

ORDINANCE NO. 1370-14

AN ORDINANCE ALLOWING SMALL-SCALE MIXED USES AND MOBILE FOOD AND FLOWER VENDORS IN INDUSTRIAL AREAS; AND AMENDING TUALATIN DEVELOPMENT CODE CHAPTERS 34, 60, 61, 62, AND 69 (PTA-14-01)

WHEREAS, upon the application of the Community Development Department, a public hearing was held before the City Council of the City of Tualatin on March 10, 2014, related to a Plan Text Amendment to amend Chapters 34, 60, 61, 62, and 69 of the Tualatin Development Code (PTA-14-01); and

WHEREAS, the City provided notice of PTA-14-01 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 City Council 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 City Council voted unanimously to approve the Plan Text Amendment.

NOW THEREFORE, THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

**Section 1.** TDC 34.013 is amended to read as follows:

Section 34.013      Mobile Food and Flower Vendors.

(1) The purpose of this section is to permit the open-air vending of food (including a coffee kiosk) and fresh cut flowers in a manner that will enhance the attractiveness of the Central Commercial (CC), and General Commercial (CG), Light Manufacturing (ML), General Manufacturing (MG), and Manufacturing Park (MP) Planning Districts for pedestrian traffic.

(2) Mobile food and flower vending may be permitted in a Central Commercial (CC), and General Commercial (CG), Light Manufacturing (ML), General Manufacturing (MG), or Manufacturing Park (MP) Planning District for a period not to exceed 180 days.

(3) Applications for mobile vending permits shall meet the following criteria and requirements:

(a) Persons conducting business with a permit issued under this section may transport and display food or flowers upon any pushcart or mobile device;

provided that such device shall occupy no more than 16 square feet of ground area and shall not exceed three feet in width, excluding wheels; six feet in length, including any handles; and no more than five feet in height, excluding any canopies, umbrellas, or transparent enclosure.

(b) Mobile vendors may conduct business on public sidewalks having a width of eight feet or more, and on private sidewalks or parking lots, provided that the Community Development Director approves specific locations. No person shall conduct business as defined herein at a location other than that designated on the permit.

(c) All mobile vendors shall pick up any litter within 25 feet of their places of business and shall provide an appropriate trash container for customer use.

(d) No food vendor may locate within 200 feet of a restaurant or fruit and vegetable market without written consent from the proprietor of the restaurant or market, and no flower vendor may locate within 200 feet of a flower shop without the written consent of the proprietor of the flower shop.

(e) Design, colors and graphics for any pushcart or mobile device shall be subject to review and approval by the Community Development Director to assure aesthetic compatibility with surrounding development.

(f) Food vendors shall comply with all state and county health regulations and shall furnish written evidence of compliance at the time of application for a mobile vending permit.

(g) Prior to the issuance of any permit, the Fire Marshal shall inspect and approve any mobile device or pushcart to determine if any cooking or heating apparatus conforms with the code of the Tualatin Rural Fire Protection District.

(h) Applications for a mobile vending permit shall be accompanied by a signed statement that the permittee will hold harmless the City of Tualatin, its officers and employees and shall indemnify the City of Tualatin, its officers and employees, for any claim for damage to property or injury to persons that may be occasioned by any activity carried on under the terms of the permit. The permittee shall furnish and maintain such public liability, food products liability, and property damage insurance as will protect the permittee from all claims for damage to property or bodily injury, including death, which may arise from operations under the permit or in connection therewith. Such insurance shall provide coverage of not less than \$100,000 for bodily injury for each person, \$300,000 for each occurrence, and not less than \$300,000 for property damage per occurrence. Such insurance shall be without prejudice to coverage otherwise existing therein, and shall name as additional insureds the City of Tualatin, its officers and employees, and shall

further provide that the policy shall not terminate or be canceled prior to the completion of the contract without 30 days written notice to the City Administrator.

(4) An application for a mobile vending permit may be granted by the Community Development Director if the Director finds that Subsection (3) is satisfied by the applicant.

(5) The Community Development Director may attach appropriate conditions to the permit that are necessary to secure the health, safety and welfare of the residents and inhabitants of the City.

**Section 2.** TDC 60.010 is amended to read as follows:

Section 60.010 Purpose.

The purpose of this district is to provide areas of the City that are suitable for industrial uses and compatible with adjacent commercial and residential uses. The district serves to buffer heavy manufacturing uses from commercial and residential areas. The district is suitable for warehousing, wholesaling, and light manufacturing processes that are not hazardous and do not create undue amounts of noise, dust, odor, vibration, or smoke. The district is also suitable for retail sale of products manufactured, assembled, packaged or wholesaled on the site provided the retail sale area, including the showroom area, is no more than 5% of the gross floor area of the building not to exceed 1,500 square feet and, with appropriate restrictions, for retail sale of products not allowed for sale in General Commercial Planning Districts, and office commercial uses where any portion of a legally created lot is within 60 feet of a CO Planning District boundary. Railroad access and screened outdoor storage will be allowed in this district, conforming to defined architectural, landscape, and environmental design standards. In accordance with the Industrial Business Park Overlay District, TDC Chapter 69, and TDC 60.037-60.038 selected small-scale mixed office and retail uses that are supportive of and secondary to industrial uses are allowed to provide services to businesses and employees. The purpose is also to allow certain commercial service uses in the Commercial Services Overlay shown in the specific areas illustrated on Map 9-5 and selected commercial uses subject to distance restrictions from residential areas and subject to the Special Commercial Setback from arterial streets as generally illustrated in Map 9-5 and specifically set forth in TDC 60.035.

**Section 3.** TDC 60.021 is amended to read as follows:

Section 60.021 Restrictions on Permitted Uses in ML.

The following restrictions shall apply to those uses listed as permitted uses in TDC 60.020:

(1) The use must be conducted wholly within a completely enclosed building, except off-street parking and loading, utility facilities, wireless communication facilities, outdoor storage of materials and products directly related to the permitted use, and outdoor play areas of child day care centers as required by state day care certification standards.

(2) The retail sale of products manufactured, assembled, packaged or wholesaled on the site is allowed provided that the retail sale area, including the showroom area, shall be no greater than 5% of the gross floor area of the building not to exceed 1,500 square feet.

(3) For other retail uses, excluding retail sales of products manufactured, assembled, packaged or wholesaled on the site, the following restrictions shall apply:

(a) Retail uses on land designated Employment Area or Corridor on Map 9-4 shall not be greater than 60,000 square feet of gross floor area per building or business.

(b) Retail commercial, retail service and professional service uses on land designated Industrial Area on Map 9- 4 shall not be greater than 5,000 square feet of sales or service area in a single outlet, or not greater than 20,000 square feet of sales or service area for multiple outlets in a single building or in multiple buildings that are part of the same development project, with the following ~~two~~ three exceptions, which shall not be subject to the size limitations stated in this subsection:

(i) Commercial uses within the Special Setbacks for Commercial Uses Area, shown on Map 9-5, and as specified in TDC 60.035.

(ii) Development approved through the application of the Industrial Business Park Overlay District to certain properties, as specified in TDC Chapter 69.

(iii) Development approved through the application of standards for additional small-scale mixed uses in ML as specified in TDC 60.037-60.038.

**Section 4.** A new section is added to TDC Chapter 60 to read as follows:

Section 60.037 Additional Permitted Mixed Uses in ML.

(1) In addition to any other uses permitted in the ML Planning District, the uses set forth in subsection (2) are permitted uses provided:

(a) the site is used substantially for industrial purposes; and

(b) the non-industrial use complies with TDC 60.038.

(2) Permitted uses:

(a) Office Uses:

- (i) Business and commercial offices.
- (ii) General offices, but not government offices.
- (iii) Real estate offices.

(b) Retail Uses:

- (i) Food or convenience store.
- (ii) Restaurant or deli, with or without drive-up or drive through facilities.

(c) Service Uses:

- (i) Correspondence, trade and vocational schools, except vocational high schools;
- (ii) Health or fitness facility.
- (iii) Job training and related services.
- (iv) Mailing operations.
- (v) Reproduction, photocopying.
- (vi) Branch banks and banking kiosks, with or without drive-up or drive through facilities.
- (vii) Dry cleaning.
- (viii) Medical and healing arts.

(d) Other uses of a similar character found by the Community Development Director to meet the purpose of this section as provided in TDC 31.070.

(3) The office, retail, and service uses may be located in a stand-alone building or combined in a building with other permitted uses.

**Section 5.** A new section is added to TDC Chapter 60 to read as follows:

Section 60.038 Restrictions on Additional Permitted Mixed Uses in ML.

(1) Mixed Use Percentage. The uses allowed in TDC 60.037 must comply with the following:

(a) Office uses listed in Section 60.037 must not exceed 25 percent of the total gross floor area of all buildings on the development site.

(b) Individual Retail and Service. Retail and service uses listed in TDC 60.037 must not exceed 5,000 square feet for any individual retail or service use.

(c) Combined Retail and Service Uses. The total of all retail and service uses on a development site must not exceed 20,000 square feet of the total gross floor area of all buildings on the development site.

(2) Setback Requirements.

(a) The uses allowed in TDC 60.037 must comply with setback requirements in TDC 60.070.

(b) In addition to the setbacks requirements in TDC 60.070 retail and service uses in TDC 60.037 must be set back not less than 80 feet from:

(i) any Residential Planning District; and

(ii) SW Tualatin-Sherwood Road right-of-way.

(3) Access. Uses provided in TDC 60.037 must comply with the Access Management Standards in TDC Chapter 75 and the underlying ML District, except that retail and service uses when located in a stand-alone building must not have direct access onto any arterial or collector street.

**Section 6.** TDC 60.041 is amended to read as follows:

Section 60.041 Restrictions on Conditional Uses.

The following restrictions shall apply to those uses listed as conditional uses in TDC 60.040:

(1) The retail sale of products manufactured, assembled, packaged or wholesaled on the site is allowed provided the retail sale area, including the showroom area, is no

more than 5% of the gross floor area of the building not to exceed 1,500 square feet.

(2) For other retail uses, excluding retail sales of products manufactured, assembled, packaged or wholesaled on the site, the following restrictions shall apply:

(a) Retail uses on land designated Employment Area or Corridor on Map 9-4 shall not be greater than 60,000 square feet of gross floor area per building or business.

(b) Retail commercial, retail service and professional service uses on land designated Industrial Area on Map 9-4 shall not be greater than 5,000 square feet of sales or service area in a single outlet, or not greater than 20,000 square feet of sales or service area for multiple outlets in a single building or in multiple buildings that are part of the same development project, with the following two exceptions, which shall not be subject to the size limitations stated in this sub-section:

(i) Commercial uses within the Special Setbacks for Commercial Uses Area, shown on Map 9-5, and as specified in TDC 60.035.

(ii) Development approved through the application of the Industrial Business Park Overlay District to certain properties, as specified in TDC Chapter 69.

**Section 7.** TDC 60.050 is amended to read as follows:

Section 60.050 Prohibited Uses.

The following uses are expressly prohibited, except as otherwise provided in TDC 60.020 and 60.040:

(1) All residential dwellings, except as otherwise provided in TDC 60.040;

(2) All commercial uses defined by TDC Chapters 50, 53, and 54, except as otherwise permitted in TDC 60.020, 60.030, 60.037, and 60.040; and

(3) All industrial uses defined by TDC Chapter 61, whether permitted, conditional or prohibited as listed in TDC 61.020, 61.030 and 61.040.

**Section 8.** TDC 61.010 is amended to read as follows:

Section 61.010 Purpose.

The purpose of this district is to provide areas of the City that are suitable for light industrial uses and also for a wide range of heavier manufacturing and processing activities. These uses are expected to be more unsightly and have more adverse environmental effects than the uses allowed in the Light Manufacturing Planning District. Railroad access and screened outdoor storage will be allowed in this district, conforming to defined architectural, landscape, and environmental design standards. The heaviest industrial uses that are environmentally adverse or pose a hazard to life and safety shall be prohibited. The purpose is also to allow the retail sale of products manufactured, assembled, packaged or wholesaled on the site provided the retail sale area, including the showroom area, is no more than 5% of the gross floor area of the building not to exceed 1,500 square feet. Also suitable for the retail sale of building and home improvement materials and supplies provided it is not greater than 60,000 square feet of gross floor area per building or business and subject to the Special Commercial Setback from arterial streets as generally illustrated in Map 9-5 and specifically set forth in TDC 61.035. In accordance with the Industrial Business Park Overlay District, TDC Chapter 69, and TDC 60.037-60.038 selected office and retail small-scale mixed uses that are supportive of and secondary to industrial uses are allowed to provide services to businesses and employees. The purpose is also to allow certain commercial service uses in the Commercial Services Overlay shown in the specific areas illustrated on Map 9-5 and allow selected commercial uses subject to distance restrictions from residential areas and subject to the Special Commercial Setback from arterial streets as generally illustrated in Map 9-5 and specifically set forth in TDC 61.035.

**Section 9.** TDC 61.020 is amended to read as follows:

Section 61.020 Permitted Uses.

No building, structure or land shall be used, except for the following uses as restricted in TDC 61.021.

(1) All uses permitted by TDC 60.020 and 60.037, in the Light Manufacturing Planning District.

(2) Assembly, packaging, processing, and other treatment of beer, coffee, and canned goods.

(3) Assembly of electrical appliances, such as refrigerators, freezers, washing machines, and dryers.

(4) Auto body and/or paint shop; auto machine shop; auto radiator repair shop; general auto and light truck repair, including but not limited to, repairing and rebuilding engines and repair of transmissions, drivelines and rear-ends except not allowed in the Special Commercial Setback, TDC 61.035(1-3).

(5) Chemical warehouse and distribution.



- (6) Cold storage plant.
- (7) Concrete batch plant, except not allowed in the Leveton Tax Increment District.
- (8) Manufacture of the following types of products:
  - (a) Batteries.
  - (b) Boilers.
  - (c) Bottles.
  - (d) Brick, tiles, or terra cotta.
  - (e) Cans.
  - (f) Chainsaws.
  - (g) Electric generators.
  - (h) Electric motors.
  - (i) Electric transformers.
  - (j) Engines, larger gasoline or diesel.
  - (k) Heating and cooling equipment.
  - (l) Industrial gases, excluding chlorine.
  - (m) Ladders.
  - (n) Lawnmowers.
  - (o) Manufactured Dwellings.
  - (p) Motor vehicles.
  - (q) Paint.
  - (r) Pet food.
  - (s) Prefabricated building or structural members for buildings.
  - (t) Rototillers.

(u) Signs and display structures.

(v) Windows.

(9) Metal casting (small to large size).

(10) Metal fabrication (light to medium) (of unfinished or semi-finished metals).

(11) Petroleum product distribution and storage.

(12) Planning mill.

(13) Processing, assembly, packaging, and other treatment of small products manufactured from sheet metal, wire larger than 1/4 inch (0.25") in diameter, or tobacco.

(14) Production of agricultural crops.

(15) Sale, service and rental of industrial machinery including machine tools, processing, and packaging machinery, forklifts, hoists and conveyors.

(16) Sandblasting.

(17) Storage and retail sale of rock, gravel, barkdust, sawdust, coal or topsoil except not allowed in the Special Commercial Setback, TDC 60.035(1-3).

(18) Structural-mechanical testing laboratories.

(19) Welding shop.

(20) Wireless communication facility attached.

(21) Wireless communication facility.

(22) Other uses of a similar character found by the Planning Director to meet the purpose of this district, as provided in TDC 31.070.

(23) Sale, service and rental of construction and industrial equipment to contractors and industrial firms only.

**Section 10.** TDC 61.021 is amended to read as follows:

Section 61.021      Restrictions on Permitted Uses.

The following restrictions shall apply to those uses listed as permitted uses in

TDC 61.020:

(1) The use must be conducted wholly within a completely enclosed building, except off-street parking and loading, utility facilities, wireless communication facilities, outdoor storage of materials and products directly related to the permitted use, and outdoor play areas of child day care centers as required by state day care certification standards.

(2) The retail sale of products manufactured, assembled, packaged or wholesaled on the site is allowed provided that the retail sale area, including the showroom area, shall be no greater than 5% of the gross floor area of the building not to exceed 1,500 square feet.

(3) For other retail uses, excluding retail sales of products manufactured, assembled, packaged or wholesaled on the site, the following restrictions shall apply:

(a) Retail uses on land designated Employment Area or Corridor on Map 9-4 shall not be greater than 60,000 square feet of gross floor area per building or business.

(b) Retail commercial, retail service and professional service uses on land designated Industrial Area on Map 9- 4 shall not be greater than 5,000 square feet of sales or service area in a single outlet, or not greater than 20,000 square feet of sales or service area for multiple outlets in a single building or in multiple buildings that are part of the same development project, with the following ~~two~~ three exceptions, which shall not be subject to the size limitations stated in this subsection:

(i) Commercial uses within the Special Setbacks for Commercial Uses Area, shown on Map 9-5, and as specified in TDC 61.035, except 61.035(4)(b).

(ii) Development approved through the application of the Industrial Business Park Overlay District to certain properties, as specified in TDC Chapter 69.

(iii) Development approved through the application of standards for additional small-scale mixed uses in ML as specified in TDC 60.037-60.038.

**Section 11.** TDC 62.010 is amended to read as follows:

Section 62.010 Purpose.

The purpose of this district is to provide an environment exclusively for and conducive to the development and protection of modern, large-scale specialized

manufacturing and related uses and research facilities. Such permitted uses shall not cause objectionable noise, smoke, odor, dust, noxious gases, vibration, glare, heat, fire hazard or other wastes emanating from the property. The district is to provide for an aesthetically attractive working environment with park or campus like grounds, attractive buildings, ample employee parking and other amenities appropriate to an employee oriented activity. It also is to protect existing and future sites for such uses by maintaining large lot configurations or a cohesive planned development design and limiting uses to those that are of a nature so as to not conflict with other industrial uses or surrounding residential areas. It also is intended to allow the retail sale of products manufactured, assembled, packaged or wholesaled on the site provided the building area used for such retail selling is no more than 5% of the gross floor area of the building not to exceed 1,500 square feet. In accordance with the Industrial Business Park Overlay District, TDC Chapter 69, and TDC 62.023-62.024 selected small-scale mixed uses that are supportive of and secondary to industrial uses are allowed to provide services to businesses and employees.

**Section 12.** TDC 62.020 is amended to read as follows:

Section 62.020 Permitted Uses.

No building, structure or land shall be used in this district except for the following uses as restricted in 62.021.

- (1) Chemical and physical science offices and laboratories.
- (2) Engineering and cartographic offices and laboratories.
- (3) Manufacture, assembling and packaging of electronic equipment, instruments and devices.
- (4) Manufacture, assembling and packaging of optical equipment, instruments and devices.
- (5) Research offices and laboratories.
- (6) Testing offices and laboratories.
- (7) Manufacture, assembling and packaging of sporting goods providing however that primary processing of organic materials such as tanning of leather or rough milling of lumber is specifically prohibited.
- (8) Manufacture, assembling and packaging of textiles and clothing.
- (9) Manufacture, assembling and packaging of musical instruments and toys.

(10) Printing and publishing.

(11) Other uses of similar character found by the Planning Director to meet the purpose of this district, as provided by TDC 31.070.

(12) Offices when part of a manufacturing use as listed in (1) through (11) above or when permitted under TDC 62.023.

(13) Corporate, regional, or district office headquarters for any use permitted in this Code, provided that the offices occupy at least 20,000 square feet and that no manufacturing is conducted where not otherwise permitted in this chapter.

(14) Private parking lot improved and landscaped in accordance with TDC Chapter 73.

(15) Accessory facilities and activities customarily associated with or essential to permitted uses, and operated incidental to the principal use.

(16) Sewer and water pump stations, pressure reading stations, water reservoir.

(17) Child day care center, 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.

(18) Greenways and Natural Areas, including but not limited to bike and pedestrian paths and interpretive stations.

(19) Electrical substation.

(20) Natural gas pumping station.

(21) Wireless communication facility attached.

(22) Wireless communication facility.

(23) Transportation facilities and improvements.

(24) Shared service facilities.

**Section 13.** TDC 62.021 is amended to read as follows:

Section 62.021      Restrictions on Permitted Uses

The following restrictions shall apply to those uses listed as permitted uses in TDC 62.020:

(1) The use must be conducted wholly within a completely enclosed building, except off-street parking and loading, utility facilities, wireless communication facilities, and outdoor storage occupying less than ten percent of the total site area.

(2) The retail sale of products manufactured, assembled, packaged or wholesaled on the site is allowed provided that the retail sale area, including the showroom area, shall be no greater than 5% of the gross floor area of the building not to exceed 1,500 square feet.

(3) For other retail uses, excluding retail sales of products manufactured, assembled, packaged or wholesaled on the site, the following restrictions shall apply:

(a) Retail uses on land designated Employment Area or Corridor on Map 9-4 shall not be greater than 60,000 square feet of gross floor area per building or business.

(b) Retail commercial, retail service and professional service uses on land designated Industrial Area on Map 9- 4 shall not be greater than 5,000 square feet of sales or service area in a single outlet, or not greater than 20,000 square feet of sales or service area for multiple outlets in a single building or in multiple buildings that are part of the same development project, with the following exception, which shall not be subject to the size limitations stated in this subsection:

(i) Development approved through the application of standards for additional small-scale mixed uses in MP as specified in TDC 62.023-62.024.

**Section 14.** A new section is added to TDC Chapter 62 to read as follows:

Section 62.023 Additional Permitted Mixed Uses in MP.

(1) In addition to any other uses permitted in the MP Planning District, the uses set forth in subsection (2) are permitted uses provided:

(a) the site is used substantially for industrial purposes; and

(b) the non-industrial use complies with TDC 62.024:

(2) Permitted uses:

(a) Office Uses:

(i) Business and commercial offices.

(ii) General offices, but not government offices.

(iii) Real estate offices.

(b) Retail Uses:

(i) Food or convenience store.

(ii) Restaurant or deli, with or without drive-up or drive through facilities.

(c) Service Uses:

(i) Correspondence, trade and vocational schools, except vocational high schools.

(ii) Health or fitness facility.

(iii) Job training and related services.

(iv) Mailing operations.

(v) Reproduction, photocopying.

(vi) Branch banks and banking kiosks, with or without drive-up or drive through facilities.

(vii) Dry cleaning.

(viii) Medical and healing arts.

(d) Other uses of a similar character found by the Community Development Director to meet the purpose of this section as provided in TDC 31.070.

(3) The office, retail, and service uses may be located in a stand-alone building or combined in a building with other permitted uses.

**Section 15.** A new section is added to TDC Chapter 62 to read as follows:

Section 62.024 Restrictions on Additional Permitted Mixed Uses in MP.

(1) Mixed Use Percentage. The uses allowed in TDC 62.023 must comply with the following:

(a) Office uses listed in Section 60.037 must not exceed 25 percent of the total gross floor area of all buildings on the development site.

(b) Individual Retail and Service. Retail and service uses listed in TDC 62.023 must not exceed 5,000 square feet for any individual retail or service use.

(c) Combined Retail and Service Uses. The total of all retail and service uses on a development site must not exceed 20,000 square feet of the total gross floor area of all buildings on the development site.

**(2) Setback Requirements.**

(a) The uses allowed in TDC 62.023 must comply with setback requirements in TDC 62.060.

(b) In addition to the setback requirements in TDC 62.060 retail and service uses in TDC 62.023 must be set back not less than 80 feet from:

(i) any Residential Planning District; and

(ii) SW Tualatin-Sherwood Road right-of-way.

(3) Access. Uses provided in TDC 62.023 must comply with the Access Management Standards in TDC Chapter 75 and the underlying ML District, except that retail and service uses when located in a stand-alone building must not have direct access onto any arterial or collector street.

**Section 16.** TDC 69.010 is amended to read as follows:

Section 69.010 Purpose.

The purpose of this district is to recognize and accommodate the changing Industrial Commercial marketplace by allowing mixed uses within the context of an enforceable Master Plan reviewed and approved during Architectural Review. Industrial uses are emphasized, but office and selected service and retail uses are allowed through the operation of the Industrial Business Park Overlay District. A second purpose of this district is to recognize that it is not necessarily appropriate to assume that all industrial, office, service and retail uses are incompatible and, therefore, must be separated based on planning districts. The Industrial Business Park Overlay District allows flexibility in the uses permitted for properties in the Light Manufacturing (ML) District and for selected General Manufacturing (MG) District areas. Further, the purpose of this district is to allow selected retail and service uses that are supportive of and secondary to the industrial and office uses.



**Section 17.** TDC 69.020 is amended to read as follows:

Section 69.020 Permitted Uses.

(1) The following additional uses are permitted when the Industrial Business Park Overlay District is applied to a property in the ~~Light Manufacturing (ML) District~~ or to a property in one of the selected General Manufacturing (MG) District areas and the site is 10 acres or greater:

- (a) Business offices.
- (b) Commercial offices.
- (c) Branch banks and banking kiosks, with or without drive-up or drive through facilities.
- (d) General offices, but not government offices.
- (e) Medical and healing arts offices.
- (f) Real estate offices.
- (g) Child day care center, 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.

(2) The following additional uses are permitted when the Industrial Business Park Overlay District is applied to a property in the ~~Light Manufacturing (ML) District~~ or to a property in one of the selected General Manufacturing (MG) District areas and the site is 20 acres or greater:

- (a) Retail Uses:
  - (i) Food or convenience store of less than 4,000 square feet of gross floor area.
  - (ii) Restaurant or deli, with or without drive-up or drive through facilities.
- (b) Service Uses:
  - (i) Correspondence, trade and vocational schools, except vocational high schools.

- (ii) Health or fitness facility.
- (iii) Job training and related services.
- (iv) Mailing operations.
- (v) Reproduction, photocopying.
- (vi) Dry cleaning.

(3) The properties in the General Manufacturing (MG) District where the Industrial Business Park Overlay District may be applied in accordance with TDC 69.040 are:

(a) North of the G.I. Joe's/Safeway Shopping Center and more particularly described as:

(i) Tax Map T2S, R1W, Section 13A, Tax Lot 800. (As of September 1, 1994 described as T2S, R1W, 13AA, Tax Lot 1200).

(ii) Tax Map T2S, R1E, Section 18BB, Tax Lots 2200, 2300, and 2400.

(iii) Tax Map T2S, R1E, Section 18BC, Tax Lots 200, 300, and 400. (As of September 1, 1994 described as T2S, R1E, 18BC, Tax Lots 200, 202, 300, and 400).

(b) PacTrust Area (Upper and Lower Boones Ferry Road) and more particularly described as Tax Map T2S, R1W, Section 24B, Tax Lots 1000, 1007, and 1008.

(c) Drake Management Company ownership at the northwest corner of SW Tualatin-Sherwood Road and Avery Street and more particularly described as Tax Map TS1, R1W, Section 27B, Tax Lots 100, 102 and 200.

**Section 18.** TDC 69.030 is amended to read as follows:

Section 69.030      Prohibited Uses.

As per the underlying ~~ML District~~ or MG District, except as permitted in TDC 69.020.

**Section 19.** TDC 69.040 is amended to read as follows:

Section 69.040 Implementation of the Industrial Business Park Overlay District.

At the time of application for Architectural Review, the applicant shall state in writing if the proposed project is to be developed under the provisions of the Industrial Business Park Overlay District. Selection of the overlay district is at the option of the developer and application of the overlay district shall be implemented upon the developer's statement as part of the Architectural Review application. No public hearing shall be held to decide to apply the overlay district. The overlay district shall only be used in conjunction with the ML District and selected MG District areas. The Architectural Review decision may include conditions of approval in accordance with TDC 73.055.

**Section 20.** TDC 69.055 is amended to read as follows:

Section 69.055 Lot Size.

As per the underlying ~~ML District or~~ MG District.

**Section 21.** TDC 69.060 is amended to read as follows:

Section 69.060 Urban Renewal Area - Lot Size.

As per block area requirements in the underlying ~~ML District or~~ MG District.

**Section 22.** TDC 69.070 is amended to read as follows:

Section 69.070 Setback Requirements.

As per the underlying ~~ML or~~ MG District, except that retail and service uses be set back from any designated arterial or collector street right-of-way and any Residential District not less than 80 feet.

**Section 23.** TDC 69.090 is amended to read as follows:

Section 69.090 Structure Height.

~~(1) No structure which is in the ML District and is overlaid by the Industrial Business Park Overlay District shall exceed a height of 70 feet, except as provided pursuant to TDC Chapter 32, in which case the maximum permitted structure height may be increased to 85 feet, provided that all yards adjacent to the structure are not less than a distance equal to 1½ times the height of said structure.~~

~~(2)~~ (1) No structure which is in the MG District and is overlaid by the Industrial Business Park Overlay District shall exceed a height of 70 feet, except as provided in TDC Chapter 32, in which case the maximum permitted structure height may be increased to 100 feet, provided that all yards adjacent to the structure are not less than a distance equal to the height of the structure.

~~(3)~~ (2) Height Adjacent to a Residential District. Where a property line or alley separates ML and MG land from land in a residential district, a building shall not be greater than 28 feet in height at the setback line. No building or structure shall extend above a plane beginning at 28 feet in height above the setback line and extending inward and upward at a slope of 45 degrees, subject always to the maximum height limitation set in subsection (1) and ~~(2)~~ above.

**Section 24.** The City Council adopts as its Findings and Analysis the findings set forth in Exhibit 1, which is attached and incorporated by reference.

**Section 25.** 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 24 Day of March, 2014.

CITY OF TUALATIN, OREGON

BY   
Mayor

APPROVED AS TO FORM

BY   
City Attorney

ATTEST:

BY   
City Recorder

**Exhibit 1  
(Ordinance No. 1370-14)**

**PTA 14-01: Analysis and Findings**

Plan Text Amendment (PTA) 14-01 is to amend Tualatin Development Code (TDC) Chapters 60, 61, 62 and 69 to allow more flexibility in uses and support transit use. Changes to TDC Chapter 34 also are proposed to ensure consistency and clarity. These changes are proposed to help implement selected land use recommendations in the Linking Tualatin Final Plan.

**Plan Amendment Criteria (TDC Section 1.032)**

This document contains findings of fact to demonstrate that the proposed amendments are consistent with the approval criteria for a PTA per Section 1.032 of the TDC. These criteria must be met if the proposed PTA is to be granted. The plan amendment criteria are addressed below.

**Before granting an amendment to the Plan Text or Plan Map of the Tualatin Development Code (TDC), including the Tualatin Community Plan, the Council shall find that:**

**1. Granting the amendment is in the public interest.**

The proposed text amendments help implement the Linking Tualatin Final Plan, which was accepted by City Council on June 24, 2013, in order to increase transit readiness throughout the City's employment areas and guide public investments to link people to the places they need to go via transit.

As identified by staff, the public interest is to:

- 1) Update the Tualatin Development Code (TDC) to allow more flexibility and support transit use by:
  - a. Allowing for a broader set of uses in the western industrial areas of the City;
  - b. Emphasizing a transition to office use in the light manufacturing area north of the Tualatin River east of I-5;
  - c. Allowing for supportive small-scale mixed uses within other manufacturing and light manufacturing districts in Tualatin.
- 2) Permit small-scale mixed uses in areas where they are not currently permitted to provide the flexibility called for in the Linking Tualatin Final Plan.
- 3) Implement Linking Tualatin and ensure that the TDC supports creation of transit-ready places. Providing more service and retail uses in industrial/manufacturing areas will allow workers to meet their day-to-day needs without driving, increasing their ability to use transit to commute to work.

For the above reasons, Criterion 1 is met.

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

The proposed text amendments implement the Linking Tualatin Final Plan, which has been accepted by the City Council and serves as a guide to creating more transit-ready places in Tualatin over the 20-year planning horizon and beyond. Amendments to the TDC are called for in the Linking Tualatin Final Plan as part of the near-term implementing actions. Adopting PTA-14-01 now will ensure that the code is consistent with Linking Tualatin recommendations and will result in future development that better supports transit readiness. Without the proposed text amendments, the goals of Linking Tualatin may be delayed. Therefore, the public interest is best served by adopting these amendments now.

For these reasons, Criterion 2 is met.

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

The following sections of the Tualatin Community Plan have objectives that are applicable to the proposed amendments:

**Chapter 4 Community Growth, Section 4.050 General Growth Objectives**

**(6) Arrange the various land uses so as to minimize land use conflicts and maximize the use of public facilities as growth occurs.**

The proposed amendments are intended to allow for more small-scale mixed uses in the ML, MG and MP Districts in order to provide convenient amenities for employees in those districts and maximize their ability to take transit to work. The uses are limited in size in order to minimize conflict with manufacturing uses and preserve the general industrial character of the districts. In addition, the size limitations help ensure that the mixed uses will be intended to serve employers and employees in the area and not the general public; they are not intended to be "destination" uses that would attract people from outside the immediate district. These amendments are proposed in order to implement Linking Tualatin and help create more transit-ready places in Tualatin. As such, objective (6) will be met.

**(16) Encourage energy conservation by arranging land uses in a manner compatible with public transportation objectives.**

The proposed amendments are intended to help implement Linking Tualatin by providing more service and retail uses to serve employees in industrial areas. This is part of the overall Linking Tualatin objective of creating more transit-ready places in Tualatin to support development of future public transit facilities. Increased use of public transit provides energy conservation benefits by reducing the number of single-occupancy commuting vehicles. Reducing the distance that employees need to travel to meet their daily needs for eating and shopping also will enhance energy conservation. Therefore, objective (16) will be met.

## **Chapter 7 Manufacturing Planning Districts, Section 7.030 Objectives**

### **(1) Encourage new industrial development.**

The proposed amendments will allow more flexibility for employers in the ML, MG and MP Districts to provide appropriately scaled mixed uses to serve their employees. This will increase employees' ability to meet their daily needs near their work site and reduce the need for individual vehicle travel, thereby enhancing their ability to take transit to work. This flexibility to provide employee amenities, along with the potential for future transit options, may serve as a selling point for employers to locate their manufacturing business in one of these districts. Therefore, objective (1) above will be met.

### **(4) Preserve and protect, with limited exceptions, the City's existing industrial land.**

The proposed amendments will allow more flexibility for small-scale retail, office and service uses to be located in the manufacturing districts. However, those mixed uses will be limited by type and size. The proposed amendments limit office space to 25 percent of the total floor area of buildings on a site, thus preserving the majority of the site for manufacturing uses. The size limitations for retail and service uses are consistent with Metro regional policies to protect industrial lands. The limitations are intended to allow uses that will serve businesses and employees of the manufacturing districts while ensuring that industrial lands in Tualatin remain industrial in terms of primary uses and overall character.

In addition, large-scale office uses are not expected to locate in these areas for two reasons. First, the local and regional supply of land zoned for office use is generally more suitable for those types of uses and can be expected to be used before larger office developments seek to locate in industrial areas in Tualatin. Second, developers of office space typically desire a concentration of amenities in close proximity to future office uses such as multiple eating and drinking establishments, parks and open spaces. Tualatin's industrial areas do not currently contain these amenities. While the proposed amendments will allow for some of these amenities to be developed, that is not expected to result in large-scale office development in these areas. For these reasons, objective (4) will be met.

## **Chapter 7 Manufacturing Planning Districts, Section 7.040 Manufacturing Planning District Objectives**

### **(1) Manufacturing Park Planning District (MP).**

**(a) The purpose of this district is to provide an environment exclusively for and conducive to the development and protection of modern, large-scale specialized manufacturing and related uses and research facilities...The district is to provide for an aesthetically attractive working environment with park or campus-like grounds, attractive buildings, ample employee parking and other amenities appropriate to an employee oriented activity.**

**(b) It also is to protect existing and future sites for such uses by maintaining large lot configurations and limiting uses to those that are of a nature to not conflict with other industrial uses or surrounding residential areas.**

**(c) It also is intended to provide for a limited amount of commercial uses designed for the employees of the primary uses and to provide for a limited amount of retail selling of products manufactured, assembled, packaged or wholesaled on the site provided the retail sale area, including the showroom area, is no more than 5% of the gross floor area of the building not to exceed 1,500 square feet.**

The proposed amendments will allow small-scale mixed uses to be located in the Manufacturing Park District in order to provide more flexibility for uses that will serve employers and employees. This supports the objective of the MP District by creating opportunities for more employee amenities (personal services, cafés, etc.) to be conveniently located within the district. Large lot configurations will not be altered or impeded by the proposed amendments. The proposed mixed uses will not conflict with surrounding industrial or residential uses because they will be limited in size and type. The sale of manufacturing products as outlined in (c) above will not be impacted by the proposed amendments. For these reasons, objectives for the MP District will be met.

## **(2) Light Manufacturing Planning District (ML)**

**(a) Suitable for warehousing, wholesaling and light manufacturing processes that are not hazardous and that do not create undue amounts of noise, dust, odor, vibration, or smoke...Also suitable is the retail sale of products manufactured, assembled, packaged or wholesaled on the site provided the retail sale area, including the showroom area, is no more than 5% of the gross floor area of the building not to exceed 1,500 square feet...**

**(b) The following uses within the Light Manufacturing District shall comply with the following size limits established by Metro. Retail sale, retail service and professional service uses shall be no greater than 5,000 square feet of sales or service area per outlet, or not greater than 20,000 square feet of sales or service area for multiple outlets in a single building or in multiple buildings that are part of the same development project, with the following exceptions.**

**(i) Application of the Industrial Business Park Overlay District (TDC Chapter 69).**

...

**(d) In accordance with the Industrial Business Park Overlay District, TDC Chapter 69, selected office and retail uses are allowed to provide services to businesses and employees...**

The proposed amendments will allow a broader range of retail, personal service and office uses and more flexibility for locating such uses within the ML District. These amendments are consistent with the objective of providing selected mixed uses to serve businesses and employees, as stated in (d) above. The size limitations established by the proposed amendments (5,000 and 20,000 square feet) are consistent with the Metro requirements outlined in (b) above. The sale of manufacturing products per (a) above



will not be impacted by the proposed amendments. Based on this information, the objectives for the ML District will be met.

**(3) General Manufacturing Planning District (MG)**

**(a) Suitable for light manufacturing uses and also for a wide range of heavier manufacturing and processing activities...Also suitable is the retail sale of products manufactured, assembled, packaged or wholesaled on the site provided the retail sale area, including the showroom area, is no more than 5% of the gross floor area of the building not to exceed 1,500 square feet...**

**(b) The following uses within the General Manufacturing District shall comply with the following size limits established by Metro. Retail sale, retail service and professional service uses shall be no greater than 5,000 square feet of sales or service area per outlet, or not greater than 20,000 square feet of sales or service area for multiple outlets in a single building or in multiple buildings that are part of the same development project, with the following exceptions.**

**(i) Application of the Industrial Business Park Overlay District (TDC Chapter 69).**

...

**(c) In accordance with the Industrial Business Park Overlay District, TDC Chapter 69, selected office and retail uses are allowed to provide services to businesses and employees...**

The proposed amendments will allow a broader range of retail, personal service and office uses and more flexibility for locating such uses within the MG District. These amendments are consistent with the objective of providing selected office and retail uses to serve businesses and employees, as stated in (c) above. The size limitations established by the proposed amendments (5,000 and 20,000 square feet) are consistent with the Metro requirements outlined in (b) above. The sale of manufacturing products per (a) above will not be impacted by the proposed amendments. Based on this information, the objectives for the MG District will be met.

Based on the findings for each applicable objective above, the proposed amendments are in conformity with the applicable objectives of the Tualatin Community Plan and therefore, Criterion 3 is met.

**4. The following factors were consciously considered: the various characteristics of the areas in the City; the suitability of the areas for particular land uses and improvements in the areas; trends in land improvement and development; property values; the needs of economic enterprises and the future development of the area; needed right-of-way and access for and to particular sites in the area; natural resources of the City and the protection and conservation of said resources; prospective requirements for the development of natural resources in the City; and the public need for healthful, safe, aesthetic surroundings and conditions. Proof of change in a neighborhood or area, or a mistake in the Plan Text or Plan Map for the property under consideration are additional relevant factors to consider.**

Of the factors listed in Criterion 4 above, the following are relevant to the proposed text amendments: characteristics of the areas in the city; and suitability of areas for particular land uses and improvements. The remainder of the factors listed above will not be impacted by the proposed text amendments and are therefore not addressed in these findings.

In order to support Linking Tualatin recommendations and recognize the changing nature of the industrial marketplace, the proposed amendments will allow more flexibility for small-scale mixed uses within the manufacturing districts. The amendments include type and size limitations on those uses in order to ensure they provide convenient amenities for businesses and employees while maintaining the overall industrial character of the districts. Office spaces are limited to 25 percent of the total floor area of buildings on a site and retail/service uses are limited to 5,000 square feet for an individual use or 20,000 square feet for combined uses on a site. Those limitations are consistent with Metro's objective of preserving industrial lands for industrial uses.

For these reasons, Criterion 4 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. The Tigard-Tualatin School District's School Facility Plan criteria (formula) for new school capacity are: ...**

Criterion 5 is not applicable because the proposed text amendments do not involve a comprehensive plan amendment or amendments to a residential land use regulation.

**6. Granting the amendment is consistent with the applicable State of Oregon Planning Goals and applicable Oregon Administrative Rules, including compliance with the Transportation Planning Rule (TPR) (OAR 660-012-0060).**

The proposed amendments represent relatively small revisions to the Tualatin Development Code manufacturing districts and do not impact the overall land use designations as identified in the Tualatin Community Plan. The proposed amendments have been shown to be consistent with the Tualatin Community Plan, which was developed to be consistent with state regulations. As such, findings of compliance with Statewide Planning Goals and Administrative Rules are not necessary. Therefore, Criterion 6 does not apply.

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

Title 4 of the Metro Functional Plan addresses protection of industrial areas and is relevant to the proposed amendments. Findings for Title 4 are provided below.

**Title 4 – Industrial and Other Employment Areas**

**3.07.420 Protection of Regionally Significant Industrial Areas**

**A. Regionally Significant Industrial Areas (RSIAs) are those areas near the region's most significant transportation facilities for the movement of freight and other areas most suitable for movement and storage of goods. Each city and county with land use planning authority over RSIAs shown on the Employment and Industrial Areas Map shall derive specific plan designation and zoning**

**district boundaries of RSIA within its jurisdiction from the Map, taking into account the location of existing uses that would not conform to the limitations on non-industrial uses in this section and the need to achieve a mix of employment uses.**

**B. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit the size and location of new buildings for retail commercial uses - such as stores and restaurants - and retail and professional services that cater to daily customers – such as financial, insurance, real estate, legal, medical and dental offices – to ensure that they serve primarily the needs of workers in the area. One such measure shall be that new buildings for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than 3,000 square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project, with the following exceptions:**

- 1. Within the boundaries of a public use airport subject to a facilities master plan, customary airport uses, uses that are accessory to the travel-related and freight movement activities of airports, hospitality uses, and retail uses appropriate to serve the needs of the traveling public; and**
- 2. Training facilities whose primary purpose is to provide training to meet industrial needs.**

There are no regionally significant industrial areas within the ML, MG and MP Planning Districts affected by the proposed PTA-14-01.

### **3.07.430 Protection of Industrial Areas**

**A. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit new buildings for retail commercial uses— such as stores and restaurants—and retail and professional services that cater to daily customers—such as financial, insurance, real estate, legal, medical and dental offices—in order to ensure that they serve primarily the needs of workers in the area.**

**One such measure shall be that new buildings for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than 5,000 square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project, with the following exceptions:**

- 1. Within the boundaries of a public use airport subject to a facilities master plan, customary airport uses, uses that are accessory to the travel-related and freight movement activities of airports, hospitality uses, and retail uses appropriate to serve the needs of the traveling public; and**
- 2. Training facilities whose primary purpose is to provide training to meet industrial needs.**

The proposed amendments will allow more flexibility for mixed uses to be located within the Tualatin manufacturing districts. The uses allowed are intended to serve the needs of employees in the districts while maintaining the overall industrial character of the areas. The uses are limited in size and scope in order to ensure that land in the manufacturing districts is primarily available for industrial uses. Per the proposed amendments, office space is limited to 25 percent of the total floor area of the buildings on a site, meaning the majority of floor area is reserved for manufacturing uses. The size limitations for retail and services uses are consistent with the limitations listed in Section 3.07.430 above. Therefore, Criterion 7 will be met.

**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.**

The Transportation System Plan (TSP) update process, which occurred concurrently with the Linking Tualatin project, provided an opportunity to evaluate the impact of land use changes proposed as part of Linking Tualatin on the city's overall transportation system. This analysis, prepared by DKS, assessed two scenarios: 1) one scenario looked at the net new trips for proposed land uses and added them to the transportation analysis zones (TAZs) in the regional travel demand model; and 2) one scenario that reduced the trips for TAZs within approximately ¼ mile of proposed land use areas by 10% to represent potential for reduction in trips based on added infrastructure of high capacity (or new) transit. Only p.m. peak hour trips were assessed at 14 intersections in the city. While LOS was affected at three of the analyzed intersections, the jurisdictional standard as outlined in Criterion 8 was not exceeded. Therefore, Criterion 8 is met.

**9. Granting the amendment is consistent with the objectives and policies regarding potable water, sanitary sewer, and surface water management pursuant to TDC 12.020, water management issues are adequately addressed during development or redevelopment anticipated to follow the granting of a plan amendment.**

The proposed amendments are not relevant to the water service policies and objectives in TDC 12.020. Water management requirements will continue to apply in the areas impacted by the proposed amendments; development in those areas will be responsible for ensuring adequate water service and management.

Therefore, Criterion 9 is met.

**10. The applicant has entered into a development agreement.**

**(a) This criterion shall apply only to an amendment specific to property within the Urban Planning Area (UPA), also known as the Planning Area Boundary (PAB), as defined in both the Urban Growth Management Agreement (UGMA) with Clackamas County and the Urban Planning Area Agreement (UPAA) with Washington County. TDC Map 9-1 illustrates this area.**

**(b) This criterion is applicable to any issues about meeting the criterion within 1.032(9). [Ord. 964-96, §2, 6/24/96; Ord. 1026-99, §2, 8/9/99; Ord. 1103-02, 03/25/02; Ord. 1310-10 §2, 9/13/10; Ord. 1354-13 §1, 02/25/13]**

Criterion 10 is not applicable because the proposed text amendments are not specific to property in the UPA.