

ORDINANCE NO. 1418-19

AN ORDINANCE RELATING TO THE BASALT CREEK CONCEPT PLAN, AMENDING TUALATIN DEVELOPMENT CODE CHAPTERS 4, 7, 9, 51, 63, AND 75, AND THE TRANSPORTATION SYSTEM PLAN (PTA 19-0001); AMENDING FIGURES 11-1, 11-2, 11-3, 11-4, 11-5, 11-6, AND 73-3; AND AMENDING MAPS 9-1, 9-2, 9-4, 9-5, 12-1, 13-1, 72-1, 72-2, 72-3, AND 74-1 (PMA 19-0001).

WHEREAS, the Basalt Creek Planning Area was added to the Portland Metropolitan Urban Growth Boundary (UGB) by the Metro Council in 2004, through Ordinance. No. 04-1040B;

WHEREAS, Metro Ordinance No. 04-1040B included a condition that the Basalt Creek Planning Area undergo Title 11 concept planning, as defined in Metro Code Chapter 3.07 of the Urban Growth Management Functional Plan (UGMFP);

WHEREAS, the Council, through Resolution 5392-18, adopted the Basalt Creek Concept Plan, which included the necessary transportation and land use planning for the area as well as an agreement on the boundary between Tualatin and Wilsonville;

WHEREAS, the Council wishes to amend the Tualatin Comprehensive Plan, Development Code, and Transportation System Plan consistent with the adopted Basalt Creek Concept Plan;

WHEREAS, upon the application of Community Development Department, a public hearing was held before the City Council of the City of Tualatin on April 8, 2019, to consider adopting the proposed Tualatin Comprehensive Plan, Development Code, and Transportation System Plan amendments consistent with the Basalt Creek Concept Plan;

WHEREAS, the City provided notice of proposed amendments to the Oregon Department of Land Conservation and Development, as provided in ORS 197.610;

WHEREAS, the City provided notice of the public hearing, as required by TDC 32.250 and TDC 33.070 and notice to all affected property owners in compliance with ORS 227.186 (Ballot Measure 56);

WHEREAS, at the public hearing, the Council heard and considered the testimony and evidence presented by City staff, and those appearing at the public hearing, and approved the proposed amendments; and

WHEREAS, the Council finds the proposed amendments to be in the best interest of the residents and inhabitants of the City and the public, that the public interest will be served by adopting the amendments at this time, that the amendments conform to the Tualatin Community Plan (Comprehensive Plan), Development Code, and Transportation System Plan should be amended.

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

**Section 1.** TDC Section 4.065 (Requirements) is amended to read as follows:

### **Section 4.065 Requirements.**

(1) Metro Code Urban Growth Management Functional Plan (MUGMFP) Section 3.07.1120 requires the City to adopt comprehensive plan provisions and land use regulations for areas added to the Urban Growth Boundary (UGB) that are identified as the responsibility of the City. The adopted plan provisions and regulations are to address the requirements of Section 3.07.1120(c).

(2) In December, 2002 (Metro Ordinances No. 02-969B & 02-990A) and June, 2004 (Metro No. 04-1040B) Metro expanded the UGB to include 382 acres of land in the southwestern corner of Tualatin. Of this area, 302 acres were designated as Regionally Significant Industrial Area (RSIA) and the remaining acreage was designated as Industrial. Specific conditions were placed by Metro relating to compliance with MUGMFP Titles 3, 4, & 11, lot sizes, and commercial restrictions. The Southwest Tualatin Concept Plan (SWCP) area was accepted by the City in October, 2010, encompassed the 382 acres added to the UGB in 2002 and 2004, a 50 acre property within the Tualatin Planning Area, 117 acres identified in Metro's 2010 Urban Reserve process as the "Knife River Area" and 66 acres south of Tonquin Road east of the railroad brought into the UGB in 2004.

(3) In March 2011, Plan Amendments implementing the SWCP for the 431 acre Southwest and Regionally Significant Industrial Area portion of the SWCP Area were approved by the City Council. The amendments were not applied to the 117.5 acre "Urban Reserve" designated by Metro and the 65.5 acre "Basalt Creek" area to be considered in the Basalt Creek Concept Plan.

(4) In April 2019, Plan Amendments implementing the Basalt Creek Concept Plan were adopted by the City Council. -The Concept plan included a 330-acre buildable area south of Tualatin (the entire Concept Plan is 330 buildable acres, 194.23 buildable acres of which are within the Tualatin UGB).

**Section 2.** TDC Section 7.010 (Background) is amended to read as follows:

### **Section 7.010 Background.**

(1) Tualatin's relationship to road and rail access has provided a favorable environment for industrial development. The City's industrial area is bisected by two railroads, the Burlington Northern and the Southern Pacific, and is served by the Interstate 5 Freeway which, in turn, provides access to the Interstate 205 Freeway and the State Highway 217 Expressway. These transportation facilities provide good multi-mode access to the whole of the Portland Metropolitan Area, the Willamette Valley, and to national markets. Because the area has good access to the transportation system, large areas of land have been zoned for industrial use, both in the City and west of the City in Washington County.

(2) Most of the existing industrial land use in the Tualatin area is located between or adjacent to the Burlington Northern and Southern Pacific rail lines. Smaller pockets of industrial land occur immediately north of downtown Tualatin and in the vicinity of the Lower Boones Ferry Road/Interstate 5 Freeway interchange. The amount of land zoned for industrial use is substantial. The amount actually used is small. Data developed in the Phase I - Technical Memoranda, together with supplementary information developed by the City's economic

consultants, indicate that the Portland region annually absorbs 240 acres and Tualatin can be expected to utilize 9 to 15 acres of industrial land per year. There are 1,975 acres of industrially zoned land within the Tualatin Study Area, and 304 acres are currently being used. The City contains 650 acres of industrially zoned land, with 577 of those acres now vacant. While some of Tualatin's industrially zoned land is poorly drained or has weak foundation soils, the majority of the industrially zoned land is either buildable or can be made buildable. Subtracting existing industrial uses and the worst-drained areas, the City has approximately 450 acres of vacant industrial land within its City limits. While this industrial land supply exceeds that needed to meet the City's needs for the year 2000, few land parcels that were originally planned for industrial use were converted to other uses in the Plan. This was because industries that owned the land were committed to future development of their particular sites, and because most of the area is impacted by existing scattered industrial development. Additionally, the City wishes to maximize industrial development within the City to produce revenue for public amenities in the City. A surplus of additional industrial land will help to maintain Tualatin's competitiveness in the industrial land market.

(3) The existing scattered distribution of industrial uses is a problem because it restricts choice of land use alternatives and makes it expensive to provide appropriate urban services such as public water and sewer service and fire protection. Consequently, this Plan emphasizes the short-term concentration of industrial development within the City limits.

(4) Industrial development in Washington County will affect Tualatin's industrial future. This area west of the City now contains scattered industrial development without public water or sewer services and minimum fire protection. While current County zoning allows only uses that have a minimum capital equipment investment and are not labor-intensive, the amount of industrially zoned land exceeds 1,000 acres, and the aggregate effect on traffic could impact the development of industrial land within the City. This is because most traffic traveling to and from this outlying industrial area must pass through the City's Nyberg Street/Tualatin-Sherwood Road corridor to reach the region's freeway system. As stated in the Transportation Plan, additional transportation access must be developed to minimize the effect of industrial development west of Tualatin. The proposed I-5/Norwood Road interchange would help to alleviate a portion of this problem. Additionally, it is anticipated that, because land values for land without standard urban public services are approximately 1/2 those values inside the City, there will be pressure to develop inexpensive County land before land in the City. More industrial growth west of the City could eventually place the City's roadway system at capacity before it has developed its proportionate share of industrial land, thus making it difficult to develop the remainder of the City's industrial land. In other words, the continued availability of inexpensive County industrial land could place City industrial land at a competitive disadvantage in the industrial land marketplace.

(5) Despite the problems described above, it is expected that lower-intensity industrial growth will continue to occur in Washington County west of the City, and that there will be increasing pressure to convert this land to full industrial development. Consequently, this area is eventually expected to become a part of the City of Tualatin, if the problems of transportation access can be solved. Consequently, it is an objective of this Plan to study methods of eventually accommodating, within the City, the industrial growth that is expected to occur in this area.

(6) Specific problems related to the development of land inside the City include poor drainage, poor north/south roadway access, lack of sewer and water services, and noise and other environmental problems. The central portion of the industrial area between Herman and Tualatin/Sherwood Roads is poorly drained and contains the Hedges Creek Marsh, the largest wetland area in Washington County. The Plan proposes the preservation of a portion of this approximately 80-acre natural area and anticipates the definition of an area surrounding the Marsh in which industrial development would be allowed. Currently, industrial traffic in Tualatin's central industrial area must travel long distances through downtown or on Cipole Road to travel from southern to northern industrial areas. As many local industries utilize each others' services, it is inconvenient and uneconomic to continue this arrangement of roadways. Consequently, the Transportation Plan proposes a new north-south roadway through the central industrial area in the 102nd-104th corridor. Lack of sewer services in the northwestern portion of the City's main industrial area also has been a handicap to industrial development. Two newly formed local improvement districts, one for new roadway, sewer and water improvements in the 102nd-104th corridor, and one for a major interceptor sewer paralleling Tualatin and Herman Roads, have been implemented to solve the major utility and traffic circulation problems in the industrial area. Industrial noise and odors have already begun to affect adjacent residential areas. One of the objectives of this Plan element and other elements is to develop specific and enforceable design standards that minimize future environmental conflicts between industrial, commercial and residential land uses.

(7) One of the most efficient methods of minimizing industrial impacts on commercial and residential uses is to restrict the types and location of uses that are allowed in the City's industrial districts. The types of industrial uses contemplated by the Plan eliminate those uses which are considered most obnoxious, such as creosote treatment of products, manufacture of harmful chemicals, forge plants, and auto wrecking. Uses that are allowed will be in the medium-to-light intensity range, although they will be specifically referred to as "light" and "general" for ease of understanding. The light industrial uses are arranged in the Plan to be adjacent to residential areas to minimize environmental conflicts as much as possible. Because industrial processes change rapidly due to new technology, it is also intended that some industrial uses proposed in the general use category may be appropriate in a lighter use area, if properly designed to mitigate adverse environmental impacts.

(8) While most of Tualatin's industrial land is located between Tualatin Road and Avery Street in the western portion of the City, there are small amounts of industrial land located in the northern portion of the City and lying on either side of the Lower Boones Ferry Road/ Interstate 5 Freeway interchange. The Plan has maintained, as industrial use, those areas that are now committed to industrial development. However, some land previously zoned industrial has been converted to a commercial designation because of the residential character of the area and proximity to the freeway. The industrial land in this area is designated on the Plan as light industrial because of the area's proximity to commercial and residential areas.

(9) In December 2002, Metro expanded the Urban Growth Boundary adding land west of Cipole Road and south of the north right-of-way line of SW Pacific High-way for industrial development to assist in meeting the overall regional need for a 20-year supply of industrial land.

(10) In December 2002 and June 2004, Metro expanded the Urban Growth Boundary to include 382 acres of land south of SW Tualatin Sherwood Road in the area east of a future 124th Avenue. 302 acres of this area were designated by Metro as Regionally Significant Industrial Area (RSIA) and the remaining acreage was designated Industrial. The area was addressed in the Southwest Tualatin Concept Plan and was accepted by the City in October 2010.

(11) In 2004, Metro expanded the Urban Growth Boundary to include the Basalt Creek Planning Area. The portion of this area within the City Urban Planning Area is generally south of SW Norwood Road and SW Helenius Street, east of 124th Avenue, west of I-5, and north of Basalt Creek Parkway.- This area was addressed in the Basalt Creek Concept Plan and was accepted by the City in August 2018.

**Section 3.** TDC Section 9.046 (Area 16 Basalt Creek Planning Area) is created to read as follows:

**Section 9.046 Area 16 Basalt Creek Planning Area.**

The Basalt Creek Planning Area is generally located north of Basalt Creek Parkway, south of Helenius Road and Norwood Road, east of 124th Avenue, and west of I-5. The Basalt Creek Planning Area includes a mix of residential zones at various densities, a small neighborhood commercial node, and employment lands, as further described below.

(1) An area with the RL (Low Density Residential) Zone is planned west of Boones Ferry Road in the approximate area of the Basalt Creek Canyon. An area with the RL Zone is also planned north of Tonquin Loop, south of Helenius Road, west of Grahams Ferry Road and east of 124th Avenue. This land will develop either in the traditional single-family subdivision pattern, or, through the conditional use process in clustered housing patterns.

(2) An area with the RML (Medium Low Density Residential) Zone is planned south of Norwood Road, east of Boones Ferry Road, and west of I-5. An additional area of RML Zone is also planned east of Grahams Ferry Road between the two above described areas of RL Zone. These areas lends themselves to a slightly higher density than traditional single-family due to the excellent transportation access and the close relationship to the employment centers. The use of the RML Zone in this area provides for the needed higher densities with a Zone that will allow development that is similar in character and density to the RL lands.

(3) An area with the RH (High Density Residential) Zone is planned north of Greenhill Road and east of Boones Ferry Road. This land lends itself to a higher density due to the excellent transportation access and the close relationship to the employment centers. The use of the RH District in this area provides for the needed higher densities.

(4) A small area with the CN (Neighborhood Commercial) Zone is planned north of Greenhill Road and east of Boones Ferry Road. This CN Zone is intended to provide locations for commercial uses within close proximity to residential areas, to provide opportunities to serve the needs of residents for convenience shopping and services. This area lends itself to the CN Zone due to the excellent transportation access and the close proximity to abutting residential areas of medium to higher densities.

(5) The balance of the Basalt Creek Planning Area is designated in the MP (Manufacturing Park) Zone. The MP District is intended to be conducive to the development and protection of modern, large-scale specialized manufacturing and related uses and research facilities. This area is located north of Basalt Creek Parkway, south of Tonquin Loop, east of 124th Avenue, west of Basalt Creek Canyon and an area of RML Zone.

**Section 4.** TDC Section 51.110 (Neighborhood Commercial District Size and Location Standards) is amended to read as follows:

**Section 51.110 – District Size and Location Standards.**

~~(1) District Size. The aggregate area of a CN district, consisting of one or more lots or a portion of a single lot, must not exceed 2 acres.~~

~~(2) (1) District Location. The boundaries of a CN district must be separated from middle school property by not less than 300 feet. The boundaries of a CN District must be separated from high school property and all other CN, CC, and CG districts by at least 1,320 feet.~~

~~(3) (2) Street Frontage. At least one-fourth of the total street frontage of the CN District area must be on an Arterial or Major Collector street.~~

**Section 5.** TDC 62.300 (Development Standards) and Table 62-2 (Development Standards in the MP Zone) are amended to read as follows:

**Section 62.300 – Development Standards.** Development standards in the MP zone are listed in Table 62-2. Additional standards may apply to some uses and situations, see TDC 62.310.

**Table 62-2  
Development Standards in the MP Zone**

STANDARD	REQUIREMENT	LIMITATIONS AND CODE REFERENCES
LOT SIZE		
Minimum Lot Size North of SW Leveton Drive	40 acres	Minimum lot size and dimensions for conditional uses are set by City Council to accommodate the proposed use. Lots or remnant areas created by the location of public streets may be less than 40 acres if necessary to create a logical, safe network of streets in the district.
Minimum Lot Size South of SW Leveton Drive, <u>and south of Tonquin Loop Road</u>	5 acres	
LOT DIMENSIONS		
Minimum Lot Width	250 feet	Measured at the building line. When lot has frontage on public street, minimum lot width at the street is 250 feet. When lot has frontage on cul-de-sac street, minimum lot width at the street is 50 feet.

STANDARD	REQUIREMENT	LIMITATIONS AND CODE REFERENCES
Infrastructure and Utilities Uses	--	As determined through the Subdivision, Partition, or Lot Line Adjustment process
Flag Lots	--	Must be sufficient to comply with minimum access requirements of TDC 73C.
<b>MINIMUM SETBACKS</b>		
Minimum Building Setback for Yards Adjacent to Streets or Alleys, north of SW Leveton Drive	100 feet	
Minimum Building Setback for Yards Adjacent to Streets or Alleys, south of SW Leveton Drive	60 feet	
<u>Minimum Building Setback for Yards Adjacent to Residential District, south of Tonquin Loop Road</u>	<u>60 feet</u>	
Minimum Setback for Side and Rear Yards not Adjacent to Streets or Alleys, north of SW Leveton Drive	50 feet	No minimum setback if adjacent to railroad right-of-way or spur track.
Minimum Setback for Side and Rear Yards not Adjacent to Streets or Alleys, South of SW Leveton Drive	0-50 feet	Determined through Architectural Review Process. No minimum setback if adjacent to railroad right-of-way or spur track.
Parking and Circulation Areas Adjacent to Public Right-of-Way	50 feet	No minimum setback required adjacent to joint access approach in accordance with TDC 73C.
Parking and Circulation Areas Adjacent to Private Property Line	5-25 feet	Determined through Architectural Review Process. No minimum setback required adjacent to joint access approach in accordance with TDC 73C.
Fences	50 feet	From public right-of-way.
<b>STRUCTURE HEIGHT</b>		
Maximum Height	70 feet	May be increased to 85 feet if yards adjacent to structure are not less than a distance equal to one and one-half times

STANDARD	REQUIREMENT	LIMITATIONS AND CODE REFERENCES
		the height of the structure. Flagpoles may extend to 100 feet.
Maximum Height Adjacent to Residential District	28 feet	Measured at the required 50-foot or 100-foot setback line, includes flagpoles. The building height may extend above 28 feet on a plane beginning at the 50-foot or 100-foot setback line at a slope of 45 degrees extending away from the setback line.

**Section 6.** TDC Section 75.050 is amended to read as follows:

**Section 75.050 Access Limited Roadways.**

(1) This section applies to all developments, permit approvals, land use approvals, partitions, subdivisions, or any other actions taken by the City pertaining to property abutting any road or street listed in TDC 75.050(2). In addition, any property not abutted by a road or street listed in subsection (2), but having access to an arterial by any easement or prescriptive right, must be treated as if the property did abut the arterial and this Chapter applies.

(2) The following Freeways and Arterials are access limited roadways:

- (a) Interstate 5 Freeway;
- (b) Interstate 205 Freeway;
- (c) Pacific Highway 99W;
- (d) Tualatin-Sherwood Road at all points located within the City of Tualatin Planning Area;
- (e) Nyberg Street, from its intersection with Tualatin-Sherwood Road east to 65th Avenue, including the I-5 Interchange;
- (f) 124th Avenue from Pacific Highway 99W south to Tonquin to Basalt Creek Parkway;
- (g) Lower Boones Ferry Road, from Boones Ferry Road to the Bridgeport/72nd intersection and from the Bridgeport/72nd intersection to the east City limits;
- (h) Boones Ferry Road at all points located within the City of Tualatin Planning Area;
- (i) 65th Avenue from its intersection with Nyberg Street south to City limits;
- (j) Borland Road from 65th Avenue east to Saum Creek;
- (k) Bridgeport Road from Lower Boones Ferry Road to the west City limits;



- (l) Martinazzi Avenue from Boones Ferry Road south to Sagert Street;
- (m) Sagert Street from Martinazzi Avenue to 65th Avenue;
- (n) Leveton Drive from 108th Avenue to 124th Avenue;
- (o) 108th Avenue from Leveton Drive to Herman Road;
- (p) Herman Road from Teton Avenue to 124th Avenue;
- (q) 90th Avenue;
- (r) Avery Street;
- (s) Teton Avenue; and
- (t) Basalt Creek Parkway.

If the Council finds that any other road or street is in need of access control for any reason, it may direct that the street or road be added to this section through a Plan Text Amendment.

(3) This Chapter takes precedence over any other TDC chapter and over any other ordinance of the City when considering any development, land use approval or other proposal for property abutting an arterial or any property having an access right to an arterial.

(4) The City may act on its own initiative to protect the public safety and control access on arterials or any street to be included by TDC 75.030, consistent with its authority as the City Road Authority.

**Section 7.** Section 75.140(6) (Existing Street Access Standards – 124<sup>th</sup> AVENUE) is amended to read as follows:

(6) 124TH AVENUE

- (a) Pacific Highway to Tualatin Road. No street or driveway accesses on the west side of this intersection will be permitted. No driveway accesses shall be allowed between Pacific Highway 99W and Tualatin Road.
- (b) Tualatin Road to Herman Road. Between Tualatin Road and Herman Road, access to 124th Avenue shall be limited to a street intersection at Leveton Drive. The area west of the 124th Avenue/Tualatin Road intersection and south of Pacific Highway 99W will be served by a cul-de-sac connecting to the westward extension of Leveton Drive.
- (c) Herman Road to Tualatin-Sherwood Road. On the east side of 124th Avenue between Herman Road and Tualatin-Sherwood Road the area will be served by the following streets or driveways:

(i) A street intersection at Myslony Street.

(ii) A street or driveway intersection approximately 800 feet south of the Myslony Street/124th Avenue intersection extending east with an alternative to extend north to connect with Myslony Street a minimum of 150 feet east of 124th Avenue. Access may be limited to right in/right out as determined by the City Manager.

(iii) Cimino Street extending east and south to an intersection at Tualatin-Sherwood Road across from 120th Avenue. The exact location and configuration of the streets and driveways shall be determined by the City Manager.

(iv) On the west side of 124th Avenue between Herman Road and Tualatin-Sherwood Road the area will be served by the following streets or driveways:

(A) A driveway across from Myslony Street.

(B) A street or driveway intersection approximately 800 feet north of the intersection of Tualatin-Sherwood Road and 124th Avenue. The exact location and configuration of the streets or driveways shall be determined by the City Manager.

(d) Tualatin-Sherwood Road. Between Tualatin-Sherwood Road and ~~Tonquin Road~~ Basalt Creek Parkway access to 124th Avenue shall be limited to street intersections at Tonquin Road and one other location. ~~Blake Street and the unnamed east-west collector street. Depending on when this segment of 124th Avenue is constructed a (possibly interim) connection to Tonquin Road may also be provided.~~

**Section 8.** Section 75.140(20) (Existing Street Access Standards – BASALT CREEK PARKWAY) is created to read as follows:

(20) BASALT CREEK PARKWAY

(a) 124th Avenue to Boones Ferry Access to the Parkway shall be limited to Grahams Ferry Road and Boones Ferry Road.

**Section 9.** The Transportation System Plan is amended as set forth in Exhibit 9 (Amended TSP), which is attached and incorporated by reference.

**Section 10.** Tualatin Development Code Figures 11-1, 11 -2, 11-3, 11-4, 11-5, 11-6, and 73-3 are amended as set forth in Exhibit 10 (Amended Figures), which is attached and incorporated by reference.

**Section 11.** Tualatin Development Code Maps 9-1, 9-2, 9-4, 9-5, 12-1, 13-1, 72- 1, 72-2, 72-3, and 74-1 are amended as set forth in Exhibit 11 (Amended Maps), which is attached and incorporated by reference.

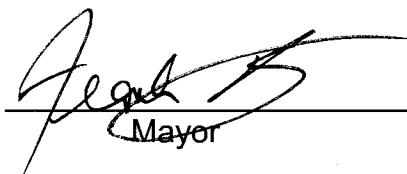
**Section 12. Findings.** The Council adopts the Findings as set forth in Exhibit 1, which are attached and incorporated by reference. In support of its Findings, the Council also adopts those materials referenced in the Findings, and which are attached as Exhibits 2 through 11, which are attached and incorporated by reference.

**Section 13. Severability.** If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision does not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases may be declared invalid or unconstitutional, and, further declares that, if for any reason this Ordinance should be declared unconstitutional, then the original ordinance or ordinances remain in full force and effect.

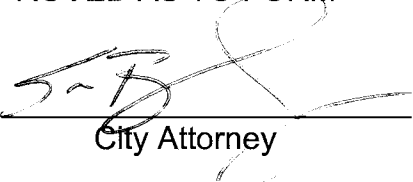
**Section 14. Effective Date.** As provided in the Tualatin Charter, this ordinance is effective 30 days from the date of adoption.

ADOPTED by the City Council this 22 day of April, 2019.

CITY OF TUALATIN, OREGON

BY   
Mayor

APPROVED AS TO FORM

BY   
City Attorney

ATTEST:

BY   
City Recorder