard Chickens; and Adding Chapter 6-15 to the Tualatin Municipal Code. **SECOND READING**

ISSUE BEFORE THE COUNCIL:

Consideration of Ordinance No. 1362-13 relating to keeping of backyard chickens; and adding Chapter 6-15 to the Tualatin Municipal Code.

RECOMMENDATION:

Staff recommends Council approve Ordinance 1362-13 as amended.

EXECUTIVE SUMMARY:

At the November 12, 2013 City Council meeting, Ordinance No. 1362-13 was advanced to second reading by a vote of 6-1. Prior to first reading, City Council amended Section 1 of the ordinance relating to proposed TMC 6-15-030(6). The amendment reduced the setback requirements from all property lines from 25 feet to 10 feet, and also provided a new 25 foot setback from all residences. Ordinance No. 1362-13 presented for second reading reflects those amendments.

OUTCOMES OF DECISION:

If adopted, Ordinance No. 1362-13 will be effective 30 days after adoption.

Attachments: Chicken Ordinance TMC

ORDINANCE NO. 1362-13

AN ORDINANCE RELATING TO KEEPING OF BACKYARD CHICKENS; AND
ADDING CHAPTER 6-15 TO THE TUALATIN MUNICIPAL CODE

WHEREAS, providing appropriate guidelines for backyard chickens is important to ensure the health, safety, and welfare of the citizens of Tualatin; to prevent nuisances; maintain sanitary conditions of property; and prevent impairment on the enjoyment of surrounding properties.

NOW THEREFORE, THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. Chapter 6-15 is added to the Tualatin Municipal Code to read as follows:

TMC 6-15-005 Purpose. The purpose of this code is to provide minimum standards for keeping backyard chickens for domestic purposes and to safeguard the health, safety and welfare of the citizens of Tualatin.

TMC 6-15-010 Definitions. As used in this chapter, the following definitions apply:

(1) "Chicken" means *Gallus gallus domesticus*, a domestic fowl believed to be descended from the red jungle fowl of southeastern Asia and developed in a number of breeds.

(2) "City Manager" means the City Manager or the City Manager's designee.

(3) "Chicken Facility" means a coop, a run, or a combination of a coop and a run.

(4) "Coop" means a structure that provides roofed shelter for chickens.

(5) "Hen" means an adult female chicken.

(6) "Licensee" means the person granted a license to keep chickens.

(7) "Run" means an enclosed or fenced area either surrounding or separate from the coop in which poultry are kept and allowed to walk, run about, peck and otherwise move freely.

(8) "Rodent" means a mouse or rat.

(9) "Rooster" means a male chicken over four months of age.

(10) "Vector" means any insect organism; including, but not limited to: flies, fleas, lice, ticks, fly maggots and mosquito larvae capable of bearing or carrying a disease transmittable to human beings.

(11) "Vermin" means any rodent or vector.

TMC 6-15-020 License to Keep Chickens Required.

(1) A person must not keep chickens within the City of Tualatin, unless the person has a valid license issued by the City of Tualatin for such purpose.

(2) The license to keep chickens is valid for a period of five years, and may be renewed for additional five-year terms. The process for renewal shall be the same as for acquiring a license.

TMC 6-15-030 Conditions of License. Every licensee must comply with the following conditions at all times:

(1) The place where the chickens are to be kept must be within a planning district that allows the keeping of chickens as a use;

(2) A maximum of four hens are permitted on any one lot;

(3) Roosters are prohibited;

(4) Harvesting or butchering of a chicken is prohibited;

(5) Chickens must be confined at all times within a chicken facility; unless, within a fenced yard and under the direct supervision of the licensee;

(6) The chicken facility must be located in the rear yard of a lot and be at least 10 feet from all property lines and 25 feet from all residences;

(7) The chicken facility must not exceed 200 square feet in floor space;

(8) The chicken facility must not exceed a height of eight feet measured from the tallest part of the roof surface to the ground;

(9) The coop must have at least three enclosed sides. The fourth side may be open with the open side facing away from all neighboring property lines;

(10) The chicken facility and the place where the chickens are located must be maintained in good repair, in a clean and sanitary condition, and free of vermin, and obnoxious smells and substances that create a nuisance for adjoining property; and

(11) Chicken feed must be properly stored in a vermin-proof container or receptacle.

TMC 6-15-040 License Application.

(1) An application for a license to keep chickens must include the following:

(a) The name and mailing address of the person seeking the license;

(b) The address where the chickens will be kept;

(c) A description of the chicken facility to be utilized, its dimensions, a description of the site, including notation of setbacks;

(d) The names and addresses of all owners of property adjoining the location where the chickens are proposed to be kept;

(e) A certification by the person seeking a license that the person agrees to abide by the license provisions of this Chapter for the duration of the license term; and

(f) The payment of the licensing fee, as established by resolution of the City Council.

(2) The City must grant a license within 30 days of receipt of a complete and valid application.

(3) An application for a license to keep chickens, or a renewal of a license, may be denied for any of the following reasons:

(a) The application materials contain any inaccurate, misleading, or incomplete statements;

(b) The applicant previously failed to comply with the conditions of the license issued; or

(c) Other activity by the person seeking the license that presents reasonable doubt about the person's ability to comply with the license conditions or otherwise endanger the health, safety, or welfare of the public.

TMC 6-15-050 Notice of License to Neighboring Properties. Within 10 business days following approval of a license application, the City shall provide written notice by first class mail to all property owners immediately adjacent to the licensee's property. The notice must list the name and address of the licensee and the City's contact information for persons to seek information or file complaints.

TMC 6-15-060 Complaint Processes.

(1) Any person may file a complaint alleging a violation of this Chapter by submitting a written complaint to the City of Tualatin. The complaint must contain the following information:

- (a) The name of the person filing the complaint;
- (b) The address of the alleged violation; and
- (c) A complete description of the alleged violation.

(2) Upon receipt of the complaint, the City Manager must determine if the complaint alleges a violation of this Chapter, and if so, conduct an investigation of the complaint. If the City Manager determines that the complaint is not valid, the case will be closed and all parties will be notified of the closure.

- (a) If after investigating the complaint, the City Manager determines a violation has occurred, the City Manager may issue a warning or citation.

TMC 6-15-070 Inspection of Premises; Administrative Warrant. When it is necessary to inspect the premises to investigate or enforce the provisions of this Chapter, the City Manager may, with the owner's permission, enter the premises at reasonable times to inspect or perform the duties imposed by this Chapter, or must otherwise seek an administrative warrant. The process for seeking inspection of a premise is as follows:

(1) If the single-family dwelling or premises are occupied, the City Manager must present credentials to the occupant and request permission to enter.

(2) If the single-family dwelling or premises are unoccupied, the City Manager must make a reasonable effort to locate the owner/keeper or other person having charge or control of the single-family dwelling or premises and request permission to enter.

(3) If entry is refused or the dwelling unit or premises are unoccupied, the City Manager must obtain an administrative warrant before entry or inspection of the premises.

TMC 6-15-080 Abatement of Violations. In addition to any other remedy provided by law, the City may cause any violation of this Chapter to be abated as provided by the abatement proceedings in TMC 6-04-170 through 6-04-240.

TMC 6-15-090 Violation is Civil Infraction.

(1) A person who violates or refuses to comply with this Chapter commits a civil infraction and shall be subject to a fine of up to \$500. Each violation, and each day that a violation continues, constitutes a separate civil infraction.

(2) In addition to any other remedy provided by law, a person that commits more than two violations of this Chapter within any six-month period may have their license revoked for up to one year.

(3) The civil infraction procedures in TMC 7-01 apply to the prosecution of any violation of this Chapter.

Section 2. Severability. Each section of this ordinance, and any part thereof, is severable. If any part of this ordinance is held invalid by a court of competent jurisdiction, the remainder of this ordinance shall remain in full force and effect.

Adopted by the City Council this ____ Day of _____, 2013.

CITY OF TUALATIN, OREGON

BY _____
Mayor

APPROVED AS TO LEGAL FORM

ATTEST:

BY _____
City Attorney

BY _____
City Recorder



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos

FROM: Linda Odermott, Paralegal
Sean Brady, City Attorney

DATE: 11/25/2013

SUBJECT: Consideration of **Ordinance No. 1363-13** Amending the Tualatin Development Code (TDC) Chapter 40 Low Density Residential Planning District (RL) to Include Chicken Keeping as a Permitted Use; and Amending TDC 40.020 (PTA-13-02)

ISSUE BEFORE THE COUNCIL:

Consideration of Ordinance No.1363-13 amending the TDC Chapter 40 - Low Density Residential Planning District (RL) to include chicken keeping as a permitted use (PTA 13-02).

RECOMMENDATION:

Staff recommends Council adopt an ordinance amending TDC 40 Low Density Residential Planning District (RL) to include Chicken Keeping as a permitted use (PTA 13-02).

EXECUTIVE SUMMARY:

The City of Tualatin submitted an application for a Plan Text (PTA-13-02). The City provided notice of PTA-13-02 to the Oregon Department of Land Conservation and Development as provided under ORS 197.610 and notice of public hearing was given as required by Tualatin Development Code 1.031. A public hearing was held before the City Council of the city of Tualatin on November 12, 2013, to consider the Plan Text Amendment (13-02) which would allow chicken keeping as a permitted use in the Low Density Residential Planning District (RL). The Council considered the public testimony and evidence presented by City staff, the written comments submitted, and the oral comments of those appearing at the public hearing. The City Council approved PTA 13-02 and directed staff to bring back an ordinance.

The Findings and Analysis in support of the ordinance are set forth in Attachment A.

Attachments: [Ordinance](#)
[A. Attachment A - Analysis and Findings](#)

ORDINANCE NO. 1363-13

AN ORDINANCE AMENDING THE TUALATIN DEVELOPMENT CODE (TDC) CHAPTER 40 LOW DENSITY RESIDENTIAL PLANNING DISTRICT (RL) TO INCLUDE CHICKEN KEEPING AS A PERMITTED USE; AND AMENDING TDC 40.020 (PTA-13-02)

WHEREAS upon the application of the Development Services Department, a public hearing was held before the City Council of the City of Tualatin on November 12, 2013, related to a Plan Text Amendment of the Tualatin Development Code (TDC); and amending TDC 40 (PTA-13-02); and

WHEREAS, the City provided notice of PTA-13-02 to the Oregon Department of Land Conservation and Development as provided under ORS 197.610; and

WHEREAS, notice of public hearing was given as required by Tualatin Development Code 1.031; and

WHEREAS, the Council conducted a public hearing on November 12, 2013, and heard and considered the testimony and evidence presented by the City staff and those appearing at the public hearing; and

WHEREAS, after the conclusion of the public hearing, the Council voted 6-1, with Councilor Truax opposed to approve the application.

NOW THEREFORE, THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. TDC 40.020 is amended to read as follows:

- (1) Single-family dwellings, including manufactured homes.
- (2) Agricultural uses of land, such as truck gardening, horticulture, but excluding commercial buildings or structures and excluding the raising of animals other than the following:
 - (a) Normal household pets
 - (b) Chickens as otherwise allowed by the Tualatin Municipal Code.
- (3) Home occupations as provided in TDC 34.030 to 34.050.
- (4) Public transit shelters.
- (5) Greenways and Natural Areas, including but not limited to bike and pedestrian paths and interpretive stations.
- (6) Residential homes.

(7) Residential facilities for up to 15 residents, not including staff.

(8) Family day care provider, provided that all exterior walls and outdoor play areas shall be a minimum distance of 400 feet from the exterior walls and pump islands of any automobile service station, irrespective of any structures in between.

(9) Sewer and water pump stations and pressure reading stations.

(10) Wireless communication facility attached, provided it is not on a single-family dwelling or its accessory structures.

(11) Accessory dwelling units as provided in TDC 34.300 to 34.310.

(12) Transportation facilities and improvements.

(13) Public park, public playground, and public recreation building.

Section 2. The City adopts as its findings the Findings and Analysis attached as Attachment A, which is incorporated herein.

INTRODUCED AND ADOPTED this 25th Day of November, 2013.

CITY OF TUALATIN, OREGON

BY _____
Mayor

APPROVED AS TO LEGAL FORM

ATTEST:

BY _____
City Attorney

BY _____
City Recorder

**ORDINANCE 1363-13
ANALYSIS AND FINDINGS**

ATTACHMENT A

Amending the Tualatin Development Code (TDC) Chapter 40 Low Density Residential Planning District (RL) to Include Chicken Keeping as a Permitted Use and amending TDC 40.020(2). The proposed amendment to the Tualatin Development Code (TDC) Chapter 40 is an application by the Community Development Department to allow chicken keeping as a permitted use in the Low Density Residential Planning District (RL).

Background

Existing City regulations contained in the Tualatin Development Code (TDC) do not allow chicken keeping in single-family or other residential areas. Specifically, the Low Density Residential (RL) Planning District allows as a permitted use “agricultural uses of land, such as truck gardening, horticulture...”, but excludes “the raising of animals other than normal household pets” (TDC Section 40.020). Further, the RL Planning District allows as a conditional use “agricultural animals” but regulates these to include “cattle, horses and sheep” (TDC Section 40.030(4)(m)) in some limited areas of the city. Small animals are defined as “a domestic animal, such as a dog, cat, rabbit or guinea pig, accepted by the American Veterinary Medical Association as a household pet” (TDC Section 31.060 Animal, Small), and thus does not include chickens. The TDC does not allow “agricultural uses” in any other Planning District. The TMC also has regulations on nuisance issues addressing odor and animals, however, these regulations do not specifically address chicken keeping. A companion to the proposed amendment to the TDC is proposed Ordinance 1362-13 to regulate chicken keeping in the RL Planning District.

In 2010, City Council directed staff to present information on chicken keeping in residential areas to the Tualatin Planning Commission (TPC) for their consideration. The TPC asked staff to review the City of Portland’s regulations and to determine whether a “model ordinance” exists for keeping chickens in residential areas. Staff subsequently reviewed the City of Portland’s regulations and incorporated some of the definitions and criteria in the regulations into the draft code language contained in proposed TMC Ordinance 1362-13. Staff also located an analysis prepared by K.T. LaBadie, a student at the University of New Mexico, entitled Residential Urban Chicken Keeping: An Examination of 25 Cities, which includes an example or “model” ordinance for chicken keeping in residential areas. This paper provided the basis for the majority of definitions and standards in the draft code language contained in the proposed TMC Ordinance.

At the August 2010 TPC meeting, the draft code language was discussed and several changes were suggested. The overall consensus was that a proposed TMC Ordinance should be adopted with the limitation that it pertain only to chickens and not other types of domesticated fowl, and necessary amendments made to Sections

40.020 of the TDC to allow chicken keeping in the Low Density Single-Family Residential Planning District in the City.

Staff presented the draft Municipal Code language to City Council for consideration in October 2010, and was directed to vet the issue through the Citizen Involvement Organizations (CIOs) once they were established.

The City Council reconsidered chicken keeping in December 2012 and staff was directed to work with the CIO presidents to determine a timeline for their input. Council further directed staff to put the issue on a future agenda for further review. An information packet was prepared and presented to the CIO officers at their January 2013 CIO Officer Meeting. This packet contained a comment form for CIOs to use as a guide in submitting the results of their neighborhood's input for City Council review. In addition, the packet contained background information about the issue.

At the May 28, 2013 work session, staff presented input from the CIOs as well as individual community members about backyard chickens. Staff returned to City Council at a June 2013 work session with a timeline for preparing a Municipal Code ordinance regulating chickens in residential areas. At the August and September 2013 work sessions staff presented results of research on complaints about chickens and best practices in other cities as well as sought policy direction from City Council on components of the potential chicken ordinance.

The Analysis and Findings presented here pertain only to the Plan Text Amendment Proposed to amend language in the Tualatin Development Code.

Plan Amendment Criteria (TDC Section 1.032)

The approval criteria of the Tualatin Development Code (TDC), Section 1.032, must be met if the proposed PTA is to be granted. The plan amendment criteria are addressed below.

1. Granting the amendment is in the public interest.

The public interest as identified by staff:

- 1) The community has expressed support of allowing chicken keeping in single-family residential areas (RL).

Public Interest #1. On May 28, 2013 staff presented community feedback to Council regarding chicken keeping in single-family areas. Five Citizen Involvement Organizations commented four of which supported chicken keeping in residential areas. Seventy-one (71) individual residents provided comment, a petition with 14 signatures and accompanying emails, 11 petitions sheets with a total of 179 signatures and another 26 signatures were submitted in favor of allowing chickens in

residential areas. The comments made also considered the proposed Municipal Code Ordinance to regulate chicken keeping in residential areas. Members of the public have expressed a desire to keep chickens for purposes of local food production and raising small animals.

As discussed in the Background section, above, Tualatin does not allow chicken keeping in single-family residential areas. However, the Community Services Officer has issued 11 notices about illegal chicken keeping since 2009, and numerous individuals have commented in City Council work session and meetings about the positive and negative aspects of keeping chickens in urban areas. The public interest is best served by allowing chickens in the Low Density Single- Family Residential Planning District.

Public Interest #1 is satisfied.

Granting the amendment is in the public interest. Criterion "A" is met.

2. The public interest is best protected by granting the amendment at this time.

Over the past three years, citizens have approached the City Council to reconsider the existing prohibition on chicken keeping, citing benefits associated with sustainability, finances, and health, and because their keeping of chickens had been subject to code enforcement actions since they were not allowed to raise chickens under existing regulations. Citizens also have come forward in opposition to keeping chickens in the City pointing out the negative aspects of the practice, particularly if the chickens are not well cared for and maintained. Granting the PTA to allow chicken keeping in single-family residential areas would satisfy the request of citizens who desire to raise chickens in their backyard.

Granting the amendment at this time best protects the public interest. Criterion "B" is met.

3. The proposed amendment is in conformity with the applicable objectives of the Tualatin Community Plan.

The applicable objectives of the Tualatin Community Plan relating to the amendment to Tualatin Development Code (TDC) Chapter 40 are discussed below:

Chapter 5. Residential Planning

Section 5.030 General Objectives.

(10) Provide for the raising of agricultural animals and agricultural structures in areas that are presently used for this purpose and that are not buildable due to their location in the 100-year flood plain.

The Development Code currently complies with section 5.030(10) by making the raising of agricultural animal in the Low-Density Residential Planning District a Conditional Use as allowed in TDC Section 40.030(4)(i). Therefore, if a property owner wishes to raise agricultural animals and their property is in the 100-year flood plain and was once used for purposes of raising agricultural animals as indicated on Map 9-6 in the Tualatin Development Code, then the property owner can apply for a Conditional Use Permit. TDC Section 40.030(4)(i) defines agricultural animals as cattle, horses and sheep.

The proposed amendment is not limited to areas of the City that were previously used for the raising of agricultural animals and it is not limited to locations in the 100-year flood plain. The proposed amendment would permit chicken keeping in the Low-Density Residential (RL) Planning District regardless of flood plain status or previous use for raising agricultural animals. Chicken keeping in the RL Planning District is not in conflict with Objective 10 because it is not being defined as an agricultural use. Currently Permitted Uses in RL, TDC Section 40.020 (2), exclude the raising of animals with one exception and that is normal household pets as defined in TDC 31.060 Animal, Small. Chickens are proposed to be an additional exception to the prohibition, and if this proposed amendment is granted keeping chickens will also be a permitted use.

Section 5.040 Planning District Objectives.

(1) Low Density Residential Planning District (RL). ...The raising of agricultural animals and the construction of agricultural structures may be allowed by conditional use permit in those portions of the District designated on the Plan Map.

As discussed in the Background, above, existing City regulations contained in the Tualatin Development Code (TDC) do not allow chicken keeping in single-family or other residential areas. Specifically, the Low-Density Residential (RL) Planning District allows as a permitted use “agricultural uses of land, such as truck gardening, horticulture...”, but excludes “the raising of animals other than normal household pets” (TDC Section 40.020). Further, the RL Planning District allows as a conditional use “agricultural animals” but regulates these to include “cattle, horses and sheep” (TDC Section 40.030(4)(m)) in some limited areas of the city. Small animals are defined as “a domestic animal, such as a dog, cat, rabbit or guinea pig, accepted by the American Veterinary Medical Association as a household pet” (TDC Section 31.060 Animal, Small), and thus does not include chickens. The TDC does not allow “agricultural uses” in any other Planning District. The TMC also has regulations on nuisance issues addressing odor and animals, however, these regulations do not specifically address keeping chickens.

Granting the PTA to allow chicken keeping in single-family residential areas would not affect the provisions permitting the raising of agricultural animals in some limited areas of the City. Rather it would add chicken keeping as a permitted use in the Low

Density Residential (RL) Planning District under TDC Section 40.020(2). This would be consistent with Sections 5.030 and 5.040 of the Tualatin Community Plan.

Chapter 10. Community Design
Section 10.020 Design Objectives.

(8) Sustain the comfort, health, tranquility and contentment of residents and attract new residents by reason of the City's favorable environment; and thus promote and protect the peace, health and welfare of the City.

Granting the PTA to allow chicken keeping in single-family residential areas would satisfy the request of citizens who desire to raise chickens in their backyard and the proposed companion TMC Ordinance will regulate the care of chickens and maintenance of their surroundings. Community members who have expressed interest in keeping chickens cite reasons of wanting to grow or raise their own food and have fresh eggs and they also cite the desire to teach children about raising animals.

Criterion "C" is met.

4. The following factors were consciously considered:

The various characteristics of the areas in the City.

The characteristics of single-family residential areas of the City and inside the UGB were considered in preparation of the PTA. In particular, extensive consideration was given to the size and dimension of individual lots and dwellings throughout the City and how minimum lot size and/or setback requirements in the potential Chicken Ordinance would either enable or prohibit citizens from keeping chickens in their backyard.

The suitability of the area for particular land uses and improvements.

The suitability of single-family residential areas for chicken keeping was given consideration in preparation of the PTA. Citizens have cited benefits associated with the practice such as sustainability, finances, and health, as well as negative aspects, such as noise, odor and waste, and vermin, particularly if the chickens are not well cared for and maintained. Staff inquired with 14 cities about complaints they had received related to chickens in their jurisdiction and presented this information to City Council, along with a summary of best practices gleaned from recently-adopted chicken ordinances.

Trends in land improvement and development.

There has been a resurgence in recent years in keeping chickens in urban areas both locally and nationally. Benefits cited focus on food, sustainability, and size. A

chicken produces about four to five eggs a week and the surplus may be stored or shared, contributing to food security. Hens provide a fresh, locally produced, and inexpensive source of food for families at a time when food prices are increasing in relation to increases in fuel, shipping and packaging costs. Hens eat food scraps, dandelions, mice, and insects and may contribute to reductions in the waste stream, and hen droppings may be used as a natural fertilizer in backyard gardens. Hens are small, have minimal space requirements, and make good pets.

Negative aspects of chicken keeping also must be considered including roosters that tend to make noises that can be heard beyond the property on which they are kept and odors and waste that may be offending to surrounding residents. Chicken feed can attract rodents and other pests, there is uncertainty about the causes of avian flu and concerns about chickens attracting wildlife predators, and they might go onto another lot or into the street if not properly contained.

Property Values.

There have been no definitive studies showing that chicken keeping in single-family residential areas in an urban setting affect, either negatively or positively, the property value of locations where the chickens are kept or that of the surrounding area.

The needs of economic enterprises and the future development of the area.

As mentioned earlier, hens provide a fresh, locally produced, and inexpensive source of food for families at a time when food prices are increasing in relation to increases in fuel, shipping and packaging costs. Hens may contribute to reductions in the waste stream while providing natural fertilizer in backyard gardens. Thus, chickens may provide added food security and contribute to sustainable economic practices.

Needed right-of-way and access for and to particular sites in the area.

Not applicable.

Natural resources of the City and the protection and conservation of said resources.

Not applicable.

Prospective requirements for the development of natural resources in the City.

Not applicable.

And the public need for healthful, safe, aesthetic surroundings and conditions.

Granting the PTA to allow chicken keeping in Low-Density Residential (RL) Planning District would satisfy the request of citizens who desire to raise chickens in their backyard and the proposed TMC Ordinance will regulate the care of chickens and maintenance of their surroundings

Proof of change in a neighborhood or area.

Staff does not assert proof of change in a neighborhood or area.

Mistake in the Plan Text or Plan Map.

There is no mistake in the Plan Text or Plan Map.

Criterion “D” is met.

5. The criteria in the Tigard-Tualatin School District Facility Plan for school facility capacity have been considered when evaluating applications for a comprehensive plan amendment or for a residential land use regulation amendment.

Because the PTA does not result in a change to plans or development regulations that would impact school facility capacity, Criterion “E” is not applicable.

6. Granting the amendment is consistent with the applicable State of Oregon Planning Goals and applicable Oregon Administrative Rules.

Of the 19 statewide planning goals, staff determined two Goals are applicable.

Goal 1, “Citizen Involvement,” states, “To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.”

Over the past three years, citizens have approached the City Council to reconsider the existing prohibition on chicken keeping, citing benefits associated with sustainability, finances, and health, and because their keeping of chickens had been subject to code enforcement actions since they were not allowed to raise chickens under existing regulations. Citizens also have come forward in opposition to keeping chickens in the City pointing out the negative aspects of the practice, particularly if the chickens are not well cared for and maintained. The City’s Citizen Involvement Organizations (CIOs) as well as individual citizens have been actively and repeatedly involved in soliciting and submitting comments about the positive and negative aspects of keeping chickens in the City and have presented these to the City Council.

Granting the PTA to allow chicken keeping in the Low-Density Residential Planning

District (RL) would satisfy the request of citizens who desire to raise chickens in their backyard and adopting an ordinance regulating the care of chickens and maintenance of their surroundings would ensure that chickens are kept and managed in a healthy, safe and sanitary manner.

Goal 2, “Land Use Planning”, states, “To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.”

Beginning in 2010 and continuing through to the present, the Tualatin Planning Commission (TPC) and City Council, City staff, the Citizen Involvement Organizations (CIOs) and citizens have been involved in consideration of possible regulations for keeping chickens in Tualatin. Staff has conducted extensive research on the subject and citizens have contributed additional information to assure an adequate factual base for a decision and action on this issue.

The PTA complies with Goals 1 and 2. Criterion “F” is met.

7. Granting the amendment is consistent with the Metropolitan Service District’s Urban Growth Management Functional Plan.

The Metro Urban Growth Management Functional Plan (MUGMFP) does not address keeping chickens in residential areas. Criterion “G” does not apply.

8. Granting the amendment is consistent with Level of Service F for the p.m. peak hour and E for the one-half hour before and after the p.m. peak hour for the Town Center 2040 Design Type (TDC Map 9-4), and E/E for the rest of the 2040 Design Types in the City's planning area.

Because the PTA does not relate to vehicle trip generation, Criterion “H” is not applicable.



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos

FROM: Don Hudson, Finance Director

DATE: 11/25/2013

SUBJECT: Consideration of **Ordinance No. 1364-13** Relating to Business Licenses; Amending Tualatin Municipal Code 9-1-020 and 9-1-090; and Declaring an Emergency. SECOND READING

ISSUE BEFORE THE COUNCIL:

Consideration of adopting Ordinance No. 1364-13, Relating to Business Licenses; Amending Tualatin Municipal Code 9-1-020 and 9--090; and Declaring an Emergency.

RECOMMENDATION:

Staff recommends City Council consider adopting this ordinance.

EXECUTIVE SUMMARY:

At the November 12, City Council meeting Ordinance No. 1364-13 was advanced to second reading by a vote of 4-3. The ordinance is presented to City Council for second reading and final adoption. If adopted the ordinance becomes effective upon adoption.

Attachments: [Example Buisness License Ordinances](#)
[Business License Ord](#)

Business License Ordinance, other cities

Ordinance provision allowing the city to deny or revoke a business license if a business is engaging in illegal activity or does not comply with local, state, federal law

CITY	BUSINESS LICENSE ORDINANCE PROVISION	REQUIRE COMPLIANCE WITH LOCAL, STATE, AND FEDERAL LAWS
Ashland	"Upon receipt of an application duly signed and executed as hereinabove prescribed, together with the required fee, the Finance Department shall issue a business license to any applicant desiring to conduct any lawful business activity within the City. If the City has knowledge that the applicant is engaging in, or proposes to engage in an unlawful activity, the City shall return the fee to the applicant, along with the reason for so doing, and shall refuse to issue a license." 6.04.100	Yes
Bend	"All businesses must comply with all City, State and Federal law, and the issuance of a business license does not authorize a business to operate in violation of any other laws." 7.05.060	Yes
Eugene	"The city may issue a license upon finding that the applicant has met all requirements of federal, state and county law, this code, including compliance with city zoning regulations within the urban growth boundary, and rules made pursuant to this code." 3.025(1)	Yes
Grants Pass	"The application will be denied where: 1. The activity to be taxed would not comply with City ordinances, or state or federal law."4.04.027	Yes
Gresham	"No business license shall be issued to any person to engage in a business that does not comply with federal, state or city law."	Yes
Hillsboro	"Denial of a business license is acceptable if the: 1. Proposed business is unlawful;" 5.04.060	Yes
Madras	"No license will be issued to any Applicant concerning any Business that is prohibited by federal, state, and/or local law, regulation, and/or ordinance. Each Business must be conducted and comply with applicable federal, state, and/or local laws, regulations, and/or ordinances." Ord. 849, Section 5.1	Yes
Medford	"No business license shall be issued to any person to engage in a business that does not comply with local, state or federal law. " 8.015(3).	

<p>Lake Oswego</p>	<p>“The Manager shall review or cause to be reviewed applications for and renewals of business licenses, and shall submit such applications to appropriate City departments for investigation to determine and comment on the applicant’s compliance with the City Code and other laws.” 20.02.060</p> <p>“Any of the following may be grounds for denial of the license:</p> <ul style="list-style-type: none"> a. Any false or incomplete statement made or acknowledged on the application form; provided, however, that in the event such statement is the result of excusable neglect, the applicant may resubmit an application with appropriate corrections. b. The business activity would not comply with the Lake Oswego Code and could not be made to comply through the imposition of appropriate conditions. c. A previous history of unlawful business activity by the applicant, which, if continued would be grounds for revocation of the license. d. The business activity would endanger persons or property. e. The applicant’s past or present violations of law, even in the absence of conviction, presents reasonable doubt that the activity performed by the applicant can be performed without harm or danger to persons or property.” 20.02.080 	<p>Yes</p>
<p>Myrtle Creek</p>	<p>Denial, Revocation, or Suspension of License. The city may deny, suspend or revoke a business license upon finding that:</p> <ul style="list-style-type: none"> (a) The licensee fails to meet the requirements of, or is doing business in violation of, any law or requirement of this chapter; or (b) The applicant has provided false or misleading material information, or has omitted disclosure of a material fact on the application, related materials, or license; or (c) The applicant’s past or present violation of a law or ordinance presents a reasonable doubt about their ability to perform the licensed activity without endangering property or the public health or safety; or (d) The information given on the application does not indicate that the applicant has the special knowledge or skill required to 	<p>Yes</p>

	perform the licensed activity; or (e) There is reason to believe that the licensed activity would endanger property or the public health or safety. 5.05.080	
Toledo	“Prior to approving or denying an application, the city shall cause the application to be reviewed and approved by the community planning and development department. The community planning and development department may deem further review necessary by the police department or fire department. The use listed on the application must meet all requirements of the city's fire, building, zoning and other pertinent codes. If any of those departments finds the application incomplete or in violation of city, state, or federal laws, the application may be amended to correct the violation or it may be denied.” 5.04.050	Yes
Wilsonville	“The levy or collection of a license fee and the issuance of a license shall not be construed as a permit by the City for the person to whom such license is issued to engage in any business which is unlawful, illegal or prohibited by the laws of the United States or the laws of the State of Oregon, or this Code.”	No
Clatskanie	“Illegal Businesses: The levy or collection of a license fee upon any business shall not be construed to be a license or permit of the city to the person engaged therein, to engage therein, in the event such business is unlawful, illegal or prohibited by the laws of the state of Oregon or the United States or ordinances.” of the city. 3-1-1	No
Fairview	“The levy or collection of a license fee upon any business shall not be construed to be a license or permit to the person or business engaged therein to engage in activity or business to the extent it is deemed to be unlawful, by the laws of the state of Oregon, the United States or the city.” 5.05.010	No
Harrisburg	“The business license shall not be construed to constitute a permit to engage in any activity prohibited by law nor a waiver of any other regulatory or license requirement imposed by any other provision of City ordinance or Federal, State, regional or local law.”5.05.010	No

On the advice of Legal Counsel, some Cities have denied business licenses to marijuana dispensaries despite no explicit authorization to do so in their business license ordinances. This is due the possibility of prosecution under the federal Controlled Substances Act.

ORDINANCE NO. 1364-13

AN ORDINANCE RELATING TO BUSINESS LICENSES; AMENDING TUALATIN MUNICIPAL CODE 9-1-020 AND 9-1-090; AND DECLARING AN EMERGENCY

WHEREAS, the City of Tualatin requires businesses to acquire a business license prior to conducting business within the City; and

WHEREAS, the City Council wishes to amend its business license to prohibit businesses within the City from engaging in activities that violate City, state, or federal law; and

WHEREAS, the City Council wishes to amend its business license to grant the City Manager additional administrative responsibilities; and

NOW THEREFORE, THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. Tualatin Municipal Code 9-1-020 is amended to read as follows:

9-1-020 License Required.

(1) Unless exempt under the provisions of subsection (2), it is unlawful for a person to carry on or engage in any business within the City without first having obtained a business license from the City.

(2) The following businesses are exempt from the business license requirements:

(a) A contractor or landscape contractor whose principal place of business is not within the City, ~~who derives gross receipts of less than \$125,000 from business conducted within the boundaries of the City during the calendar year for which the business license is obtained~~ and who has obtained a current business license from the Metropolitan Service District.

(b) Independent Contractors who are sole proprietors and who furnish instructional services only to the City or on behalf of City-sponsored programs.

(3) A person that carries on or engages in a business that does not comply with City, state, or federal law is prohibited from being issued a business license.

Section 2. Tualatin Municipal Code 9-1-090 is amended to read as follows:

9-1-090 Administration.

(1) The City Manager or City Manager's designee is authorized to waive any late fees, charges, or penalties as determined to be reasonable in the sole discretion of the City Manager or City Manager's designee.

(2) The City Manager or the City Manager's designee is authorized to prescribe administrative rules and policies to implement the requirements of this Chapter. ~~may establish such other rules for the administration of this ordinance, not inconsistent herewith as may be necessary and expedient.~~

Section 3. Severability. Each section of this ordinance, and any part thereof, is severable. If any part of this ordinance is held invalid by a court of competent jurisdiction, the remainder of this ordinance shall remain in full force and effect.

Section 4. Emergency Clause. This ordinance being necessary for the immediate preservation of the public peace, health, and safety; an emergency is declared to exist and this ordinance shall be in full force and effect on the date of its passage.

Adopted by the City Council this ____ Day of _____, 2013.

CITY OF TUALATIN, OREGON

BY _____
Mayor

APPROVED AS TO FORM

ATTEST:

BY _____
City Attorney

BY _____
City Recorder