



INTERPRETATION DECISION HONEY BUCKET (INT-25-0001)

July 11, 2025

Case:	INT 25-0001
Address:	18805 SW 108 th Avenue, Tualatin, OR 97062
Tax Lot:	2S122AD 600, 700, and 800
Planning Zone:	Light Manufacturing (ML)
Applicant:	Northwest Cascade, Inc. DBA Honey Bucket

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PROPOSAL

The applicant, Northwest Cascade, Inc. DBA Honey Bucket (“Honey Bucket” or “Applicant”), represented by Merissa Moeller of Stoel Rives LLP, requests an Interpretation of Code Provisions that the proposed uses, which comprise “a portable restroom and industrial equipment rental business,” are Permitted uses within the Light Manufacturing (ML) Zone). Within **Table 60-1 (Use Categories in the ML Zone)**, “a portable restroom and industrial equipment rental business” is not explicitly listed as Permitted in the ML zone. Consequently, the applicant requests that the City of Tualatin (the “City”) find the proposed use to be of a similar character and to meet the purpose of the ML zone, as provided in TDC 31.070.

CHAPTER 31 – GENERAL PROVISIONS

Section 31.070 Interpretation of Code Provisions.

- (1) The City Manager has the initial authority and responsibility to interpret all terms, provisions and requirements of the Tualatin Development Code.
- (2) Unless accompanied by an application, submitted under some other Development Code or Ordinance provision, a party wishing an interpretation must submit a written application to the City Manager. The application must be accompanied by a detailed description of factors related to the issue for interpretation, including, but not limited to:
 - (a) The amount and type of traffic generated;
 - (b) The type of manufacturing or commercial process;
 - (c) The nature of any machinery used;
 - (d) Noise and odor characteristics, associated with the use or activity;
 - (e) Outside storage of materials or products;
 - (f) Type of structures required;
 - (g) Character of activity to be conducted on the site;
 - (h) Amount of parking required;
 - (i) Number of persons who would occupy the premises at any one time; and
 - (j) Any other information which the City Manager or designee determines to be relevant to a determination of the issue.

Finding:

Honey Bucket has submitted a written application (“the Application”), addressing the above standards with sufficient detail for the City Manager or designee to interpret the applicable terms, provisions and requirements of the Tualatin Development Code. This standard is met.

(3) Within 30 days of the submission of all required information, the City Manager must cause a final decision to be made on the issue. The decision must include findings of fact and conclusions for the particular aspects of the decision, based upon applicable criteria. Notice of the decision must be provided to the City Council. The City Manager must maintain a collection of such decisions.

(4) The final decision on a Code interpretation under this section may be appealed to the City Council pursuant to the provisions of TDC 31.076 and 31.077.

Finding:

The Application was submitted on June 5, 2025, and the final piece of required information, the application fee, was submitted on June 11, 2025. Therefore, a final decision must be made on the issue, with notice of the decision to the City Council, by July 11, 2025. This standard is met.

39 - USE CATEGORIES

Section 39.100 - Use Classifications – General Principles.

(1) **Purpose.** Land uses are classified into use categories based on common functional, product or physical characteristics, including the type and intensity of activity typical of impact, type(s) of customers or residents, typical off-site impacts, and building type. The basis for allowing or prohibiting the use categories in the various zones is in the goals and policies of the Comprehensive Plan.

(2) **Organization and Guidelines.** Each use category is organized into the following sections:

(a) **Characteristics.** A description of the qualities and attributes, essential features, nature of operation, and impacts generally associated with a specific use.

(b) **Examples of Uses.** An illustrative, not exhaustive, list of activities or land uses that possess the characteristics of the use category.

(3) **Multiple Uses on a Site.** Uses may be regulated differently depending on the nature of the use on a site, in accordance with this section.

(a) **Multiple Primary Uses.** When all primary uses on a site fall within one use category, then the development falls within that use category. When the primary uses on a site fall within different use categories, each primary use is classified in the applicable use category and is subject to the regulations for that use category.

(b) **Limited Uses.** Limited uses are uses or activities that are allowed and may be subject to additional regulations beyond those required of the primary use.

(c) **Accessory Uses.** Accessory uses are uses or activities that are subordinate and incidental to a primary use on a site. Accessory uses are allowed in all zones in conjunction with the primary use and subject to the same regulations as the primary use, unless stated otherwise in this code.

(4) **Considerations in Classifying Uses.** The following items are used to determine the use category of a particular use or activity, and whether the activities constitute primary or accessory uses:

(a) The description of the activity(ies) in relationship to the characteristics of each use category;

(b) The relative amount of site or floor space and equipment devoted to the activity;

(c) Relative amount or type of sales from each activity;

(d) The customer type for each activity;

(e) The relative number of employees in each activity;

(f) Hours of operation;

(g) Building and site arrangement;

(h) Type of vehicle used with the activity;

(i) The relative number of vehicle trips generated by the activity;

(j) How the use advertises itself; and

(k) Whether the activity would be likely to be found independent of the other activities on the site.

Section 39.110 – Uses Not Specifically Addressed. Uses not specifically addressed in this code may be classified into a use category through the process of a Code Interpretation application, pursuant to Section 31.070 (Interpretation of Code Provisions).

[...]

Finding:

As proposed, there are multiple primary uses for the Site. Honey Bucket operates a business at the Site, storing portable restrooms and other job site equipment that is ultimately rented to industrial and construction customers as a business-to business operation. Honey Bucket's offerings include portable restrooms, ranging from standard units to high-end luxury models; shower units; temporary fence panels (fencing); temporary metal storage containers; and ground-level office units. As noted in the Application narrative, previous discussions between city staff and Honey Bucket have focused on the portable restroom units and an associated temporary waste holding tank. In describing this aspect of its business, Honey Bucket asserts the following:

- *Honey Bucket's business typically operates between 4 AM and 7PM- but may operate seven days a week with extended hours to accommodate demand surges or peak season events;*
- *After use by commercial and industrial customers, waste is pumped out of all units offsite before the restrooms are retrieved for cleaning and storage at the Site;*
- *Trucks that empty the restrooms of waste offsite return to the Site, where the pumped waste is stored temporarily in a holding tank;*
- *An additional truck empties the tank and delivers the waste to a final offsite destination for disposal*
- *Once at the Site, employees service the restrooms by washing units inside and outside via a closed loop wash water reuse station that reclaims and recycles water into a private reclamation system;*
- *Honey Bucket pumps the recycled water with one of its delivery trucks and disposes of it in an approved wastewater facility;*
- *Employees stock and load clean restrooms with necessary supplies and store them onsite.*

The Applicant states that the primary onsite activity is the loading/unloading, washing and storing of portable restrooms and other industrial equipment rented from the Site. While the Applicant does not provide specific information as to how much of its primary onsite operation is dedicated to restrooms (as opposed to other industrial equipment) or sales derived from its restroom operations, the Applicant does maintain that approximately 1750 restroom units are stored on the Site during peak times.

As discussed below, Honey Bucket's primary use most closely aligns with the Solid Waste Treatment and Recycling use category. Whether or not the applicant is also conducting or proposes to conduct separate and distinct primary uses that are appropriately classified as Wholesale Sales, those uses are subject to the limitations of the ML zone and are discussed further below under Section 39.450.

Section 39.420 - Solid Waste Treatment and Recycling.

(1) Characteristics. Solid Waste Treatment and Recycling uses receive, process and/or recycle solid waste materials.

(2) Examples of Uses.

- Energy recovery plants.
- Portable toilet collection, storage and pumping.
- Recycling-Collection Center (as defined in TDC 39.115).
- Commercial waste composting and/or compost production.

(3) Exceptions.

- The following related uses are prohibited in all zones: vehicle and heavy machinery salvage and wrecking; hazardous-waste collection and processing; rendering plants; and junk or salvage yards

- **Uses listed above in the Examples of Uses are not allowed in the Special Commercial Setback 60.035 (1-3)**
 - **Community recycling or composting facilities at a community garden are classified as Community Services.**
- [...]

Finding:

The Applicant asserts that its primary use at the Site (rental of portable restrooms and other industrial equipment to other businesses) is best characterized as a Wholesale Sales use, and that the waste-related components of the use are ancillary and accessory to the primary use.

First, the City disagrees with Honey Bucket's proposition that the waste-related components of the stated primary use constitute an accessory use. After a review of the record and text and context of TDC 39.100(3)(c) and (4), it is sufficiently clear that Honey Bucket's waste-related activities at the Site are not subordinate and incidental to the stated primary use but part and parcel of and an important, essential component of that use.

The record reflects the following:

- *During operating hours, pick-up and delivery trucks leave the Site in the morning with clean and stocked restrooms and return to the Site with empty ones;*
- *During demand surges, this activity can occur several times a day;*
- *Waste from the restrooms rented to customers is pumped into trucks offsite, then transported to the Site and temporarily stored in the holding tank onsite;*
- *That waste is then emptied by one truck and delivered to a disposal site- and this can occur either once or twice per day;*
- *When the restrooms are returned to the Site, Honey Bucket employees service them, which includes washing them on the inside and outside with a washing system that reclaims and recycles the water in a private reclamation system;*
- *That recycled water is then pumped into a delivery truck and delivered to a wastewater facility.*

TDC 39.100(3)(c) defines the term "Accessory Uses" as uses or activities that are subordinate and incidental to a primary use on a site. The terms "subordinate" and "incidental" are not defined in the TDC. Per Webster's Third New Intl Dictionary (unabridged ed 2002), the term "subordinate" (when used as an adjective) means "placed in a lower order, class, or rank," and "Incidental" (when used as an adjective) means "subordinate, nonessential, or attendant in position or significance."

In support of its argument that the waste-related components of the stated primary use are accessory uses, the Applicant argues those components are merely activities necessary to support its primary activity- the rental of industrial equipment to third parties. For example, the Applicant states that after use by customers, all restroom units are returned to the Site empty- and waste processing and disposal occurs offsite. While the Applicant can claim the restrooms come back to the Site empty, they cannot assert that they come back clean- necessitating the need to thoroughly wash every restroom and capture their wastewater onsite. Additionally, trucks that empty waste from the restrooms offsite then return to the Site with that waste, where it is temporarily stored in a holding tank. This aspect of its operation necessitates the need to employ charcoal filters to capture odors emanating during the transfer between the tank and trucks emptying or depositing into the holding tank. The record

indicates that these waste-related activities do not constitute a minor aspect of Honey Bucket's operation, but an extremely important and essential aspect of Honey Bucket's operation at the Site.

Turning to the appropriate classification of Honey Bucket's primary use, the record indicates it most closely aligns with the Solid Waste Treatment and Recycling Use Category. In its Application, Honey Bucket acknowledges that if it did engage in onsite waste processing and disposal as part of its operation, its use would have characteristics associated with the Solid Waste Treatment and Recycling Use category. After review, the City finds that the applicant's proposed rental of portable restroom units and the associated temporary waste holding tank is most similar to the Solid Waste Treatment and Recycling use category. In the ML zone, Table 60-1 (below) limits a Solid Waste Treatment and Recycling use to be a recycling collection center. Furthermore, TDC39.420(2), lists "portable toilet collection, storage and pumping" as an example of the specific subtype of uses within that category.

The Applicant disagrees that its use fits within the example set out at TDC 39.420(2) ("portable toilet storage, collection and pumping"), asserting that such an interpretation is contrary to its plain text. The Applicant argues that had the Council intended to include as an example a portable toilet operation that engages in less than all of the three listed activities, it would have used the conjunction "and/or." However, the record indicates that the TDC appears to use the conjunctions "and," "or," and "and/or" interchangeably within the specific examples set out in the Commercial Use Categories within TDC Chapter 39. For example, TDC Chapter 39 contains the Commercial Use Category Durable Goods Sales, which is set out below (underlining of conjunctions added):

TDC 39.320- Durable Goods Sales.

(1) Characteristics. Durable Goods Sales are the sale, rental, or lease of new and used goods having extended utility. Durable Goods Sales may require extensive indoor and/or outdoor display areas.

(2) Examples of Uses.

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- Retail sale of furniture and large appliances.
- New and used sales of motorcycles, boats, recreational vehicles, or trailers.
- Retail nurseries or greenhouses.
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Given the stated characteristics of Durable Goods Sales, it would be implausible to read TDC 39.320(2) to exclude a business operation that engaged only in the retail sale of furniture, as opposed to one that engaged in both the retail sale of furniture and large appliances. Likewise, given the stated characteristics for a Solid Waste Treatment and Recycling use ("receive, process and/or recycle solid waste materials"), the City interprets TDC 39.420 to include only a portable toilet operation that engages in toilet collection, storage and pumping.

Even if that were not the case, TDC 39.100(2) makes clear that use category characteristics contain a "description of the qualities and attributes, essential features, nature of operation, and impacts generally associated with a specific use," and the associated examples for each use are an "illustrative, not exhaustive, list of activities or land uses that possess the characteristics of the use category."

Based on the record, the Applicant's activities on the Site include many of the characteristics associated with Solid Waste Treatment and Recycling use. As explained above, Honey Bucket receives solid waste materials, which is a listed characteristic that defines the Solid Waste Treatment and

Recycling use classification. Additionally, portable toilet collection, storage and pumping are listed as examples of the use. While the use in question does not pump the portable toilets on site, it does collect, store and wash the toilets on site as well as temporarily store the waste from those toilets onsite. As such, the proposed rental of portable restroom units contains many of the characteristics associated with a Solid Waste Treatment and Recycling use and is properly classified as Solid Waste Treatment and Recycling. Finally, Honey Bucket's use cannot be reasonably construed to be a Recycling-Collection Center (as defined in TDC 39.115) as "A permanent facility for the collection, storage, repair, processing or distribution of repairable or reusable household goods or materials, when housed in a fully enclosed building. In this context, the term "materials" is specifically intended to include empty bottles, jars, cans, boxes or similar containers, as well as newspaper, magazines and other printed matter."

Therefore, the proposed rental of portable restroom units as well as the temporary waste holding tank, as it is associated with the use, are both prohibited in the ML zone.

TDC 39.450. - Wholesale Sales.

(1) Characteristics. Wholesale Sales are the sale, lease, and/or rental of products primarily to businesses. On-site sales to the general public are limited.

(2) Examples of Uses.

- Wholesale sales of industrial hand tools and industrial supplies such as safety equipment and welding equipment.
- Wholesale sales, service and rental of construction and industrial equipment, such as tractors, loaders, hoes, lifts, cranes, and utility trucks, to contractors and industrial firms.
- Wholesale sales and service of machines and tools primarily for industrial and commercial firms including machine tools, fabrication, processing and packaging machinery, hoists, conveyors, racking systems and forklifts.
- Wholesale sales of building materials and supplies, including, but not limited to, electrical supplies; fencing materials; building insulation; lumber; prefabricated trusses and structural frames; structural metal materials; masonry supplies; ceramic & stone tile and pavers; painting supplies; plumbing supplies; plywood and wood panel materials; roofing; siding; flooring; window materials; door materials; and tools (handheld and table or stand mounted).

(3) Exceptions.

- Companies that engage primarily in sales to the general public are classified as Retail Sales and Services.
- Companies that engage in sales on a membership basis are classified as either Retail Sales and Services or Wholesale Sales, based on the characteristics of the use.
- Companies that are primarily storing goods with little on-site business activity are classified as Warehouse and Freight Movement.
- Storage, transfer, or processing of hazardous, toxic, or radioactive waste.

Finding:

On the question of whether the proposed rental of portable restroom units and the associated temporary waste holding tank could be considered Wholesale Sales, it is first important to distinguish that in the ML zone, Table 60-1 (below), further limits this use category to 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; and sale, service and rental of construction and industrial equipment to contractors and industrial firms only; and further that a conditional use is required for wholesale sales of building materials and supplies. Because Honey

Bucket rents rather than sells its product, it is only necessary to examine whether its proposed use could be considered “service and rental of construction and industrial equipment to contractors and industrial firms only.”

In staff’s view, portable toilets, which are used in a variety of settings, do not appear to be “construction or industrial equipment.” Given the applicable examples of uses set out for Wholesale Sales and relevant rules of statutory construction, staff’s position is that “construction and industrial equipment” is limited to the machinery and tools used to perform construction or industrial tasks.

The Applicant disagrees with this staff interpretation, asserting that it is unnecessarily narrow, and works to exclude business operations based upon how construction or industrial equipment is used and whether the goods being sold are exclusively used in construction and industrial activities. While the term “construction and industrial equipment” is not defined in the TDC, examples of these types of equipment are set out at TDC 39.450(2), and includes tractors, loaders, hoes, lifts, cranes, and utility trucks. Given this list and applicable maxim of statutory construction, the portable toilets rented to third parties by the Applicant do not share the same common characteristics as the listed examples set out in the TDC. Given the plain and ordinary meaning of the term “construction and industrial equipment” and the context of how that term is described in the TDC, the City agrees that staff’s interpretation of the term “construction and industrial equipment” is limited to the machinery and tools used to perform construction or industrial tasks.

Even if the City were to conclude otherwise, the Applicant’s operation includes activity (receiving solid waste materials) that is not permitted in the Wholesale Sales Industrial Use Category. Accordingly, the existing portable toilet collection business is plausibly understood to be a Solid Waste Treatment and Recycling use and is therefore prohibited.

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On the secondary question of whether other uses proposed by Honey Bucket (e.g., rental of shower units, temporary fence panels, temporary metal storage containers and ground-level office units) constitute “construction and industrial equipment,” the City finds that those activities cannot be plausibly characterized as a Wholesale Sales use. Given the applicable examples of uses set out for Wholesale Sales and relevant rules of statutory construction, it is the City’s position that “construction and industrial equipment” is limited to the machinery and tools used to perform construction or industrial tasks.

As such, Honey Bucket’s other uses do not appear to be “construction or industrial equipment.” Therefore, the proposed rental of shower units; temporary fence panels (fencing); temporary metal storage containers; and ground-level office units do not satisfy the limitation on Wholesale Sales in the ML zone that requires said rentals to be construction or industrial equipment- and is therefore prohibited.

Finally, the Honey Bucket argues that staff’s interpretation that storage, pumping, and cleaning of portable restroom units that are rented and the associated temporary waste holding tank as well as of rental of shower units, temporary fence panels, temporary metal storage containers and ground-level office units a portable restroom, when taken to its logical conclusion, would also preclude any business dealing with waste in any zone. Honey Bucket correctly notes that the TDC only specifies one sub-category of waste uses (recycling collection centers) in the ML zone, which is allowed Conditionally. Additionally, three sub-categories of waste uses are allowed in the MG zone (recycling collection centers, waste transfer stations and resource recovery facilities) that can be Conditionally

allowed. Although the Permitted or Conditional uses in the MG zone are not at issue in the subject interpretation which only applies to the ML zone, staff finds it plausible that a portable toilet collection facility, which involves the transfer of human waste from portable toilets to a holding tank, to be transferred from the site for ultimate disposal could be appropriately classified as a waste transfer station, and could be allowed Conditionally in the MG zone. Regarding the remaining proposed uses which Honey Bucket argues are appropriately classified as Wholesale Sales, staff concurs that the TDC provides apparent limitations on the nature of the uses such that uses that are not listed as prohibited in the ML zone and appear to be similarly prohibited in the MG zone.

In response to Honey Bucket's contention that "we do not believe that implicitly prohibiting portable toilet storage and rental businesses in Tualatin was the City Council's intent in enacting relevant provisions of the TDC. This result contradicts the City's goal of fostering urban growth and a pro-business environment," there are a variety of business activities that are not permitted in the City of Tualatin. Further, the record does not reflect any evidence that the Council did not intend to prohibit certain uses. Further, the purpose statement for the ML zone indicates that the Council did intend to place limitations on certain uses – while still fostering a pro-business environment, particularly those industrial uses that might be considered incompatible with other uses, or industrial uses like wholesale sales which are commercial in nature. "The purpose of this zone is to provide areas of the City that are suitable for industrial uses and compatible with adjacent commercial and residential uses. The zone serves to buffer heavy manufacturing uses from commercial and residential areas. Industrial uses that are environmentally adverse or pose a hazard to life and safety are prohibited. The zone 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 purpose is also to allow a limited amount of commercial uses and services and other support uses, including office uses in limited locations in close proximity to the Commercial Office (CO) district. Commercial uses are not permitted in the Limited Commercial Setback."

CHAPTER 60 – LIGHT MANUFACTURING (ML) ZONE

TDC 60.100. - Purpose.

The purpose of this zone is to provide areas of the City that are suitable for industrial uses and compatible with adjacent commercial and residential uses. The zone serves to buffer heavy manufacturing uses from commercial and residential areas. Industrial uses that are environmentally adverse or pose a hazard to life and safety are prohibited. The zone 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 purpose is also to allow a limited amount of commercial uses and services and other support uses, including office uses in limited locations in close proximity to the Commercial Office (CO) district. Commercial uses are not permitted in the Limited Commercial Setback.

TDC 60.200. - Use Categories.

(1) Use Categories. Table 60-1 lists use categories Permitted Outright (P) or Conditionally Permitted (C) in the ML zone. Use categories may also be designated as Limited (L) and subject to the limitations listed in Table 60-1 and restrictions identified in TDC 60.210. Limitations may restrict the specific type of use, location, size, or other characteristics of the use category. Use categories which are not listed are prohibited within the zone, except for uses which are found

by the City Manager or appointee to be of a similar character and to meet the purpose of this zone, as provided in TDC [31.070](#).

[...]

Table 60-1
Use Categories in the ML Zone

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
INDUSTRIAL USE CATEGORIES		
<i>Solid Waste Treatment and Recycling</i>	<i>C (L)</i>	<i>Conditional uses limited to recycling collection center.</i>
<i>Wholesale Sales</i>	<i>P/C (L)</i>	<p><i>Permitted uses limited to:</i></p> <ul style="list-style-type: none"> <i>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; and</i> <i>Sale, service and rental of construction and industrial equipment to contractors and industrial firms only.</i> <p><i>Conditional use required for wholesale sales of building materials and supplies</i></p>

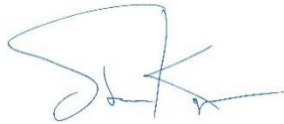
CONCLUSION

The above findings of fact, based upon applicable criteria, support a determination that both (a) the proposed portable toilet collection and associated holding tank, and (b) the proposed rental of shower units; temporary fence panels (fencing); temporary metal storage containers; and ground-level office units are both prohibited uses within the ML Zone.

APPEAL

This interpretation will be final after 14 calendar days **unless a written appeal is received** by the Community Development Department, Planning Division at 10699 SW Herman Road, Tualatin, Oregon 97062-7092 **before 5 p.m. on July 25, 2025. The appeal must be submitted on the City appeal form** with all the information requested provided thereon and signed by the appellant and accompanied by the applicable appeal fee. The appeal forms are available at the Planning Division office. The City Council reviews appeals of interpretations pursuant to Tualatin Development Code (TDC) 31.070(4).

Submitted by:

A handwritten signature in blue ink, appearing to read 'SK', with a stylized flourish extending from the end.

Steve Koper, AICP
Assistant Community Development Director

Attachments:

A. Application Materials

File: INT 25-0001