

ORDINANCE NO. 1379-15

AN ORDINANCE ALLOWING MARIJUANA FACILITIES IN LIGHT MANUFACTURING, GENERAL MANUFACTURING, AND MANUFACTURING BUSINESS PARK PLANNING DISTRICTS WITH CERTAIN RESTRICTIONS; ALLOWING HOMEGROWN MARIJUANA OUTDOORS WITH CERTAIN RESTRICTIONS; AMENDING TUALATIN DEVELOPMENT CODE CHAPTERS 31, 60, 61, AND 64; CREATING NEW CHAPTER 80; AND ADDING NEW PROVISIONS (PTA-15-01)

WHEREAS, on November 3, 1998, Oregon voters approved Ballot Measure 67, known as the "Oregon Medical Marijuana Act," and

WHEREAS, on November 4, 2014, Oregon voters approved Ballot Measure 91, known as the "Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act," which authorized recreational marijuana production, sales, and use; and

WHEREAS, the City Council previously adopted TMC Chapter 9-08 to prohibit medical marijuana facilities from operating in Tualatin, the prohibition of which expires on May 1, 2015; and

WHEREAS, the Tualatin Municipal and Development Codes do not currently allow marijuana facilities in any planning district; and

WHEREAS, the Community Development Director initiated Plan Text Amendment PTA-15-01 to allow marijuana facilities to operate with certain restrictions in the Light Manufacturing, General Manufacturing, and Manufacturing Business Park Planning Districts; and

WHEREAS, the City provided notice of PTA-15-01 to the Oregon Department of Land Conservation and Development as provided in ORS 197.610; and

WHEREAS, notice of public hearing of PTA-15-01 was given as required by Tualatin Development Code 1.031, and a public hearing was held where City Council heard and considered the testimony and evidence presented by the City staff and those appearing at the public hearing, and a majority of City Council having approved PTA-15-01; and

WHEREAS, pursuant to Article XI, Section 2 of the Oregon Constitution, the City of Tualatin has "home rule" authority to adopt regulations relating to marijuana facilities;

NOW THEREFORE, THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. TDC 31.060 is amended by adding the terms and definitions as follows:

Marijuana. All parts of the plant of the Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin, and includes both medical and recreational marijuana as defined by Oregon law.

Marijuana, edible. Edible product that contains marijuana.

Marijuana extract. A product obtained by separating resins from the marijuana plant by solvent extraction.

Marijuana facility. A commercial or public use or structure where marijuana is produced, processed, wholesaled, retailed, distributed, transferred, sold or consumed and registered with the Oregon Health Authority (OHA) or the Oregon Liquor Control Commission (OLCC).

Marijuana, homegrown: Marijuana grown or made by a person 21 years of age or older for noncommercial purposes.

Section 2. TDC 60.020 is amended to read as follows:

Section 60.020 Permitted Uses.

No building, structure or land shall be used in this district, except for the following uses as restricted in TDC 60.021:

(1) Assembly, packaging, processing and other treatment of products, such as dairy products, and soft drinks.

~~(2)(15)~~ Assembly and packaging of small electrical and electronic appliances, such as radios, televisions, phonographs, audio, video and computer equipment, and office machines.

~~(3)(2)~~ Assembly of the following types of products:

- (a) Bicycles.
- (b) Small electric generators.
- (c) Small electric motors.
- (d) Marine pleasure craft.
- (e) Sashes and doors.

(f) Vending machines.

~~(4)(25)~~ Child day care center, provided it is in a building with manufacturing, processing, assembling, warehousing or wholesaling uses and provided all exterior walls and outdoor play areas shall be at least 400 feet from the exterior walls and pump islands of any automobile service station, irrespective of any structures in between.

~~(5)(3)~~ Contractor's office.

~~(6)(29)~~ Electrical substation.

~~(7)(4)~~ Electroplating.

~~(8)(26)~~ Greenways and Natural Areas, including but not limited to bike and pedestrian paths and interpretive stations.

~~(9)(41)~~ Laboratories: testing, medical, dental, photo, or motion picture, except structural-mechanical testing laboratories.

~~(10)(5)~~ Laundry, dry cleaning, dyeing or rug cleaning plant (non-retail).

~~(11)(6)~~ Machine shop, including automotive machine shop, of less than 7,500 gross square feet.

~~(12)(47)~~ Manufacture of musical instruments, toys and novelties.

~~(13)(46)~~ Manufacture of pottery and ceramics, using only previously pulverized clay.

~~(14)(7)~~ Manufacture of the following types of products:

(a) Cabinets.

(b) Furniture.

(c) Mattresses.

(d) Scientific, medical or dental laboratory measuring, analyzing and controlling equipment, and related tools and supplies.

~~(15)~~ Marijuana facility, subject to the provisions in TDC Chapter 80.

~~(16)(48)~~ Molding of small products from plastic.

~~(17)(30)~~ Natural gas pumping station.

~~(18)~~(40) Offices for executive, administrative, and professional uses related to the sale or service of industrial products.

~~(19)~~(33) Other uses of similar character found by the Planning Director to meet the purpose of this district, as provided in TDC 31.070.

~~(20)~~(14) Processing, assembly, packaging, and other treatment of small products manufactured from the following previously prepared or semi-finished materials: bone, hair, fur, leather, feathers, textiles, plastics, glass, wood, paper, cork, wire up to 1/4 inch (0.25") in diameter, rubber, and rubber compounds, precious or semi-precious stones, and similar small products composed of previously prepared or semi-finished materials.

~~(21)~~(12) Processing, assembly, packaging, or other treatment of such products as bakery goods, candy, cosmetics, pharmaceuticals, toiletries.

~~(22)~~(13) Processing, assembly, packaging, and other treatment of such products as small hand tools, optical goods, hearing aids, and scientific instruments or equipment.

~~(23)~~(24) Production of agricultural crops.

~~(24)~~(28) Public works shop and storage yard.

~~(25)~~(22) Publishing and printing (non-retail).

~~(26)~~(19) Sales of industrial hand tools, industrial supplies such as safety equipment and welding equipment, that are products primarily sold wholesale to other industrial firms or industrial workers.

~~(27)~~(23) Sewer and water pump stations, pressure reading stations, water reservoir.

~~(28)~~(35) Shared service facilities.

~~(29)~~(8) Spinning or knitting of fibers.

~~(30)~~(9) Storage of automobiles, boats, buses, trailers, and recreational vehicles, except not allowed in the Special Commercial Setback, TDC 60.035(1-3).

~~(31)~~(27) Telephone exchange or switching facility.

~~(32)~~(24) Trade or industrial schools.

~~(33)~~(34) Transportation facilities and improvements.

~~(34)~~(20) Warehousing related to the above uses; and warehousing for merchandise or goods normally sold or owned in commercial or residential planning districts, but excluding direct retail sales to customers from such warehouse structure, and excluding the storage of hazardous materials.

~~(35)~~(32) Wireless communication facility.

~~(36)~~(34) Wireless communication facility attached.

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 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.

(4) Marijuana facilities are subject to the provisions in TDC Chapter 80. To the extent there is a conflict between the provisions in this Chapter and the provisions in TDC Chapter 80, the provisions in TDC Chapter 80 apply.

Section 4. 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 rearends 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) Marijuana facility, subject to the provisions in TDC Chapter 80.

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

~~(11)~~(40) Metal fabrication (light to medium) (of unfinished or semi-finished metals).

~~(12)~~(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.

~~(13)~~(44) Petroleum product distribution and storage.

~~(14)~~(42) Planning mill.

~~(15)~~(43) 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.

~~(16)~~(44) Production of agricultural crops.

~~(17)~~(23) Sale, service and rental of construction and industrial equipment to contractors and industrial firms only.

~~(18)~~(45) Sale, service and rental of industrial machinery including machine tools, processing, and packaging machinery, forklifts, hoists and conveyors.

~~(19)~~(46) Sandblasting.

~~(20)~~(47) 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).

~~(21)~~(48) Structural-mechanical testing laboratories.

~~(22)~~(49) Welding shop.

~~(23)~~(22) Wireless communication facility.

~~(24)~~(20) Wireless communication facility attached.

Section 5. 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 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.

(4) Marijuana facilities are subject to the provisions in TDC Chapter 80. To the extent there is a conflict between the provisions in this Chapter and the provisions in TDC Chapter 80, the provisions in TDC Chapter 80 apply.

Section 6. TDC 64.020 is amended to read as follows:

Section 64.020 Permitted Uses.

No building, structure or land shall be used except for the following:

~~(1)(18)~~ Accessory Uses, incidental and subordinate to a permitted or conditionally permitted primary use.

~~(2)(9)~~ 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.

~~(3)(14)~~ Electrical substation.

~~(4)(3)~~ Food and beverage product processing and packaging.

~~(5)(14)~~ Greenways and Natural Areas, including but not limited to bike and pedestrian paths and interpretive stations.

~~(6)(2)~~ Manufacture, assembly and production uses except the uses and activities listed as prohibited in TDC 64.040:

~~(7)~~ Marijuana facility, subject to the provisions in TDC Chapter 80.

~~(8)(4)~~ Metal fabrication (light to medium) (of unfinished or semi-finished metals).

~~(9)(5)~~ Molding of products from plastic and ceramic materials.

~~(10)(15)~~ Natural gas pumping station.

~~(11)(8)~~ Offices when part of a manufacturing use as listed in subsections (1) through (7) above (4), (6), (8), (9), (13), (16), and (19) of this section.

~~(12)(19)~~ Other uses of similar character, when found by the Community Development Director to meet the purpose of this district, as provided in TDC 31.070.

~~(13)(6)~~ Printing and publishing.

~~(14)(10)~~ Private parking lot improved and landscaped in accordance with TDC Chapter 73.

~~(15)(13)~~ Public works shop and storage yard.

~~(16)(4)~~ Research and development offices and laboratories for chemical, engineering, and physical sciences; medical and pharmaceutical products; alternative energy production from sources such as solar and wind; industrial products and consumer products.

~~(17)(12)~~ Sewer and Water Pump Station, Pressure Reading Station. Water Reservoir.

~~(18)~~(17) Transportation Facilities and Improvements.

~~(19)~~(7) Warehousing related to the above uses in subsections (4), (6), (8), (9), (13), and (16) of this section.

~~(20)~~(16) Wireless communication facility attached.

Section 7. TDC 64.021 is amended to read as follows:

Section 64.021 Restrictions on Permitted Uses.

The following restrictions shall apply to those uses listed as permitted uses in TDC 64.020.

(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.

(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) Marijuana facilities are subject to the provisions in TDC Chapter 80. To the extent there is a conflict between the provisions in this Chapter and the provisions in TDC Chapter 80, the provisions in TDC Chapter 80 apply.

Section 8. TDC Chapter 80 is added to the Tualatin Development Code as follows:

Section 80.010 Purpose. The purpose of this chapter is to:

(1) Protect the general health, safety, property, and welfare of the public;

(2) Balance the right of individuals to produce and access marijuana and marijuana derivatives consistent with State law, with the need to minimize adverse impacts to nearby properties that may result from the production, storage, distribution, sale, and/or use of marijuana and derivatives;

(3) Prevent or reduce criminal activity that may result in harm to persons or property;

(4) Prevent or reduce diversion of State-licensed marijuana and marijuana derivatives to minors; and

(5) Minimize impacts to the City's public safety services by reducing calls for service.

Section 80.020 Definitions. Unless the context requires otherwise, the following words and phrases mean:

(1) "Marijuana" means all parts of the plant of the Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin, and includes both medical and recreational marijuana as defined by Oregon law.

(2) "Marijuana, edible" means edible product that contains marijuana.

(3) "Marijuana extract" means a product obtained by separating resins from the marijuana plant by solvent extraction.

(4) "Marijuana facility" means a commercial or public use or structure where marijuana is produced, processed, wholesaled, retailed, distributed, transferred, sold or consumed and registered with the Oregon Health Authority (OHA) or the Oregon Liquor Control Commission (OLCC).

(5) "Marijuana, homegrown" means marijuana grown or made by a person 21 years of age or older for noncommercial purposes.

Section 80.030 Relationship to Other Standards.

(1) The provisions of this Chapter apply to all marijuana facilities requiring a State license or registration.

(2) The regulations in this Chapter are in addition to other development code standards. Sites with overlay zones, inventoried hazards, and/or sensitive lands are subject to additional regulations. Specific uses or development types may also be subject to regulations set forth elsewhere in the Tualatin Development Code.

(3) To the extent there is a conflict between other provisions in the Tualatin Development Code and the provisions of this Chapter, the provisions in this Chapter apply.

Section 80.050 Planning Districts Where Marijuana Facilities Permitted. Marijuana facilities are permitted in the following planning districts and subject to the other provisions of this Chapter:

(1) Light Manufacturing (ML);

(2) General Manufacturing (MG); and

(3) Manufacturing Business Park (MBP).

Section 80.060 Standards for Marijuana Facilities.

(1) All Marijuana facilities must comply with all applicable State requirements.

(2) A marijuana facility cannot be located within 3,000 feet, measured from the nearest property line, from any:

(a) Residential Planning District or residential uses;

(b) City Park listed below:

- (i) Atfalati Park
- (ii) Brown's Ferry Park
- (iii) Ibach Park
- (iv) Jurgens Park
- (v) Lafky Park
- (vi) Little Woodrose Nature Park
- (vii) Saarinen Wayside Park
- (viii) Stoneridge Park
- (ix) Sweek Pond Natural Area Park
- (x) Tualatin Commons
- (xi) Tualatin Commons Park
- (xii) Tualatin Community Park

(c) School; as defined in Chapter 31 of the Tualatin Development Code;
and

(d) Library.

(3) A marijuana facility cannot be located within 2,000 feet, measured from the nearest property line, of any other marijuana facility.

(4) A marijuana facility cannot exceed 3,000 square feet in size.

(5) A marijuana facility must be located in a permanent building and may not be located in a trailer, shipping container, cargo container, tent, motor vehicle, or other non-permanent structure.

(6) A marijuana facility that is a retail sales or medical dispensary marijuana facility is prohibited from co-locating with any other marijuana facility.

(7) Drive-through marijuana facilities are prohibited.

Section 80.070 Marijuana Facility Operating Restrictions.

(1) Retail sales and medical dispensary marijuana facilities are restricted to the following operating hours:

(a) The hours of operation that a retail sales marijuana facility may be open to the public is between 10:00 a.m. and 8:00 p.m. of the same day.

(b) The hours of operation that a medical dispensary marijuana facility may be open to registry identification cardholders is between 10:00 a.m. and 8:00 p.m. of the same day.

(2) All marijuana facilities must comply with the following operating restrictions:

(a) Comply with the restrictions on edible marijuana as provided in TDC 80.100;

(b) All marijuana odors and other objectionable odors must be confined to levels undetectable at the property line;

(c) Primary entrances must be located on street-facing facades and clearly visible from a public or private street; and

(d) Outdoor storage of merchandise, plants, or other materials is prohibited.

Section 80.100 Edible Marijuana. Marijuana facilities that produce, process, wholesale, distribute, transfer, or sell edible marijuana must comply with the following provisions:

(1) All edible marijuana must be individually wrapped at the original point of preparation.

(2) Labeling must be distinctly and clearly legible on the front of the package and must include:

- (a) a warning that the contents contain marijuana;
- (b) a statement that the contents are not a food product; and
- (c) a statement emphasizing that the product is to be kept away from children.

(3) Packaging of edibles must be in child-resistant packaging.

(4) Packaging that makes the product attractive to children or imitates candy is prohibited.

(5) Retail sale of edible marijuana products must be behind a commercial counter or in an enclosed display case.

Section 80.200 Butane Extraction. The production of marijuana extracts through the use of butane is prohibited.

Section 80.300 Homegrown Marijuana.

(1) Persons growing homegrown marijuana must comply with all applicable State law requirements.

(2) Homegrown marijuana cannot be grown in the front yard of any property in a residential planning district and must comply with the following:

- (a) Be fully screened from view on all sides; and
- (b) Be located at least 10 feet away from all property lines and 25 feet away from all adjacent residences on neighboring properties.

(3) No person may produce, process, keep, or store homemade marijuana extracts.

Section 80.400 Violations.

(1) Any person who violates any provision of this Chapter commits a civil infraction and is subject to a fine of up to \$1,000. Each violation, and each day that a violation continues, is a separate civil infraction.

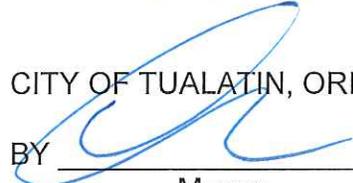
(2) The civil infraction procedures in Tualatin Municipal Code Chapter 7-01 apply to the prosecution of any violation of this Chapter.

Section 9. The Council adopts as its findings the *Analysis and Findings* set forth in Exhibit 1, which is attached and incorporated by reference.

Section 10. 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 remains in full force and effect.

Adopted by the City Council this 23 Day of March, 2015.

CITY OF TUALATIN, OREGON

BY 
Mayor

APPROVED AS TO FORM

BY 
City Attorney

ATTEST:

BY 
City Recorder