



City of Tualatin

TUALATIN CITY COUNCIL

Monday, March 9, 2015

JUANITA POHL CENTER

8513 SW Tualatin Road

Tualatin, OR 97062

WORK SESSION begins at 6:15 p.m.

BUSINESS MEETING begins at 7:00 p.m.

Mayor Lou Ogden

Council President Monique Beikman

Councilor Wade Brooksby

Councilor Frank Bubenik

Councilor Joelle Davis

Councilor Nancy Grimes

Councilor Ed Truax

Welcome! By your presence in the City Council Chambers, you are participating in the process of representative government. To encourage that participation, the City Council has specified a time for your comments on its agenda, following Announcements, at which time citizens may address the Council concerning any item not on the agenda or to request to have an item removed from the consent agenda. If you wish to speak on a item already on the agenda, comment will be taken during that item. Please fill out a Speaker Request Form and submit it to the Recording Secretary. You will be called forward during the appropriate time; each speaker will be limited to three minutes, unless the time limit is extended by the Mayor with the consent of the Council.

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

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

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

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

PROCESS FOR LEGISLATIVE PUBLIC HEARINGS

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

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

PROCESS FOR QUASI-JUDICIAL PUBLIC HEARINGS

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

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

TIME LIMITS FOR PUBLIC HEARINGS

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

EXECUTIVE SESSION INFORMATION

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

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



A. CALL TO ORDER
Pledge of Allegiance

B. ANNOUNCEMENTS

1. Tualatin Youth Advisory Council Update for March 2015
2. Tualatin Library Foundation Vine2Wine 2015
3. Introduction of Meals on Wheels New CEO Susan Washington
4. Proclamation Declaring April 6-11, 2015 as National Community Development Week

C. CITIZEN COMMENTS

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

D. CONSENT AGENDA

The Consent Agenda will be enacted with one vote. The Mayor will ask Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. If you wish to request an item to be removed from the consent agenda you should do so during the Citizen Comment section of the agenda. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under, Items Removed from the Consent Agenda. The entire Consent Agenda, with the exception of items removed from the Consent Agenda to be discussed, is then voted upon by roll call under one motion.

1. Consideration of Approval of the Minutes for the City Council Work Session and Regular Meeting of February 23, 2015

E. PUBLIC HEARINGS – Legislative or Other

1. Consideration of Plan Text Amendment (PTA) 15-01 amending the Tualatin Development Code (TDC) Chapters 31, 60, 61, 64 and a New Chapter 80 to Establish Reasonable Time, Place and Manner Regulations for Marijuana Facilities.

F. GENERAL BUSINESS

If you wish to speak on a general business item please fill out a Speaker Request Form and you will be called forward during the appropriate item. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.

1. Consideration of **Ordinance No. 1379-15** 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)

G. ITEMS REMOVED FROM CONSENT AGENDA

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

H. COMMUNICATIONS FROM COUNCILORS

I. ADJOURNMENT

City Council Meeting


Meeting Date: 03/09/2015

ANNOUNCEMENTS: Tualatin Youth Advisory Council Update

ANNOUNCEMENTS

Tualatin Youth Advisory Council Update for March 2015

A. YAC Update



Council Update March 9, 2015



TUALATIN YOUTH ADVISORY COUNCIL

Project F.R.I.E.N.D.S

- Day long anti-bullying workshop for Tualatin 5th graders
- Bridgeport, Byrom, and Tualatin Elementary
- Friday, April 24



Youth and Elected Leader Social

- Thank you for joining us!
- Next steps:
 - YAC/TLC joint meeting February 26, 2015
 - Report back to Council on April 13, 2015



Other Upcoming Programs

- Tualatin TRYathlon
 - June 6
- Teen Kaleidoscope Run
 - June 12
- Movies on the Commons
 - Saturdays, July-August



City Council Meeting

Meeting Date: 03/09/2015

ANNOUNCEMENTS: Tualatin Library Foundation Vine2Wine 2015

ANNOUNCEMENTS

Tualatin Library Foundation Vine2Wine 2015

PowerPoint

5th Annual

Vine 2 Wine

Saturday, April 18th  7:00 - 9:30 p.m.

Be

Accompany us in a celebration of wine tasting. Enjoy wine from premium northwest wineries.

\$40 Admission

A complimentary restaurant grade Riedel wineglass is our gift to each attendee, As well as *free tasting* from participating wineries and gourmet sampling from Dalton's Catering

Hear

The elegant sounds of classical music by

Con Brio Quartet

Performing throughout the evening

\$10 Off
a pair of tickets
if purchased
before the end
of February.



Proceeds build the Tualatin Library Foundation endowment

Participating Wineries: (Largest Selection to Date!)



HOLLORAN VINEYARD WINES

WILLAMETTE VALLEY
VINEYARDS



Special Thanks to Our Sponsors:



O.L MOORE
FOUNDATION



Purchase Tickets at: www.TualatinLibraryFoundation.org

City Council Meeting

Meeting Date: 03/09/2015

ANNOUNCEMENTS: Proclamation Declaring April 6-11, 2015 as National Community Development Week

ANNOUNCEMENTS

Proclamation Declaring April 6-11, 2015 as National Community Development Week

Proclamation

Proclamation

Proclamation Declaring the Week of April 6-11, 2015 as "National Community Development Week" in the City of Tualatin

WHEREAS, the week of April 6 – 11, 2015 has been designated as National Community Development Week by the National Community Development Association to celebrate the Community Development Block Grant (CDBG) Program and the HOME Investment Partnerships (HOME) Program; and

WHEREAS, the CDBG Program provides annual funding and flexibility to local communities to provide decent, safe and sanitary housing, a suitable living environment and economic opportunities to low- and moderate-income people; and

WHEREAS, the HOME Investment Partnerships Program provides funding to local communities to create decent, safe, affordable housing opportunities for low-income persons. Nationally, over one million units of affordable housing have been completed using HOME funds; and

WHEREAS over the program's history, the City of Tualatin has received a total of \$1,599,617 in CDBG funds.

NOW, THEREFORE, BE IT PROCLAIMED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, Oregon that: the City of Tualatin designates the week of April 6-11, 2015 as National Community Development Week in support of these two valuable programs that have made tremendous contributions to the viability of the housing stock, infrastructure, public services, and economic vitality of our community.

BE IT FURTHER PROCLAIMED that this community urges Congress and the Administration to recognize the outstanding work being done locally and nationally by the Community Development Block Grant Program and the HOME Investment Partnerships Program by supporting increased funding for both programs in fiscal year 2016.

INTRODUCED AND ADOPTED this 9th day of March, 2015.

CITY OF TUALATIN, OREGON

BY _____
Mayor

ATTEST:

BY _____
City Recorder



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos

FROM: Nicole Morris, Deputy City Recorder

DATE: 03/09/2015

SUBJECT: Consideration of Approval of the Minutes for the City Council Work Session and Regular Meeting of February 23, 2015

ISSUE BEFORE THE COUNCIL:

The issue before the Council is to approve the minutes for the City Council Work Session and Regular Meeting of February 23, 2015.

RECOMMENDATION:

Staff respectfully recommends that the Council adopt the attached minutes.

Attachments: [City Council Work Session Minutes for February 23, 2015](#)
[City Council Meeting Minutes for February 23, 2015](#)



OFFICIAL MINUTES OF TUALATIN CITY COUNCIL WORK SESSION FOR FEBRUARY 23, 2015

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

Staff Present: City Manager Sherilyn Lombos; City Attorney Sean Brady; Police Chief Kent Barker; Community Services Director Paul Hennon; Planning Manager Aquilla Hurd-Ravich; Deputy City Recorder Nicole Morris; Information Services Manager Lance Harris; Associate Planner Cindy Hahn; Assistant City Manager Alice Cannon; Public Works Director Jerry Postema

CALL TO ORDER

Mayor Ogden called the meeting to order at 5:42 p.m.

1. ***Marijuana Facilities.***

Planning Manager Aquilla Hurd-Ravich and Associate Planner Cindy Hahn presented proposed amendments to establish reasonable time, place and manner regulations for marijuana facilities. Manager Hurd-Ravich stated the draft ordinance is based on feedback from Council at the January 26 meeting and the Planning Commission meeting on February 19. Current regulations and draft code definitions were briefly discussed. Proposed developmental standards such as compliance with state requirements, hours, entrances, and odor were presented. Location proposals included allowing facilities in light, general and manufacturing business parks, providing a 3,000 foot buffer from residential areas, schools, city parks, and libraries. Proposals also considered prohibiting co-location or retail dispensaries with other marijuana facilities, 2,000 foot buffer between facilities, and limiting facilities to 3,000 square feet in size. Standards for edible marijuana, butane extraction, and home growing were also reviewed.

Manager Hurd-Ravich presented suggestions from the Planning Commission. Suggestions included allowing dispensaries in the Industrial Business Park Overlay District and small mixed uses in manufacturing districts, a reduction in facility separation to 1,000 feet, allowing 24 hour grow operations, deletion of ambiguous language in edible standards, and specifying language for homegrown marijuana standards.

Next steps for the draft ordinance includes holding a public hearing and ordinance adoption in March to allow the ordinance to be in effect before the end of the moratorium on May 1.

Mayor Ogden asked if the Planning Commission was ok with the 3,000 foot buffer. Manager Hurd-Ravich stated in general they agreed with the buffer. He asked if

they were interested in allowing facilities in all industrial districts of just the Franklin Business Park. Manager Hurd-Ravich stated she did not have clarity on that from the Commission.

Councilor Truax stated he does not support the draft ordinance and he feels certain items are unreasonable. He suggested the ordinance be reworked to fall in line with the ballot measure that was passed. Specifically he would like to see retail facilities allowed in commercial zones.

Councilor Bubenik concurred with Councilor Truax. He would like see facility separation reduced to 1,000 feet and grow operations separated into their own category. Mayor Ogden asked for clarification as to why growers should be in their own category. Councilor Bubenik stated facility sizes and hours of operations for a grow facility have different needs than those of retail or medical facilities. Mayor Ogden asked staff for clarification on what the types of activities could be performed during the proposed hours. City Attorney Brady stated the proposed hours would allow businesses only to be open to the public during certain hours but would allow other business activities to occur outside those hours.

Councilor Bubenik would like to see facility sizes for grow operations greatly increased. Councilor Grimes requested information regarding the size needs of a standard grow operation. Mayor Ogden, Council President Beikman, and Councilor Brooksby disagreed with increasing allowable facility sizes.

Council President Beikman would like to see the 3,000 foot buffer zone reduced to 2,000 feet. She asked if this would allow facilities to then locate in the Industrial Business Park Overlay area. Manager Hurd-Ravich stated it would then allow facilities in the area. Mayor Ogden expressed concern with allowing this as it would expose the northern part of Tualatin to allowing facilities within close proximity of our neighboring cities.

Councilor Truax asked how sections of unincorporated land would be affected by the proposed ordinance. Manager Hurd-Ravich stated the city's ordinance would not affect these areas as they would fall under Washington County standards.

Councilor Davis stated her primary concerns around legalization of marijuana would not be addressed by the proposed ordinance, as her concerns are related to youth access. She would like to see the proposed ordinance reduce the buffer to 2,000 feet and move grow operations into their own category.

Council consensus was reached to direct staff to keep the buffer at 3,000 feet. Consensus was reached to move growing facilities into their own category. The category should still restrict facility size to 3,000 square feet and not restrict operating hours.

Councilor Davis expressed concerns over the ordinance potentially restricting the city from receiving tax revenue for marijuana sales. Mayor Ogden stated the ordinance can be changed at anytime if this were to happen.

2. Basalt Creek Project Update.

Assistant City Manager Alice Cannon, Planning Manager Aquilla Hurd-Ravich, and Associate Planner Cindy Hahn presented the Basalt Creek project update. Manager Cannon stated after the December Joint Council meeting with Wilsonville the consultant team has been working on completing a sewer analysis and geotechnical investigation. This analysis will be worked in to alternative land scenarios and presented at a joint meeting in June. Manager Cannon presented discussion items for the Council as staff is looking for Council to help refine their values and goals for the project.

Mayor Ogden asked for clarification on housing being a priority for Tualatin. Councilor Brooksby stated he wants to ensure there is a mix of commercial and housing in the area. He clarified that housing is not his number one priority, but it is a priority.

Council President Beikman requested more information on the discussion items before she can make any decisions. Mayor Ogden concurred that he needs to know what the feasible options are before discussion.

Councilor Davis stated her concerns are with protecting the natural features in the area. She believes this to be a great opportunity to provide housing for those who work in Tualatin.

Council consensus was to wait to have further discussions until the sewer analysis is completed and feasible options are presented.

3. Council Advance Debrief.

Discussion was postponed due to lack of time.

4. Council Meeting Agenda Review, Communications & Roundtable.

Councilor Davis announced Washington County Consolidated Communications Agency will be changing the way they calculate fees for cities. The new fee model will focus on population, call volume, and radio air time. Council can expect to see a new intergovernmental agreement come forward after the fee model is finalized in March.

ADJOURNMENT

The work session adjourned at 7:05 p.m.

Sherilyn Lombos, City Manager

_____ / Nicole Morris, Recording Secretary

_____ / Lou Ogden, Mayor



OFFICIAL MINUTES OF THE TUALATIN CITY COUNCIL MEETING FOR FEBRUARY 23, 2015

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

Staff Present: City Manager Sherilyn Lombos; City Attorney Sean Brady; Police Chief Kent Barker; Community Services Director Paul Hennon; Finance Director Don Hudson; Deputy City Manager Sara Singer; Deputy City Recorder Nicole Morris; Information Services Manager Lance Harris; Engineer Associate Tony Doran; Assistant City Manager Alice Cannon; Accounting Supervisor Matthew Warner; Public Works Director Jerry Postema

A. CALL TO ORDER

Pledge of Allegiance

Mayor Ogden called the meeting to order at 7:07 p.m.

B. ANNOUNCEMENTS

1. Proclamation Declaring February 23-27, 2015 as Future Business Leaders of America Week

Mayor Ogden presented the proclamation declaring February 23-27, 2015, as Future Business Leaders of America week. The Tualatin High School Future Business Leaders of America officers accepted the proclamation.

2. Employee of the Year Proclamation

City Manager Sherilyn Lombos presented Matt Warner, Accounting Supervisor, as the 2014 Employee of the Year. She commended Mr. Warner on his contributions to the City of Tualatin.

Councilor Davis read the proclamation declaring Matt Warner as the 2014 Tualatin Employee of the Year.

C. SPECIAL REPORTS

1. Tualatin Tomorrow Annual Progress Report

Deputy City Manager Sara Singer and Tualatin Tomorrow Advisory Committee (TTAC) Chair Candice Kelly presented the Tualatin Tomorrow Advisory Committee annual progress report. Chair Kelly stated the committee completed their five year vision update, which was adopted by the Council this past year. The plan produced eight focus areas, 18 community goals, and 100 actions. Committee activities over the year included partner recruitment, holding monthly TTAC meetings, partner events, and a partner survey. These activities have led to partners completing 73 of the 100 proposed actions. The committee goals for the upcoming year include continued partner recruitments for increases community involvement, holding a spring/summer partner event, and continued outreach and education on partner activities and vision progress.

Councilor Bubenik, council liaison for TTAC, thanked Chair Kelly and the committee for their work over the year. He also thanked Deputy City Manager Singer for her great work with the committee.

D. CITIZEN COMMENTS

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None.

E. CONSENT AGENDA

The Consent Agenda will be enacted with one vote. The Mayor will ask Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. If you wish to request an item to be removed from the consent agenda you should do so during the Citizen Comment section of the agenda. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under, Items Removed from the Consent Agenda. The entire Consent Agenda, with the exception of items removed from the Consent Agenda to be discussed, is then voted upon by roll call under one motion.

MOTION by Councilor Ed Truax, SECONDED by Council President Monique Beikman to adopt the consent agenda.

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

MOTION CARRIED

1. Consideration of Approval of the Minutes for the City Council Work Session and Regular Meeting of February 9, 2015
2. Consideration of Recommendations from the Council Committee on Advisory Appointments
3. Consideration of **Resolution No. 5215-14** Authorizing the City Manager to Execute a Revocable Permit to Allow Retaining Walls and Landscaping over Public Stormwater and Sanitary Sewer Easements at 22300 SW 106th Avenue

4. Consideration of **Resolution No. 5227-15** Authorizing the City Manager to Execute an Intergovernmental Agreement with the City of Portland to Participate in the Regional Justice Information Network
5. Consideration of Approval of a New Liquor License Application for Sushi Hana 9
6. Consideration of Approval of Liquor License Renewals for 2015

F. ITEMS REMOVED FROM CONSENT AGENDA

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

G. COMMUNICATIONS FROM COUNCILORS

None.

H. ADJOURNMENT

Mayor Ogden adjourned the meeting at 7:31 p.m.

Sherilyn Lombos, City Manager

_____ / Nicole Morris, Recording Secretary

_____ / Lou Ogden, Mayor



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos

FROM: Cindy Hahn, Associate Planner
Aquilla Hurd-Ravich, Planning Manager, and Alice Cannon, Assistant City Manager

DATE: 03/09/2015

SUBJECT: Consideration of Plan Text Amendment (PTA) 15-01 amending the Tualatin Development Code (TDC) Chapters 31, 60, 61, 64 and a New Chapter 80 to Establish Reasonable Time, Place and Manner Regulations for Marijuana Facilities.

ISSUE BEFORE THE COUNCIL:

City Council consideration of a Plan Text Amendment to establish reasonable time, place and manner regulations for marijuana facilities by adding a new Chapter 80 Marijuana Facilities and Related Regulations, adding definitions to Chapter 31 General Provisions, and adding marijuana facilities as allowed uses with restrictions to Chapter 60 Light Manufacturing, Chapter 61 General Manufacturing, and Chapter 64 Manufacturing Business Park of the Tualatin Development Code (TDC). A proposed ordinance has been prepared and will be considered separately as a General Business item on tonight's agenda.

RECOMMENDATION:

At their meeting on February 19, 2015, the Tualatin Planning Commission reviewed the proposed Plan Text Amendment and made the following recommendation: Accept the proposed Plan Text Amendment as written and offer to Council a list of items for their review and final decision. Yes 5, No 1, (1 absent).

Staff recommends the Council consider the staff report, draft language, and analysis and findings, and provide direction to staff. A proposed ordinance has been prepared and will be considered separately as a General Business item on tonight's agenda.

EXECUTIVE SUMMARY:

This is a legislative matter for Council consideration of a Plan Text Amendment to the Tualatin Development Code. The Tualatin Planning Commission made a formal recommendation on the Plan Text Amendment. The proposed code language is included for City Council's review as Attachment 102 and a summary of the Planning Commission's discussion is included as Attachment 105.

Regulation of marijuana facilities in the State of Oregon has a legislative history:

- November 1998 - Ballot Measure 67, the Oregon Medical Marijuana Act, was approved by Oregon voters.
- August 2013 - The Oregon Health Authority developed a process to register medical marijuana dispensaries under HB 3460.
- March 2014 - Senate Bill 1531 reaffirmed local governments' already existing authority to adopt reasonable regulations regarding the hours of operation, location, and manner in which medical marijuana dispensaries are operated. Additionally, jurisdictions were allowed to enact a moratorium on dispensaries set to expire May 1, 2015.
- April 2014 - The City of Tualatin adopted Ordinance No. 1373-14 which placed a moratorium on medical marijuana facilities until May 1, 2015.
- November 2014 - Oregon voters approved Ballot Measure 91 to legalize the use and possession of recreational marijuana on July 1, 2015. Measure 91 creates four types of licenses: producers, processors, wholesalers and retailers. The measure also recognizes that local governments can adopt reasonable time, place and manner regulations of the nuisance aspects of businesses that sell marijuana to consumers.

Given that the City's moratorium is set to expire on May 1, 2015, if regulations are to be in place prior to that moratorium ending, the City must take action now to adopt an ordinance that establishes regulation of marijuana facilities.

The City Council has discussed this topic at several meetings over the past year expressing an interest in regulating marijuana uses. In February 2014 and April 2014 the discussion centered around moratoriums on marijuana uses. In August 2014 the City Council received an update on other Oregon cities' marijuana regulations. On October 27, 2014, the City Council received a briefing on the results from the Public Opinion Survey conducted by Riley Research Associates. On January 15, 2015, the Planning Commission received a briefing about regulating both medical and recreational marijuana facilities within the City, ballot Measure 91, and other Oregon city and county regulations for both types of facilities. The City Council was briefed on the same information on January 26, 2015. The Tualatin Planning Commission reviewed the proposed Plan Text Amendment and made a recommendation on the proposed code language at their February 19, 2015 meeting. The proposed code language and analysis and findings were presented for City Council review and discussion at the February 23, 2015 work session. Based on these recent discussions staff has drafted a proposed ordinance, the key components of which are summarized below.

PROPOSED ORDINANCE KEY COMPONENTS

Definitions:

- Edible Marijuana - edible product that contains marijuana
- Homegrown Marijuana - marijuana grown or made by a person 21 years of age or older for noncommercial purposes
- 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 Extracts - a product obtained by separating resins from the marijuana plant by solvent extraction.
- Marijuana Facilities - 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)

Planning Districts Where Marijuana Facilities are Permitted With Restrictions:

- Light Manufacturing (ML)
- General Manufacturing (MG)
- Manufacturing Business Park (MBP)

Standards for Marijuana Facilities:

- Must comply with all applicable State requirements
- Cannot be located within 3,000 feet, measured from the closest property lines, from any of the following:
 - Residential Planning District or residential uses
 - Schools
 - Library
 - City Parks listed below:
 - Atfalati Park
 - Brown's Ferry Park
 - Ibach Park
 - Jurgens Park
 - Lafky Park
 - Little Woodrose Nature Park
 - Saarien Wayside Park
 - Stoneridge Park
 - Sweek Pond Natural Area Park
 - Tualatin Commons
 - Tualatin Commons Park
 - Tualatin Community Park
- Cannot be located within 2,000 feet, measured from the closest property line, of any other marijuana facility
- Cannot exceed 3,000 square feet in size
- 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
- Retail and dispensaries are prohibited from co-locating with other marijuana facilities
- Drive-through marijuana facilities are prohibited

Marijuana Facility Operating Restrictions:

- A retail sales marijuana facility may be open to the public between the hours of 10:00 a.m. and 8:00 p.m. the same day.

- A medical dispensary marijuana facility may be open to registry identification cardholders between the hours of 10:00 a.m. and 8:00 p.m. the same day.
- Comply with the restrictions on edible marijuana
- Odors and other objectionable odors must be confined to levels undetectable at the property line
- Primary entrances must be located on street-facing facades and clearly visible from a public or private street
- Outdoor storage of merchandise, plants or other materials is prohibited

Edible Marijuana:

- All edible marijuana must be individually wrapped at the original point of preparation
- Labeling must be distinctly and clearly legible on the front of the package and must include:
 - a warning that the contents contain marijuana
 - a statement that the contents are not a food product; and
 - a statement emphasizing that the product is to be kept away from children
- Packaging of edibles must be in child-resistant packaging
- Packaging that makes the product attractive to children or imitates candy is prohibited
- Retail sale of edible marijuana products must be behind a commercial counter or in an enclosed display case.

Butane Extraction:

- The production of marijuana extracts through the use of butane is prohibited

Homegrown Marijuana:

- Persons growing homegrown marijuana must comply with all applicable state law requirements
- Homegrown marijuana cannot be grown in the front yard of any property in a residential planning district and must comply with the following:
 - Fully screened from view on all sides
 - Located at least 10 feet away from all property lines and 25 feet away from all adjacent residences on neighboring properties
- No person may produce, process, keep, or store homemade marijuana extracts

Medical marijuana facilities are only allowed by state law in commercial, industrial, mixed use, or agricultural land (ORS 475.314). Based on input from the Tualatin Planning Commission and the City Council, the downtown area was not recommended as an appropriate location for marijuana facilities. After applying a 3,000 foot buffer to residential areas and excluding commercial planning districts that are found in or near the downtown area, manufacturing planning districts were left as viable opportunities excluding Manufacturing Park (Tualatin Development Code Chapter 62). Attachment 101 shows the part of the City where marijuana facilities would be allowed based on the above buffer restrictions. Attachment 102 includes the

proposed code language, and Attachment 103 contains the analysis and findings for the proposed amendments.

PUBLIC COMMENT

The City sought input from the public in the form of a public opinion survey the results of which were presented to the City Council during a work session on October 27, 2014 (Attachment 104). The February 19, 2015, meeting of the Tualatin Planning Commission gave citizens and members of the public an additional opportunity to comment on the proposed text amendments and for the Planning Commission to consider these comments when making a recommendation to the City Council. Tonight's public hearing provides the public another opportunity to give input on the proposed Plan Text Amendment and ordinance.

OUTCOMES OF DECISION:

A recommendation to approve the Plan Text Amendment would result in the following:

- Tualatin Development Code Section 31.060 Definitions will be amended to include new definitions; a new Chapter 80 Marijuana Facilities and Related Regulations will be added to govern time, place and manner of marijuana facilities within the City; and marijuana facilities will be added as a permitted use in the Light and General Manufacturing, and the Manufacturing Business Park Planning Districts (Chapters 60, 61 and 64).

A recommendation to deny the Plan Text Amendment would result in the following:

- The Tualatin Development Code will not be revised to regulate marijuana facilities within the City.

ALTERNATIVES TO RECOMMENDATION:

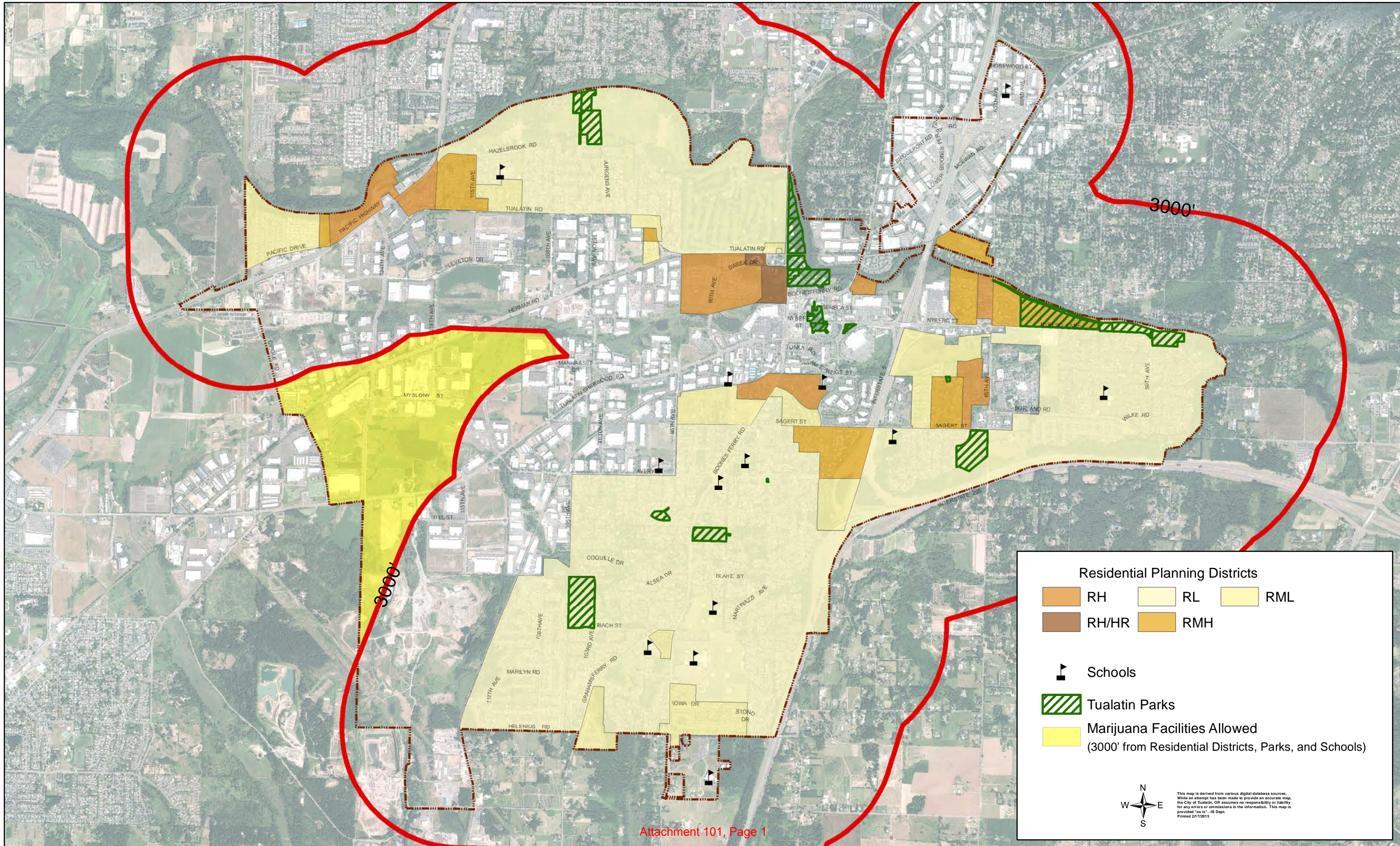
The alternatives to the Planning Commission recommendation are:

1. Approve the proposed Plan Text Amendment with alterations to the proposed language.
2. Deny the proposed Plan Text Amendment.

FINANCIAL IMPLICATIONS:

The FY 2014/2015 budget accounts for the costs of City initiated code amendments.

Attachments: [101. Marijuana Facilities Map](#)
 [102. Proposed Code Language](#)
 [103. Analysis and Findings](#)
 [104. Public Survey](#)
 [105. Summary Notes from Tualatin Planning Commission Meeting](#)
 [106. Affidavits of Posting and Publication](#)
 [107. Presentation](#)



Residential Planning Districts

RH	RL	RML
RH/HR	RMH	

Schools

Tualatin Parks

Marijuana Facilities Allowed
(3000' from Residential Districts, Parks, and Schools)

This map is derived from various digital database sources. While an attempt has been made to provide an accurate map, the City of Tualatin, OR assumes no responsibility or liability for any errors or omissions in the information. This map is provided "as is" - IS Dept. Printed 2/17/2015

PROPOSED CODE LANGUAGE (PTA-15-01)

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.

PROPOSED CODE LANGUAGE (PTA-15-01)

(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)(11)~~ 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)(17)~~ Manufacture of musical instruments, toys and novelties.

~~(13)(16)~~ 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.

PROPOSED CODE LANGUAGE (PTA-15-01)

(16)~~(18)~~ 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)~~(44)~~ 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)~~(42)~~ Processing, assembly, packaging, or other treatment of such products as bakery goods, candy, cosmetics, pharmaceuticals, toiletries.

(22)~~(43)~~ 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)~~(49)~~ 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.

PROPOSED CODE LANGUAGE (PTA-15-01)

~~(32)~~(21) 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)~~(31) 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:

PROPOSED CODE LANGUAGE (PTA-15-01)

- (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:

PROPOSED CODE LANGUAGE (PTA-15-01)

- (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.

PROPOSED CODE LANGUAGE (PTA-15-01)

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

(11)~~(10)~~ 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)~~(11)~~ Petroleum product distribution and storage.

(14)~~(12)~~ Planning mill.

(15)~~(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.

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

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

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

(19)~~(16)~~ Sandblasting.

(20)~~(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).

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

(22)~~(19)~~ 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:

PROPOSED CODE LANGUAGE (PTA-15-01)

(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.

PROPOSED CODE LANGUAGE (PTA-15-01)

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)(11)~~ 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 (4) 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

PROPOSED CODE LANGUAGE (PTA-15-01)

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;

PROPOSED CODE LANGUAGE (PTA-15-01)

(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.

PROPOSED CODE LANGUAGE (PTA-15-01)

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

PROPOSED CODE LANGUAGE (PTA-15-01)

(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.

PROPOSED CODE LANGUAGE (PTA-15-01)

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.

PROPOSED CODE LANGUAGE (PTA-15-01)

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.

PTA-15-01: ANALYSIS AND FINDINGS

MARIJUANA FACILITIES

Plan Text Amendment 15-01 (PTA-15-01) proposed definitions and reasonable time, place and manner restrictions of marijuana facilities by amending the Tualatin Development Code.

Amendments are proposed to the following chapters:

- Chapter 31 General Provisions;
- Chapter 60 Light Manufacturing;
- Chapter 61 General Manufacturing;
- Chapter 64 Manufacturing Business Park;
- Chapter 80 Marijuana Facilities

Background

The City of Tualatin proposes legislative amendments to the Tualatin Development Code (TDC) to establish reasonable time, place and manner regulations for marijuana facilities. Proposed changes include new definitions added to Section 31.060 Definitions; Creating a new Chapter 80 Marijuana Facilities which regulates such aspects as hours of operation, buffer distances from Residential Planning Districts, residential uses, schools, park and libraries, buffers from other facilities and off site odor standards, edible marijuana, butane extraction and homegrown marijuana; adding marijuana facilities as an allowed use in Light and General Manufacturing and the Manufacturing Business Park Planning District (Chapters 60,61 and 64).

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

Plan Amendment Criteria (TDC Section 1.032)

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

1. Granting the amendment is in the public interest.

The State of Oregon has a legislative history dating back to 1998 which has progressively allowed the growing, production, and use of marijuana and marijuana products.

Legislative History

November 1998 - Ballot Measure 67, the Oregon Medical Marijuana Act, was approved by Oregon voters.

August 2013 - The Oregon Health Authority developed a process to register medical marijuana dispensaries under HB 3460.

March 2014 - Senate Bill 1531 reaffirms the existing home rule authority of local governments to adopt reasonable regulations regarding the hours of operation, location, and manner in which medical marijuana dispensaries are operated. Additionally, jurisdictions were allowed to enact a moratorium on dispensaries set to expire May 1, 2015.

April 2014 - The City of Tualatin adopted Ordinance No. 1373-14 which placed a moratorium on medical marijuana facilities until May 1, 2015.

November 2014 - Oregon voters approved Ballot Measure 91 to legalize the use and possession of recreational marijuana on July 1, 2015. Measure 91 creates four types of licenses: producers, processors, wholesalers and retailers. The measure also recognizes that local governments can adopt reasonable time, place and manner regulations of the nuisance aspects of businesses that sell marijuana to consumers.

FINDING: Under Article XI, section 2 of the Oregon Constitution, the City has “home rule” authority to adopt regulations relating to marijuana and marijuana facilities, the time, place and manner regulations. The ability to regulate marijuana facilities was reaffirmed in both SB 1531 and Measure 91.

The current Tualatin Municipal Code (TMC) and Tualatin Development Code (TDC) do not allow marijuana facilities as a use in any planning district. Given the statewide authorization of both medical and recreational marijuana and its related businesses, the lack of regulations causes legal uncertainty about whether and under what circumstances marijuana facilities could be located in the City. City regulations are needed to clarify this uncertainty and establish which planning districts marijuana facilities can be located in and under what restrictions they may operate.

The City hired Riley Research Associates to conduct a Public Opinion Survey among Tualatin residents to gauge their level of support for Marijuana Dispensaries (Attachment 104). While the poll found that a majority of those surveyed supported both medical and recreational dispensaries, the polling also revealed recommendations for time, place and manner regulations.

The City Council has discussed this topic at several meetings over the past year expressing an interest in regulating marijuana uses. In February 2014 and April 2014 the discussion centered around moratoriums on marijuana uses. In August 2014 they received an update on

other Oregon cities' marijuana regulations. Finally, on October 27, 2014, the Council received a briefing on the results from the Public Opinion Survey conducted by Riley Research Associates (Attachment 104).

Based on the laws changing at the State level regarding marijuana uses, the public opinions gathered through a City sponsored research survey and the discussions of elected officials it is in the public's interest to grant this amendment.

Granting the amendment is in the public interest.

Criterion "1" is met.

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

FINDING: The City of Tualatin adopted Ordinance No. 1373-14 which created the city-wide moratorium on marijuana facilities. This was authorized by Article XI, section 2 of the Oregon Constitution and SB 1531. The moratorium is set to expire on May 1, 2015 at which time certain marijuana businesses could operate. However, neither the TMC nor TDC allows marijuana facilities as permitted use in any City planning district. Given the statewide authorization of both medical and recreational marijuana and its related businesses, the lack of City regulations causes legal uncertainty about whether and under what circumstances marijuana facilities could be located in the City. City regulations are needed to clarify this uncertainty and establish which planning districts marijuana facilities can be located and under what restrictions they may operate.

In order to implement reasonable time, place and manner regulations when the moratorium ends, the public interest is best protected by granting the amendment at this time.

Granting the amendment at this time best protects the public interest.

Criterion "2" is met.

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

The applicable objectives of the Tualatin Community Plan are discussed below:

Chapter 7 Manufacturing Planning Districts

Section 7.040 Manufacturing Planning District Objectives

(2) Light Manufacturing Planning District

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, with appropriate restrictions, are the retail sale of products not allowed for sale in General Commercial areas, subject to the Special Commercial Setback from arterial streets and Commercial Services Overlay as generally illustrated in Map 9-5 and specifically set forth in TDC 60.035, and office commercial uses where any portion of a legally created lot is within 60 feet of a CO Planning District boundary.

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...

(3) General Manufacturing Planning District

Suitable for light manufacturing uses and also for a wide range of heavier manufacturing and processing activities. Such areas could be expected to be more unsightly and to have more adverse environmental effects.

(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.

(4) Manufacturing Business Park Planning District

The purpose of the MBP Planning District is to provide an environment for industrial development consistent with the Southwest Tualatin Concept Plan (accepted by the City in October 2010) and as a Metro-designated Regionally Significant Industrial Area (RSIA) consistent with Metro's Urban Growth Boundary expansion decisions of 2002 and 2004.

The MBP Planning District will be a mix of light industrial and high-tech uses in a corporate campus setting, consistent with MBP Planning District development standards.

FINDING: Marijuana facilities as defined will include commercial or public uses or structures where marijuana is sold, consumed, produced, processed, distributed, or transferred. The retail sale of marijuana is not proposed as a permitted use in General Commercial areas of the City and therefore is suitable for Light Manufacturing, General Manufacturing and Manufacturing Business Park with appropriate restrictions. All remaining types of facilities are appropriate for Light Manufacturing and General Manufacturing such as warehousing, wholesaling or manufacturing processes.

The proposed development standards restrict all marijuana facilities to 3,000 square feet in size and therefore comply with objectives of this Chapter.

Facilities that receive a processor license from the OLCC are businesses that will transform raw marijuana into another product or extract. They are also responsible for packaging and labeling of recreational marijuana. This type of use is not expected to create undue amounts of noise, dust, vibration or smoke; however these facilities may produce an odor and there may be hazardous processes associated with extraction. Proposed development standards require that developments confine all marijuana odors and other objectionable odors to levels undetectable at the property line. Tualatin Valley Fire and Rescue reviews all proposed developments and building permits and therefore will regulate any hazardous processes associated with extraction.

Chapter 10. Community Design

Section 10.020 Design Objectives.

(4) Protect and enhance the City's appeal to tourists and visitors and thus support and stimulate business and industry and promote the desirability of investment and occupancy in business, commercial and industrial properties.

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

FINDING: The proposed text amendments are intended to protect and enhance the City's appeal to tourists and visitors by providing for additional development standards beyond what is currently required by the Tualatin Development Code in Chapter 73 Design Standards.

These development standards include:

- hours of operations;
- location of primary entrances facing public or private streets;
- location in a permanent building;
- prohibiting outdoor storage;
- prohibiting drive-through facilities;
- buffers from residential land;
- buffers between facilities

Additionally, the proposed text amendments are intended to sustain the comfort, health, tranquility and contentment of residents. Marijuana businesses can have an adverse impact to residential areas. Businesses containing usable marijuana have greater security issues compared with the average business. Additionally, there is concern that marijuana-related businesses can negatively impact neighborhood character due to increased crime, such as the increased potential for robberies and burglaries. In addition, marijuana businesses increase transitory traffic that is not conducive to neighborhoods. Therefore, in order to

sustain the comfort, health, tranquility, and contentment of residents, a large buffer between marijuana facilities and residential areas is necessary. By requiring marijuana facilities to be located at least 3,000 feet from residential areas, the adverse impacts of marijuana facilities are mitigated.

In addition, placing regulations on home grow uses that require plants to be grown 10 feet away from property lines, 25 feet away from residences on neighboring properties and limiting growing to back yards sustains the comfort, health, tranquility and contentment of residents.

The proposed development standards allow the development of marijuana facilities within the City in a manner that is compatible with surrounding land uses and public facilities.

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

Criterion “3” is met.

4. The following factors were consciously considered:

The various characteristics of the areas in the City.

FINDING: The characteristics of manufacturing and commercial areas were considered in preparation of the text amendments. Medical marijuana facilities are only allowed by state law in commercial, industrial, mixed use, or agricultural land (ORS 475.314). Based on input from the Tualatin Planning Commission and the Tualatin City Council, the downtown area was not recommended as an appropriate location for marijuana facilities given that businesses with usable marijuana have greater security issues and can increase the potential for criminal activity, such as robberies and burglaries. After applying a 3,000 foot buffer to residential areas and excluding commercial planning districts that are found in or near the downtown area, manufacturing planning districts were left as viable opportunities excluding Manufacturing Park (Tualatin Development Code Chapter 62).

Infrastructure such as roads, water lines and sanitary sewer lines in the Manufacturing Park Planning District were built with tax increment financing. The purpose for doing this was to open new lands for employment and industry and over the last 26 years it has accommodated 35 new employers and 2,200 jobs. Therefore, the City strives to maintain this area for high tech or other campus style industrial development.

Based on the above findings, the City finds that the characteristics of the various areas of the City that best suit proposed uses are in the Light and General Manufacturing and Manufacturing Business Park Planning Districts.

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

FINDING: Marijuana facilities are suitable to Light, General and Business Park Manufacturing districts because they are typically removed from places where minors congregate such as schools and libraries. These are industrial lands that are deemed appropriate for medical marijuana dispensaries according to ORS 475.314 and the City intends to equally apply regulations to recreational marijuana retailers as defined in Measure 91.

Trends in land improvement and development.

FINDING: As described above in the background statement the State of Oregon has progressively moved toward a legalized status of marijuana possession and facilities. The proposed text amendment is intended to be adaptive to the new marijuana economy as business and property owners try new and unknown business models.

Property Values.

FINDING: The proposed text amendment is intended to create minimum compliance standards to prevent or mitigate potential negative impacts to property values that could result from marijuana related business activity.

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

FINDING: As described above, the proposed text amendment is intended to be adaptive to the new marijuana economy as business and property owners try new and unknown business models.

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

Not applicable.

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

Not applicable.

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

Not applicable.

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

FINDING: The proposed text amendments are intended to protect the public need for healthful, safe, aesthetic surroundings and conditions. Marijuana businesses can have an

adverse impact to areas. Businesses containing usable marijuana have greater security issues compared with the average business. Additionally, marijuana businesses can result in increased crime, such as the increased potential for robberies and burglaries. By providing for appropriate distance buffers from residential areas and between facility locations in order to prevent or reduce hazards associated with a cash only business, a product with a strong black market value, and the exposure of a controlled product to minors, the text amendment protects the public need for healthful, safe, aesthetic surroundings and conditions.

Proof of change in a neighborhood or area.

FINDING: The City does not assert proof of change in a neighborhood or area.

Mistake in the Plan Text or Plan Map.

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

The above factors were consciously considered.

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.

Because the PTA does not result in a change to plans or development regulations that would impact school facility capacity, Criterion “5” is not applicable.

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

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

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

FINDING: This goal will be met by complying with Tualatin Development Code 1.031 Notice Requirements for Plan Amendments. A notice was published in the Tualatin Times 10 City business days prior to the public hearing. Notices were posted in two conspicuous places within the City and a notice was sent to designated representatives of recognized Citizen Involvement Organizations.

The Tualatin Planning Commission held a public meeting on February 19, 2015. This public meeting gave citizens and members of the public an opportunity to comment on the proposed

text and the Planning Commission considered these comments when making a recommendation to the City Council. A public hearing before the City Council will occur tonight (March 9, 2015), during which the public can give input on the proposed amendment. All work session agendas and minutes are available to the public through the City website.

The City sought input from the public in the form of a public opinion survey the results of which were presented to the City Council during a work session on October 27, 2014.

This Goal is satisfied.

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

The Department of Land Conservation and Development (DLCD) has acknowledged the City’s Comprehensive Plan as being consistent with the statewide planning goals. The Development Code implements the Community Plan and both pieces combine to make the Comprehensive Plan. The Community Plan establishes a process and standards to review changes to the Tualatin Development Code in compliance with the Community Plan and other applicable state requirements. As discussed above under Criteria “3”, the applicable Community Plan standards have been applied to the proposed amendment.

This Goal is satisfied

Goal 6, “Air, Water, and Land Resources Quality”, states, “To maintain and improve the quality of the air, water and land resources of the state.

The Department of Land Conservation and Development (DLCD) has acknowledged the City’s Comprehensive Plan as being consistent with the statewide planning goals. The proposed text amendments create a development standard that will buffer land uses and prevent or mitigate off-site impacts that could lead to conflicting impacts upon air resources.

This Goal is satisfied

Article XI, Section 2 of the Oregon Constitution.

The City of Tualatin has “home rule” authority over the civil affairs of its City. The City’s regulations of marijuana business are consistent with this home rule authority, as well as state land use laws.

Applicable Provisions of the Oregon Medical Marijuana Act

Initially adopted by State ballot measure in 1998, the Oregon Medical Marijuana Act (ORS 475) governs the production, distribution, and use of medical marijuana within the State of

Oregon. In March 2014, the Oregon Legislature amended ORS 475 under Senate Bill 1531 which restates the already existing ability of local governments to impose reasonable regulations on the operation of medical marijuana facilities under home rule authority.

SECTION 2. Notwithstanding ORS 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of medical marijuana facilities registered, or applying for registration, under ORS 475.314 that are located in the area subject to the jurisdiction of the city or county. For purposes of this section, “reasonable regulations” includes reasonable limitations on the hours during which a medical marijuana facility may be operated, reasonable limitations on where a medical marijuana facility may be located within a zone described in ORS 475.314 (3)(a) and reasonable conditions on the manner in which a medical marijuana facility may dispense medical marijuana.

FINDING: The proposed amendments establish reasonable restrictions on hours of operation, allowed locations, and design and operational requirements to prevent or mitigate potential offsite community impacts. Senate Bill 1531 does not define “reasonable” therefore the City has relied on existing regulations in the Tualatin Development Code and proposed regulations from other cities and counties in the state. The proposed amendments allow facilities in three manufacturing zones located in the western portion of the City. Proposed language is included as Attachment 102 and a map with 3,000 foot buffers from residential districts is included as Attachment 101.

Based on the findings above, the City finds that the proposed text amendment is consistent with the Oregon Medical Marijuana Act.

Applicable Provisions of the Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act (Measure 91)

On November 4, 2014 Oregon voters approved ballot Measure 91 (Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act) to legalize the use and possession of recreational marijuana on July 1, 2015. The law also directs the Oregon Liquor Control Commission to tax, license, and regulate recreational marijuana. Section 59 of the act specifically authorizes local governments seeking to impose reasonable time, place, and manner restrictions in order to address adverse community impacts.

SECTION 59. Authority of cities and counties over establishments that serve marijuana. (1) Cities and counties may adopt reasonable time, place and manner regulations of the nuisance aspects of establishments that sell marijuana to consumers if the city or county makes specific findings that the establishment would cause adverse effects to occur.

FINDING: The proposed amendments establish reasonable restrictions on hours of operation, allowed locations, and design and operational requirements to prevent or mitigate

potential offsite community impacts. The City regulations are consistent with existing reasonable regulations in the Tualatin Development Code and reasonable regulations relating to marijuana, including regulations from other cities and counties in the state. The proposed amendments allow facilities in three manufacturing zones located in the western portion of the City. Proposed language is included as Attachment 102 and a map with 3,000 foot buffers from residential districts is included as Attachment 101.

As described below and in the purpose statement of the proposed text, the intent of proposed amendments is to prevent or mitigate possible adverse community impacts associated with marijuana facilities. These include but are not limited to the following:

- (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.

Based on the findings above, the City finds that the proposed code text amendment is consistent with Measure 91 (Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act).

Ballot Measure 56 Notice to property owners of hearing on certain zone change; form of notice; exceptions; reimbursement of cost. (ORS 227.186)

Section (3) Except as provided in subsection (6) of this section, at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to amend an existing comprehensive plan or any element thereof, or to adopt a new comprehensive plan, a city shall cause a written individual notice of a land use change to be mailed to each owner whose property would have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance becomes effective.

Section (4) At least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone property, a city shall cause a written individual notice of a land use change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone.

- (9) For purposes of this section, property is rezoned when the city:**
- (a) Changes the base zoning classification of the property; or**
 - (b) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.**

FINDING: Measure 56 requires local jurisdictions to notify property owners when a change to a comprehensive plan or zoning ordinance could result in a rezone of property. As stated above, ORS 227.186 (9) defines rezone as a change to the base zoning classification or a change that limits or prohibits previously allowed land uses. The proposed amendments in this application will not change the base zoning classification of any properties. The City of Tualatin does not have a zoning ordinance but instead relies on Planning Districts to implement land use. No Planning Districts are proposed to change as a result of these amendments. Additionally, the proposed amendments do not limit or prohibit currently allowed land uses. Marijuana facilities and marijuana uses are currently not permitted in any Planning District (see, e.g., Tualatin Municipal Code Chapter 9-08). The amendments will actually create new permitted uses in three existing Planning Districts: Light Manufacturing, General Manufacturing and Manufacturing Business Park.

Based on the findings above, the City finds that the proposed amendments will not change the base zoning or limit or prohibit currently or previously allowed land uses in the affected Planning Districts and therefore a Measure 56 notice is not required.

The PTA complies with Goals 1, 2 and 6, and it complies with the Oregon Medical Marijuana Act, Measure 91 and Measure 56. Criterion “6” is met.

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

Title 4: Industrial and Other Employment Areas

3.07.430 Protection of Industrial Areas

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.**

FINDING: The Oregon Medical Marijuana Act, ORS 475.314, requires medical marijuana facilities to locate in land zoned for commercial, industrial, mixed-use, or agricultural land. The City's proposed amendments require a 3,000 foot buffer from residential Planning Districts. This buffer eliminates the ability for marijuana facilities to locate in commercial Planning Districts, and the City does not have agricultural land use designations. The remaining land that is eligible for marijuana facilities as shown on Metro's Employment and Industrial Areas Map as of January 8, 2014, is Industrial Area.

We believe it is acceptable to locate marijuana facilities on land identified by Metro as Industrial for the following reasons:

1. The proposed amendment limits the size of each facility to 3,000 square feet which is below the 5,000 square foot limitation in Metro Code 3.07.430. Additionally, the Oregon Medical Marijuana Act and the City's proposed amendments prohibit co-location of retail and grow sites which means that at no time could there be more than 3,000 square feet of any type of facility on a parcel of land identified as Industrial Area.
2. The proposed amendments also establish a minimum distance of 2,000 feet between marijuana facilities which also limits the possibility of too much industrial land being converted to a retail use.
3. The proposed amendments define marijuana facilities as "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)." It is possible that not all marijuana facilities will be retail and some may be manufacturing uses that fit in a traditional industrial area.

Based on the above findings, the City finds that the proposed amendments continue to protect land identified as industrial by Metro for industrial and employment purposes, and therefore, the amendments comply with Title 4 Industrial and Other Employment Areas.

The PTA complies with Metro's Urban Growth Management Functional Plan. Criterion "7" is 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.

Because the PTA does not relate to vehicle trip generation, Criterion “8” is not applicable.



MARIJUANA DISPENSARY POLL

SUMMARY REPORT

OCTOBER 24, 2014

Michael J Riley & Crystal Bolyard
Riley Research Associates

RESEARCH | INSIGHT | KNOWLEDGE

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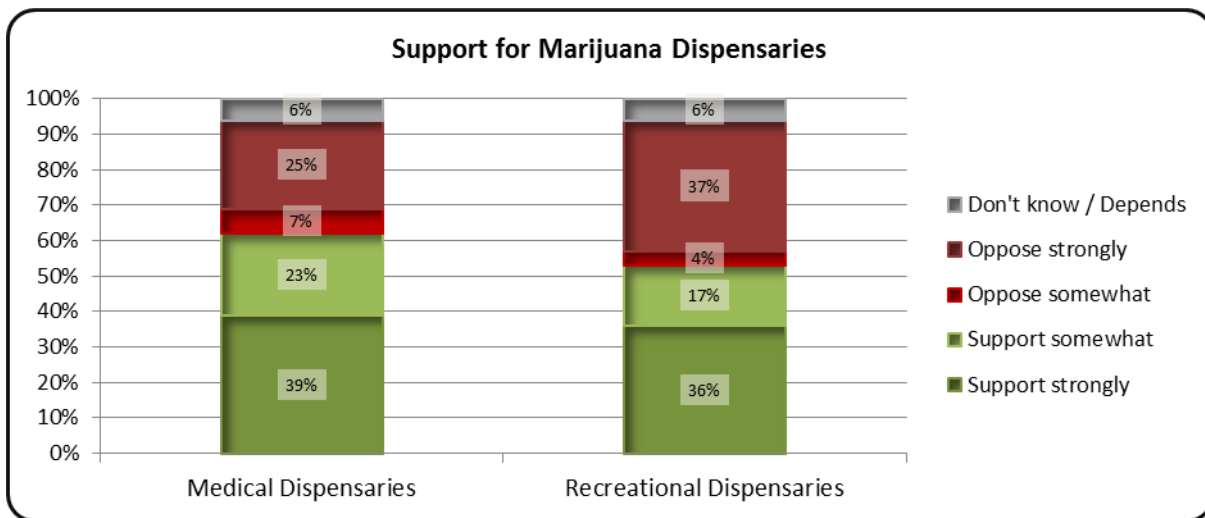


EXECUTIVE OVERVIEW

City of Tualatin residents were asked to indicate their level of support or opposition to medical marijuana and recreational marijuana dispensaries in Tualatin. They were also asked to share their thoughts on guidelines or restrictions for dispensaries in the event they are allowed.

While Tualatin residents were more likely to support medical marijuana dispensaries than recreational marijuana dispensaries (62% support versus 53% support respectively) a majority of those surveyed support both types.

- More than one-third *strongly* support both types of dispensaries.
- Feelings on recreational dispensaries were strong, with equal proportions of residents *strongly supporting* and *strongly opposing* them.
- Males, residents ages 18-34 and 45-54, and those newer to the area were more likely to support both types of dispensaries.



A majority of respondents said they would support a city tax on recreational marijuana if dispensaries are allowed (70%), including 56% who would strongly support the tax. About one-fifth were opposed (22%), and 8% were unsure.

Most residents offered recommendations about where dispensaries should be allowed to be located, if approved. Top-mentioned recommendations usually involved locations dispensaries should not be allowed to be near:

- Where minors congregate
- Parks
- Schools
- Homes and residential neighborhoods
- Daycare operations
- Public or busy areas of town

Respondents were also asked to share other recommended guidelines or restrictions for dispensaries, should they be approved. Top-mentioned suggestions included:

- Age restrictions on customers
- Limited hours of operation
- Non-retail sites
- Regulated like alcohol
- Limited signage
- Enhanced security



INTRODUCTION

The City of Tualatin was interested in hearing from its residents regarding levels of support and opposition to allowing medical and/or recreational marijuana dispensaries in Tualatin, and what, if any, restrictions residents would prefer (in the event dispensaries are allowed). Riley Research Associates was asked to conduct a representative survey among residents to hear opinions and preferences.



METHODOLOGY

Riley Research Associates worked with Tualatin to develop the methodology and questionnaire. A random-sample telephone survey among residents was conducted. Respondents were also asked to confirm that they live within the City of Tualatin.

A total of 346 interviews were conducted. The sample of 346 produces a margin of error of +/-5.2% at a 95% level of confidence. Interviews were conducted from October 13th through October 23rd, 2014.

The report includes question-by-question responses, with statistically significant demographic insights as applicable. Verbatim comments are included in the report; cross-tabulations are bound separately.

In order to better reflect the residential population, the survey sample was weighted for age and gender, creating a comparable proportion of respondents. The data is presented in percentages, with the top row of each table citing the percentage sign (%). Some response percentages are presented as a "0;" this indicates that while that response was given, it was given by too few people to round up to 1%. Not all responses add to 100% due to accepting multiple responses and/or rounding.



RESULTS

As you may be aware, sales of medical marijuana is already allowed. However, a statewide measure to legalize recreational marijuana will be on the ballot this November, and the Tualatin City Council would like to hear your views on a number of related issues.

Q1. First of all, regarding medical marijuana, would you support or oppose allowing medical marijuana dispensaries in Tualatin? (Strongly or somewhat?)

The majority of Tualatin residents would support allowing medical marijuana dispensaries in Tualatin (62%), including 39% who would strongly support allowing the dispensaries. About one-third opposed the dispensaries, and 6% were unsure.

Some groups were more likely to support medical marijuana dispensaries than others:

- Males (65%)
- Ages 18-34 (80%) and 55-64 (61%)
- Newer residents of Tualatin (73%)

	Total
Total Participants	346
<u>Support</u>	62%
Support strongly	39
Support somewhat	23
<u>Oppose</u>	32%
Oppose somewhat	7
Oppose strongly	25
<u>Don't know / No response</u>	6%
Not sure/Depends/Undecided	1
Don't know / Refused	5

Q2. The state of Oregon has already placed some restrictions on where medical marijuana dispensaries can be located. For example, they cannot be located within 1,000 feet of a school.

If dispensaries are allowed to locate in Tualatin, what, if any, additional restrictions would you advise the council to place on where such operations can or cannot be located? (Unaided, multiple responses)

Residents named a variety of restrictions they would recommend in terms of where dispensaries could be located, namely away from where minors congregate (19%), away from parks (14%) and schools (14%), and away from homes (13%). With the majority citing at least one recommended restriction (59%), 29% had no additional recommended restrictions, and 12% were unsure.

	Total
Total Participants	346
Away from places where minors congregate	16%
Away from parks	14
Away from schools	14
Away from homes / Non-residential	13
Away from daycare operations	9
Away from public / Busy places (restaurants, downtown, malls, etc)	6
Don't support / Want in Tualatin	6
In medical offices / hospitals / medical settings	4
Away from major thoroughfares / main roads	4
Away from churches / senior centers	3
In industrial / commercial areas	3
Near police stations / Monitored by police	2
Away from business / commercial areas	1
In liquor stores	1
Miscellaneous	8
None / No restrictions	29
Unsure / Don't know / Can't think of any	12

Q2. The state of Oregon has already placed some restrictions on where medical marijuana dispensaries can be located. For example, they cannot be located within 1,000 feet of a school.

If dispensaries are allowed to locate in Tualatin, what, if any, additional restrictions would you advise the council to place on where such operations can or cannot be located? (Do not read list – Mark all that apply)

Miscellaneous Comments

Away from hospitals (3)

1,000 feet from a school is too far

Close to a rehab center

Designated areas

Follow standard codes

Good place for Marijuana dispensaries would be near the Fred Meyers store and logically next to the Kaiser Hospital and in the King City Area

I want it where it can be monitored, out where people can see who's going in and out, not in the same places as alcohol

I would like them to be somewhere where they did not increase the traffic problems in the city

In stores with alcohol and cigarettes clearly posted

Near hospitals

Next to a tavern

Next to Cabelas

Not confined to back alleys. They need to be out in the open to see who's coming or going.

Not near liquor stores

Not near pharmacies

Not too convenient

On a bus line

On pacific highway

Only on major thoroughfares

Place by Martinazzi square

Somewhere where there is a lot of visibility

Stick with the current stuff

There should be a distance regulation

They need to be in a very inconvenient place way off the beaten path

Well lit in a high trafficked area

Where it can handle excessive traffic

Would have to be determined on a case by case basis

Q3. Next, regarding recreational marijuana: One consideration regarding whether or not to ban recreational marijuana dispensaries is a rule that says cities which ban recreational dispensaries will not get a share of any state taxes raised from marijuana sales.

Considering that along with any other issues, would you support or oppose allowing recreational marijuana dispensaries in the City of Tualatin? (Strongly or somewhat?)

About half of residents would support allowing recreational marijuana dispensaries in the City of Tualatin (53%), including 36% who would *strongly support* the dispensaries. About two-fifths were opposed (41%), including 37% who were *strongly opposed*; 6% were unsure.

Some groups were more likely to support medical marijuana dispensaries than others:

- Males (61%)
- Ages 18-34 (80%) and 55-64 (52%)
- Newer residents of Tualatin (63%)

	Total
Total Participants	346
<u>Support</u>	53%
Support strongly	36
Support somewhat	17
<u>Oppose</u>	41%
Oppose somewhat	4
Oppose strongly	37
<u>Don't know / No response</u>	6%
Not sure/Depends/Undecided	5
Don't know / Refused	1

Q4. In addition to considerations about the location, what other guidelines or restrictions would you recommend that the council consider in order to minimize any potentially negative impacts if recreational dispensaries were allowed? (Unaided, multiple responses)

About half of respondents had a recommended restriction if recreational dispensaries were allowed, namely age restrictions on who could purchase marijuana (16%), limited hours of operation for the dispensaries (12%), a general opposition to allowing dispensaries (7%), and not allowing them in retail areas (6%).

	Total
Total Participants	346
Age restrictions / No minors allowed	16%
Limited hours	12
Don't allow / No dispensaries	7
In a business park / Non-retail site	6
No advertising allowed	4
Regulated / monitored like alcohol and bars	4
Limited signage / Low profile signs	4
Bars on windows / Enhanced security / Lighting	3
Limit quantities / frequencies of purchasers	2
Monitor customers / background checks	2
Limit number of dispensaries per town / per area	2
No public consumption	1
A stand-alone building	1
Same restrictions as medical marijuana	1
No edible marijuana products	0
Not on the ground floor of building	0
On the ground floor of building	0
Miscellaneous	11
None / No guidelines or restrictions	26
Unsure / Don't know / Can't think of any	27

Q4. In addition to considerations about the location, what other guidelines or restrictions would you recommend that the council consider in order to minimize any potentially negative impacts if recreational dispensaries were allowed? (Unaided, multiple responses)

Miscellaneous Comments

Enforcement / Accountability

Better background checks for the employees of the dispensaries

Don't enable the customers

Drug testing, cannot use it within so many hours of their job

Enforcement from the city to ensure that these locations are able to manage the traffic flow. Also, prosecute any adults that purchase for minors.

Heavy fines

How much and who can sell it needs to be really strict. They need to go along with regulations

Impairment and bad behavior fines

Monitor what the kids are doing

Monitored so that you can't drive after you've had any

Monitoring by law enforcement

More police officers to control the streets, in the schools too because i don't want legalizing marijuana to interfere; we have a good community

More restrictive than they have for smoke shops; there should be disclaimers about health and brain side effects, like on cigarette packs

Name signs, police to arrest them, can check them if they find some on them

Not be permitted to drive

Not just anybody should be able to buy it. What if someone had been in jail and just came out? It would be easy for him to hang out with friends and not prioritize his life and do more important things. It can be addictive; the younger a person is the easier it is for them to make bad choices

Over the age of 21, can't be done while driving or under the influence

Permanent police position outside the door, and check all ids

Pricing restrictions

Regulate days

The dispensaries should be held liable for all the people who get hurt by people driving while under the influence of marijuana

Traffic and loitering

Oversight

Form a committee

I would leave to the council

Regulated by the city and not by the state

Regular audits

State laws

Q4. In addition to considerations about the location, what other guidelines or restrictions would you recommend that the council consider in order to minimize any potentially negative impacts if recreational dispensaries were allowed? (Unaided, multiple responses)

Miscellaneous Comments (Continued)

Building restrictions

Clear signage

Keep it respectful and no bright lights, same restrictions as bars

Limit the size of the buildings

Make it clean, neat, and tidy

Make sure people are carding

Taxing and regulating

A high tax

Don't overtax

Huge taxes

Put a high tax on it

Miscellaneous

EBT

Every restriction in the book

I don't think it should be sold to the general public

If a city doesn't want them in their city limits, then that's kind of runs contrary to the law. If it's legal for recreational use, it should be legal all over; state law is state law

Keep it for pharmaceutical purposes

Let people vote before a decision

Mandatory drug testing of any public employees

Maybe dispensaries could be part of a pharmacy

Online operation where it gets shipped to them, adequate parking

Purchasers must reside within a ten mile radius of the city

Take a look at Colorado and do what they do

The boundaries should be at least for the whole city of Tualatin I am just seriously opposed to marijuana recreational especially

The city should vote or opt out prior to November to ban recreational marijuana

Tualatin controlled locations, follow what they set in terms of reputation of medical dispensaries, places that serve alcohol

Q5. If the council opts to allow recreational marijuana dispensaries, would you support or oppose having the council impose a city tax on marijuana sales? (Strongly or somewhat?)

The majority of respondents would support a city tax on marijuana sales if recreational dispensaries were allowed (70%), including more than half who would *strongly support* the tax (56%). About one-fifth would likely oppose the tax (22%), and 8% were unsure.

Residents ages 35-44 (91%) and those who were newer to Tualatin (89%) were more likely than others to support a city tax on recreational marijuana.

	Total
Total Participants	346
Support	70%
Support strongly	56
Support somewhat	14
Oppose	22
Oppose somewhat	11
Oppose strongly	11
Don't know / No response	8%
Not sure/Depends/Undecided	7
Don't know / Refused	1

Q6. Are there any other final comments or questions you would like to add?

Some respondents voiced opposition of the dispensaries, sharing concerns of the impact it could have on the community, specifically the children, and that they don't feel it is a necessary thing to allow. Others voiced support for dispensaries, comparing them to liquor stores and saying they feel the legalization is inevitable. Some shared concerns about the location and restrictions that would be placed on dispensaries.

Please see page 12 for full list of responses.

Q7. About how many years have you lived in Tualatin?

	Total
Total Participants	346
1-2 years	13%
3-5 years	14
6-10 years	27
11-20 years	25
21-40 years	18
41+ years	2
Refused	2
Mean	13 years

Q8. May I ask your age?

	Total
Total Participants	346
18-34	35%
35-44	20
45-54	20
55-64	16
65+	11
Refused	0
Mean	44

Q9. Gender

	Total
Total Participants	346
Male	49%
Female	51

Q6. Are there any other final comments or questions you would like to add?

Opposed

Because of the type of area it is: that's why I oppose this. I am not against marijuana being legalized; I would like to see it legalized so instead of cops going after people who smoke pot they're going after more important things. I just think it should be out of neighborhood areas and in more important areas

Don't do it

I am against marijuana period

I am against marijuana use

I am biased the people I work with at the Center of Family History I believe they are pretty much against marijuana. My position is far enough to the left and non-marijuana related

I am in the transportation industry and I am strongly opposed to it

I am really opposed to it and formally from Colorado; I have friends that say it is just very bad there. The use of marijuana and they have not lived off to the potential taxes they expected to get and not received it. I just opposed having marijuana legalized in Oregon

I do not want any marijuana in the City of Tualatin

I do understand the value of medical marijuana because I am a pharmacist, but at least in a recreational perspective it's a huge mistake, what Washington and Colorado has done, and I will oppose it in this state. There is a reason to have dispensaries in the City of Portland, but I would oppose having dispensaries where I live in Tualatin. I would hope the Council would oppose any dispensing establishments in Tualatin, especially recreational

I don't like or support recreational marijuana. Medical is OK. It is a stepping stone drug; kids will try other drugs too after they try marijuana

I don't want it, I have seen all the marketing for and against and it is a gateway drug, I don't want it around.

I don't like casual use is criminalized as much as it is. I'm not in favor of allowing recreational use

I don't support it

I hope recreational dispensaries are a failure on the ballot

I hope this does not happen. What are the ramifications from this?

I just hope it doesn't go through

I just hope it doesn't pass

I just prefer that they keep it out of Tualatin

I oppose it completely maybe they should tax it so highly that no one can afford to smoke it.

I oppose the charging of taxes on marijuana sales, because I don't want us to be tied to the success of marijuana businesses.

I really oppose recreational dispensaries

I really oppose the dispensaries. We have a theft problem in our area, because of a known drug house on the neighborhood.

I regret that there is one more intoxicant available

I see no value in recreational marijuana publicly available. I feel strongly that tax income does not justify recreational marijuana

I strongly oppose marijuana use as a physician, and strongly oppose legalization of marijuana, dispensaries or any other usage. Please look at the medical and scientific literature coming out just about monthly, showing how it causes permanent damage to various organs and functions of the body including brain damage. The governor of Colorado has just publicly stated that it was a mistake to legalize marijuana in his state. Studies come out every month showing how detrimental marijuana is to the body causing permanent damage

Q6. Are there any other final comments or questions you would like to add? (Continued)

Opposed (Continued)

I suppose that I would not support it. It gets lost in the shuffle and people tend to abuse the situation. It is not use I look at it as child service it has good implementation so there is kids that are not and that are looked after good intention and a lot of flaws in the marijuana. I don't approve of medical marijuana dispensaries at all

I think in the long run it will cost more than it will earn to have recreational dispensaries. I would prefer it to not be around our city.

I think it's a bunch of crap. I don't think people need marijuana. That's up to them

I think we should keep marijuana completely out of Tualatin. I think it is a bad idea. Anybody who supports it will not get my vote

I would hate to see the city become a place where marijuana users come for it. We just got rid of jiggles; I'd hate to see it become a point for recreational users.

If council allows this I will vote against them and tell all my friends to vote against them too.

If recreational marijuana is allowed i will consider moving.

It is the stupidest thing to legalize it; it's the same as driving drunk

It isn't a good idea or direction for society

It's the demise of our city, state and country. Our morality and everything

It's a gateway to harder stuff

Just get it out of here; don't want it around

Just that because of my age group I suppose, I consider particularly recreational marijuana to be far too slippery a slope

Keep marijuana out of the city Tualatin and we don't need it, we have other priorities

Keep the marijuana out of our city

Medical marijuana is supposed to be for medical use only. Bringing it to the city of Tualatin is just money-making scam and it would destroy our neighborhood. There's no oversight to be ensuring that it's being used for medical instead of recreational use

My position would be that if council approves marijuana in the city I would oppose the council for everything else because I strongly oppose marijuana and what it does to people

No recreational marijuana for any one

Only that I strongly oppose the ballot measure passing

Recreational use should not be legalized

Should not been on the ballot and if you would take lessons from other states you would not consider it

They need to know it is a gateway drug

We know what it does to people, I just can't believe the governments going to allow this, I'll just pray that god will clean this up

We need to do whatever we can to keep it out; it's going to increase crime. We already have kids smoking pot where police officers are having a hard time with, it'll just make it worse

We would prefer not to have it in the city or if we have to it would be severely limited. I don't think it would be helpful to this family friendly community

Q6. Are there any other final comments or questions you would like to add? (Continued)

Support

Helps a lot of people with medical reasons, to help them extremely to receive the medicine. Thank you for calling and getting my opinion

I believe it should be legal and taxed as high as possible

I don't see a reason why not to have it here why not have it here. It's not any different than having a liquor store in town.

I don't personally smoke pot, but I don't care if other people do. Alcohol's legal. You don't really see too many people fight after smoking some pot. There is one caution; it could put more people high on the road. It would be just as bad as alcohol. That would be my biggest fear, but to be honest, police spend too much time chasing around pot and not doing other things

I don't see a difference between recreational and medical. Anyone who wants a medical card can get it. I am not a personal user, so I have no direct experience with it. There are a lot of things going on I don't understand personally and it doesn't make them wrong. I'm not going to impose myself on this issue unfairly. If people want it they can go elsewhere to get it, it's pointless for us to ban it.

I hope when we pass the medical marijuana that the city of Tualatin and lets it happen and makes it happen

I just approve

I just think the time is right to support it, especially for medical reasons. I'm in a lot of pain and I would love medical marijuana near my home

I just think we need to; I think it's probably something that needs to be done. I think fewer restrictions, the better because you're just going to end up with more criminals; people have to use their common sense

I say we give it a try and if it doesn't work we will vote it back out. Let's see if any benefits of medical marijuana can help people out. I have also heard that this plant is good for other things such as making paper out of it. If we can find a way to use it as a useful benefit why not put a little bit of research into that

I support the legalization of marijuana, and think it should have been legalized 40 years ago I was, back in the 70s, in Washington, able to have an oz. of marijuana and it wasn't illegal in those amounts. That seemed reasonable there. I think the prohibition needs to be over.

I would encourage looking at benefits of all. Any other business if done properly is still in infancy and should have proper control anywhere and not opposed to distance of schools

I would support a city tax if it was used for the appropriate thing like for the schools

I've never done any drugs but it will become legal and if its revenue for the states, why not.

It should be available to seniors near the senior centers. We need one in the city or they will go elsewhere for it. Might as well have it in the city, banning it in the city limits won't deter usage for those who want to use it.

It's about time we legalized marijuana

Legalizing it is inevitable city needs to participate in the process

Long overdue, I'm tired of people's lives being ruined because they make the mistake. There is nothing special about it, it should just be legal. OLCC should cover both; it seems weird to have one building for alcohol control, and another for marijuana

More people die from alcohol use than marijuana use, so it should be up to them. A lot of money would be made

There are so many crimes being committed, the resources are limited

They should legalize it

Q6. Are there any other final comments or questions you would like to add? (Continued)

Concerns / Recommendations

Before allowing any dispensaries, there would have to be a public hearing to allow them to open the business

I had heard that one way to regulate the legalization would be to treat it like and have the OLCC regulate it and using the same system to regulate marijuana. I think restrictions on the dispensaries would be discriminatory against people who need their services.

I heard today on a radio station they have not set guidelines for driving under the influence of marijuana

I hope they don't mess around with medical patients; they have other handicaps they can't afford that; I have heard that the price has doubled. Make sure that recreational doesn't overlap with those who use it as medicine.

I just hope they wouldn't put it on a main street, out of sight.

I think anything that is used as a drug should be regulated by the FDA and sold by pharmacies.

Any drug that can be used recreationally, shouldn't be allowed

I think my biggest concern is crime, and also people driving under the influence. I'm concerned with children using it

I think the rules for drunk driving should apply for driving under the influence of marijuana. The impact of lung cancer is the same for cigarettes as well as marijuana

I think they should clearly designate the restrictions when they pass the law that it shouldn't be like Washington. They should examine how things are already working in other states and look at medical marijuana and look at other restrictions and develop the bill and not leave it wide open with no restrictions

I think they should pay taxes on it

I would like the money to go into law enforcement and drug treatment. Otherwise we shall become dependent on it like legalized gambling. I would like to have recreational marijuana approved for limited basis only to be reviewed and looked at again after 3 years or so. Someone should collect the revenue from it and it should be distributed to law enforcement and drug treatment.

I'm a nurse and I'm concerned about people coming in to the hospital after taking too much, like an overdose

If permitted, recreational use of marijuana should be limited and should be for adults only

If they do allow recreational same restriction on medical to be only located in business district easy to keep an eye on it.

In any case whether they buy or not either way they need to provide a lot of info on it and the side effects and any negative effects. Provide info before they buy maybe sign off on awareness.

Give harmful and addiction information of the drugs.

It should be away from main stream population

Keep the price down. Right now the prices are triple to what you can get it on the street; try to bring the prices down to the black market or it will fail

Make the tax very high like on cigarettes

My concern with legalizing it is because of the children

My family and I have talked about this and we have teenagers and we think marijuana is just the same as alcohol we think it might eliminate the trouble it comes with but I don't want it in the hands of kids.

My major thing is i am inherently opposed to marijuana establishments where kids walk by them or see them. If they can do it the in the city without kids seeing it i am ok.

On the first medical dispensaries, to place a police officer outside to check all IDs 24/7

Q6. Are there any other final comments or questions you would like to add? (Continued)

Concerns / Recommendations (Continued)

The city shouldn't be in a rush to support on this until all things are known about this like impacts on minors, children, and the economy; because when the government sells it, it's cheaper to buy on the black market then it is to buy in a store

The most important thing is that children are protected. I would like to see strict punishment for serving to minors

The only one would be that I hope Oregon doesn't make the same mistakes as Washington, that they are taxing too much making a black market

The state should be the one growing it, so they take it out of the hands of individuals

There should be a lot more testing of children at school. In the past it was too expensive, but I think it is no longer. I think there should be a tax on recreational marijuana, but not medical marijuana.

They should research the marijuana to determine if it has legitimate medical uses.

They shouldn't even do medical pot. It is just an excuse for people to use it. It can cause more problems more than it helps. It is bad enough having to inhale it generally and I am a smoker

They would already make money on the state sales tax just not city tax. You don't want the building to look bad keep it nice.

To my knowledge the current measure restricts cities from imposing marijuana taxes

Questions

Are there going to be bars for smoking weed?

Can they require cigarettes be sold in the same stores

I don't see where they are pulling the sales tax

I know there is a one year moratorium on dispensaries so cities can decide whether or not to have them. Is this going to be extended?

I would like to know how they are looking at other places, where it has been approved, and any consequences or lack of consequences

This measure 91 would cut down violence by cartels?

When will we know?

Where can I smoke it? Will it be the same as tobacco?

Where would they be contemplating to put a place to put a dispensary?

Undecided

I have very mixed feelings on the subject

I'm kind of in-between on it not really strong opinion that I find good and bad

I'm sure it's going to pass I'm just kind of concerned with how it pans out, I guess time will tell

I'm undecided on all of it

Q6. Are there any other final comments or questions you would like to add? (Continued)

Miscellaneous

I appreciate the city council getting the opinions of the City

I don't smoke marijuana

I just see in these apartments...they just pass it out and they do it. They have little parties at their house and they spray. The other day the caretaker had to go in to paint and scrub. It's a non-smoking building

I wish they would conduct surveys like this on more important things

If we start relying on taxes for marijuana, because then it will become independent

Marijuana used to be seen as a poison now it's seen as a holy medicine. I don't understand.

Not an issue for me

Nothing you can do, I think that you just hope for the best. Just watch and be careful

The whole topic and the people who vote on it, then sit down and drink and discuss how to spend the money, it is silly to me.

Too many resources are spent implementing laws that should be changed. I don't smoke pot

Wait to see marijuana legalized



APPENDIX: QUESTIONNAIRE

Hello, my name is _____ with Riley Research Associates, calling on behalf of the City of Tualatin with a quick, confidential survey to hear your thoughts about Marijuana Dispensaries.

(IF NECESSARY) I'm not trying to sell or sign you up for anything. We're simply gathering feedback from Tualatin residents about marijuana dispensaries. The survey will take about five minutes. Is now a good time to ask you a few questions?

To confirm, do you live in the City of Tualatin? (Continue with survey if "yes")

As you may be aware, sales of medical marijuana is already allowed. However, a statewide measure to legalize recreational marijuana will be on the ballot this November, and the Tualatin City Council would like to hear your views on a number of related issues.

Q1. First of all, regarding medical marijuana, would you support or oppose allowing medical marijuana dispensaries in Tualatin? (Strongly or somewhat?)

- | | |
|---|---|
| <input type="checkbox"/> 1 Support strongly | <input type="checkbox"/> 4 Oppose somewhat |
| <input type="checkbox"/> 2 Support somewhat | <input type="checkbox"/> 5 Oppose strongly |
| <input type="checkbox"/> 3 (Not sure/Depends/Undecided) | <input type="checkbox"/> 9 (Don't know / Refused) |

Q2. The state of Oregon has already placed some restrictions on where medical marijuana dispensaries can be located. For example, they cannot be located within 1,000 feet of a school.

If dispensaries are allowed to locate in Tualatin, what, if any, additional restrictions would you advise the council to place on where such operations can or cannot be located?

(As necessary, if respondent says only that they support/oppose dispensaries, repeat the question and emphasize that the question is about any restrictions they would place on WHERE they could be located, IF they WERE allowed) (Do not read list – Mark all that apply)

- | | |
|---|---|
| <input type="checkbox"/> 01 Away from parks | <input type="checkbox"/> 10 Don't support / Want in Tualatin |
| <input type="checkbox"/> 02 Away from homes / Non-residential | <input type="checkbox"/> 11 Near police stations / Monitored by police |
| <input type="checkbox"/> 03 Away from major thoroughfares / main roads | <input type="checkbox"/> 12 Away from business / commercial areas |
| <input type="checkbox"/> 04 Away from daycare operations | <input type="checkbox"/> 13 Away from public places (restaurants, malls, theaters, etc) |
| <input type="checkbox"/> 05 Away from places where minors congregate | <input type="checkbox"/> 14 Away from churches / senior centers |
| <input type="checkbox"/> 06 In medical offices / hospitals / medical settings | <input type="checkbox"/> 97 None / No restrictions |
| <input type="checkbox"/> 07 In liquor stores | <input type="checkbox"/> 98 Other (specify) |
| <input type="checkbox"/> 08 In industrial / commercial areas | <input type="checkbox"/> 99 (Unsure / Don't know / Can't think of any) |
| <input type="checkbox"/> 09 Away from schools | |

Q2b. Other:

Q3. Next, regarding recreational marijuana: One consideration regarding whether or not to ban recreational marijuana dispensaries is a rule that says cities which ban recreational dispensaries will not get a share of any state taxes raised from marijuana sales.

Considering that along with any other issues, would you support or oppose allowing recreational marijuana dispensaries in the City of Tualatin? (Strongly or somewhat?)

- | | |
|--|--|
| <input type="checkbox"/> ₁ Support strongly | <input type="checkbox"/> ₄ Oppose somewhat |
| <input type="checkbox"/> ₂ Support somewhat | <input type="checkbox"/> ₅ Oppose strongly |
| <input type="checkbox"/> ₃ (Not sure/Depends/Undecided) | <input type="checkbox"/> ₉ (Don't know / Refused) |

Q4. In addition to considerations about the location, what other guidelines or restrictions would you recommend that the council consider in order to minimize any potentially negative impacts if recreational dispensaries were allowed?

(As necessary: if respondent says only that they support/oppose dispensaries, remind them that the question is about what rules or restrictions they would recommend IF they WERE allowed) (Do not read list – Mark all that apply)

- | | |
|---|---|
| <input type="checkbox"/> ₀₁ Limited hours | <input type="checkbox"/> ₁₁ Regulated / monitored like alcohol and bars |
| <input type="checkbox"/> ₀₂ Limited signage / Low profile signs | <input type="checkbox"/> ₁₄ Same restrictions as medical marijuana |
| <input type="checkbox"/> ₀₃ Bars on windows / Enhanced security / Lighting | <input type="checkbox"/> ₁₅ Monitor customers / background checks |
| <input type="checkbox"/> ₀₄ A stand-alone building | <input type="checkbox"/> ₁₆ Limit number of dispensaries per town / per area |
| <input type="checkbox"/> ₀₅ In a business park / Non-retail site | <input type="checkbox"/> ₁₇ Limit quantities / frequencies of purchasers |
| <input type="checkbox"/> ₀₆ On the ground floor of building | <input type="checkbox"/> ₁₈ No public consumption |
| <input type="checkbox"/> ₀₇ Not on the ground floor of building | <input type="checkbox"/> ₁₉ No edible marijuana products |
| <input type="checkbox"/> ₀₈ Age restrictions / No minors allowed | <input type="checkbox"/> ₉₇ None / No guidelines or restrictions |
| <input type="checkbox"/> ₀₉ No advertising allowed | <input type="checkbox"/> ₉₈ Other (specify) |
| <input type="checkbox"/> ₁₀ Don't allow / No dispensaries | <input type="checkbox"/> ₉₉ (Unsure / Don't know / Can't think of any) |

Q4b. Other guidelines / restrictions

Q5. And finally, if the council opts to allow recreational marijuana dispensaries, would you support or oppose having the council impose a city tax on marijuana sales? (Strongly or somewhat?)

- | | |
|--|--|
| <input type="checkbox"/> ₁ Support strongly | <input type="checkbox"/> ₄ Oppose somewhat |
| <input type="checkbox"/> ₂ Support somewhat | <input type="checkbox"/> ₅ Oppose strongly |
| <input type="checkbox"/> ₃ (Not sure/Depends/Undecided) | <input type="checkbox"/> ₉ (Don't know / Refused) |

Q6. Are there any other final comments or questions you would like to add?

Now just a few questions to finish up:

Q7. About how many years have you lived in Tualatin? (As necessary) Your best guess is fine. (Record only whole numbers, round up as necessary) Years in Tualatin _____

Years in area categorized

- ₁ 1-2 years
- ₂ 3-5 years
- ₃ 6-10 years
- ₄ 11-20 years

- ₅ 21-40 years
- ₆ 41+ years
- ₉ Refused

Q8. May I ask your age? Age _____

Q8b. (Record category or if refused) Which of the following categories includes your age? (Read List)

- ₁ 18-24
- ₂ 25-34
- ₃ 35-44
- ₄ 45-54

- ₅ 55-64
- ₆ 65+
- ₉ (Refused)

Those are all my questions. The City of Tualatin would like me to thank you for your time and opinions.

Q9. (Record Gender)

- ₁ Male

- ₂ Female

**TUALATIN PLANNING COMMISSION MEETING
FEBRUARY 19, 2015
SUMMARY OF NOTES**

(Prepared by Cindy Luxhoj Hahn and Aquilla Hurd-Ravich)

Overall Recommendation: Accept proposed Plan Text Amendment as written and offer to Council a list of items for their review and final decision. (5 in favor, 1 opposed [Beers], 1 absent [Herriges])

Discussion items include:

- 80.020: Definitions, clarify taxonomy of marijuana scientific name; as included in definitions, Moraceae includes fig and mulberry plants; this needs to be corrected; correct family name is Cannabaceae
- 80.050: Planning Districts where Permitted, add dispensaries to the Industrial Business Park Overlay District as allowed retail uses and add dispensaries to the small scale mixed uses allowed in manufacturing districts
- 80.060: Standards, consider reducing the separation between facilities from 2,000 feet to 1,000 feet, or change language from a separation distance to a total number of facilities allowed in the Yellow/non-buffered area. Allow 3 total facilities rather than impose a separation distance. Allow one of each type of facility (e.g. dispensary, grower and/or producer/processor).
- 80.070: Operating Restrictions, apply hours of operation of 10am-8pm to retail and dispensaries, not grow operations; consider allowing 24-hour operation for growers
- 80.100: Edible Marijuana, remove “makes the product attractive to children” because it is difficult to enforce, but continue to prohibit packaging that imitates candy
- 80.200: Butane Extraction, consider broadening the extraction method to include other chemical and solvent techniques besides butane that might be as dangerous
- 80.300: Homegrown Marijuana, specify that the standards apply to growing outside of a residence, not inside
- General, clarify inconsistencies between Analysis and Findings (page 5 specifically) and the draft code language

Additional requests for clarification:

- Could the regulations as proposed be appealed because they are overly restrictive and could be construed as a ban? Are we setting ourselves up for a challenge?
- Are the regulations consistent with Oregon Health Authority requirements regarding home grow operations?
- What is the difference between growers for medical marijuana and growers for recreational marijuana? Will the regulations being proposed by the City affect growers of medical marijuana?
- Can a dispensary serve both recreational and medical clients (have licenses both from OHA and Oregon Liquor Control Commission)? If this is permitted by State

law, is such a dispensary considered one facility or two under the proposed regulations? Is this considered co-location, which is not allowed under the proposed regulations? Can a recreational marijuana dispensary serve people with a MMJ card?

Points raised by public and Commissioners during comment:

- Commissioner Jeff DeHaan: Suggestion that, in the future, if the code is a hindrance to business then revisit the code at that time
- Cathy Holland: Area where facilities would be allowed is not large enough and is overly restrictive; this area is not really available for facilities because of wetlands, undeveloped land, large property owners/developers that will be reluctant to lease space to small tenants
- Cathy Holland: Limited area and inability of facilities to locate there could be construed as a ban; this could provide standing to appeal the regulations
- Cathy Holland: Consider separate regulations for medical and recreational facilities
- Cathy Holland: Should “boat” be included in the list of non-permanent structures?
- Cathy Holland: Growers need 24/7 hours of operation
- Cathy Holland: Reduce the 3000-foot buffer to 1000 feet from schools and residential areas; draft code is so restrictive that home grown operations will proliferate
- Cathy Holland: Code/ordinance language is appealable based on “reasonable regulations” cited on page 9 of Analysis and Findings
- Cathy Holland: Grow operations tend to be larger than 3000 square feet; consider increasing this for growers
- Cathy Holland: Should treat marijuana facilities the same as liquor stores (equal protection under the 14th Amendment?); if they are not equally treated, could be cause for action against City
- Cathy Holland: No bus service to area where facilities would be allowed makes it difficult for many clients (transit users) to access
- Linda Moholt: Industrial areas are meant for industrial, not retail, uses; are retail dispensaries appropriate in industrial areas?; asked that retail dispensaries only be allowed in Industrial Business Park Overlay or in the small scale mixed uses, and that industrial land continue to be protected from retail uses
- Jonathan Crane: By limiting the allowed area for facilities, is the City missing out on tax base/revenue opportunities?



City of Tualatin

AFFIDAVIT OF POSTING

STATE OF OREGON)
) SS
COUNTY OF WASHINGTON)

I, Lynette Sanford, being first duly sworn, depose and say:

That at the request of Sherilyn Lombos, City Recorder for the City of Tualatin, Oregon; that I posted three copies of the Notice of Hearing on the 4th day of February, 2015, a copy of which Notice is attached hereto; and that I posted said copies in two public and conspicuous places within the City, to wit:

1. City of Tualatin – Development Services Building
2. City of Tualatin - Library

Dated this 4 day of February, 2015

Lynette Sanford
Lynette Sanford

Subscribed and sworn to before me this 4th day of February, 2015.

Linda K Odermott
Notary Public for Oregon

My Commission expires: March 30, 2017



RE: PLAN TEXT AMENDMENT (PTA) 15-01 TO AMEND THE TUALATIN DEVELOPMENT CODE (TDC) TO ESTABLISH REASONABLE TIME, PLACE AND MANNER REGULATIONS FOR MARIJUANA FACILITIES. AMENDMENTS PROPOSED FOR TDC CHAPTERS 31, 60, 61, 64 AND A NEW CHAPTER 80 MARIJUANA FACILITIES.



City of Tualatin

www.tualatinoregon.gov

NOTICE OF HEARING CITY OF TUALATIN, OREGON

NOTICE IS HEREBY GIVEN that a public hearing will be held before the City of Tualatin City Council at 7:00 p.m., Monday, March 9, 2015, at the Juanita Pohl Center, Tualatin City Center, at 8513 SW Tualatin Rd, to consider:

Plan Text Amendment (PTA) 15-01 to amend the Tualatin Development Code (TDC) to establish reasonable time, place and manner regulations for marijuana facilities. Amendments proposed for TDC Chapters 31, 60, 61, 64 and a new Chapter 80 Marijuana Facilities.

To grant the amendment, Council must find the proposal meets the criteria of Tualatin Development Code 1.032(1-10) relating to the public interest; timeliness; conformity with objectives of the Tualatin Community Plan; consideration of the factors listed in Section 1.032(4); the Tigard-Tualatin School District Facility Plan; the Statewide Planning Goals; the Metro Urban Growth Management Functional Plan; and impact on the transportation system.

You are invited to attend and participate in the public hearing. Failure to raise an issue at the hearing or in writing or to provide sufficient specificity to afford the Council an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals (LUBA). Copies of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost. A copy of the staff report will be available at no cost prior to the hearing.

Individuals wishing to comment may do so in writing to the Planning Division prior to the hearing or present written or verbal testimony to the City Council at the hearing. Hearings begin with a staff presentation, followed by testimony by proponents, testimony by opponents, and rebuttal. The time of individual testimony may be limited.

To view the application materials visit www.tualatinoregon.gov/projects. This meeting and any materials being considered can be made accessible upon request. For additional information, contact Cindy Hahn at 503-691-3029 or chahn@ci.tualatin.or.us.

CITY OF TUALATIN, OREGON

NOTICE TO THE TUALATIN TIMES: Please publish on February 19, 2015



6605 SE Lake Road, Portland, OR 97222
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 E-mail: legals@commnewspapers.com

AFFIDAVIT OF PUBLICATION

State of Oregon, County of Washington, SS I, Charlotte Allsop, being the first duly sworn, depose and say that I am the Accounting Manager of *The Times* (serving Tigard, Tualatin & Sherwood), a newspaper of general circulation, published at Beaverton, in the aforesaid county and state, as defined by ORS 193.010 and 193.020, that

**City of Tualatin
 Notice of Public Hearing - PTA 15-01
 TT11997**

A copy of which is hereto annexed, was published in the entire issue of said newspaper for

1
 week in the following issue:
February 19, 2015

Charlotte Allsop

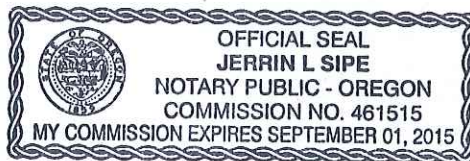

Charlotte Allsop (Accounting Manager)
 Subscribed and sworn to before me this
 February 19, 2015.

Jerrin L Sipe

NOTARY PUBLIC FOR OREGON
 My commission expires *Sept 1, 2015*

Acct #108462
 Attn: Lynette Sanford
 City of Tualatin, Planning Department
 18880 SW Martinazzi Ave
 Tualatin, OR 97062

Size: 2 x 4.25"
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City of Tualatin
www.tualatinoregon.gov

**NOTICE OF HEARING
 CITY OF TUALATIN, OREGON**

NOTICE IS HEREBY GIVEN that a public hearing will be held before the City of Tualatin City Council at 7:00 p.m., Monday, March 9, 2015, at the Juanita Pohl Center, Tualatin City Center, at 8513 SW Tualatin Rd, to consider:

Plan Text Amendment (PTA) 15-01 to amend the Tualatin Development Code (TDC) to establish reasonable time, place and manner regulations for marijuana facilities. Amendments proposed for TDC Chapters 31, 60, 61, 64 and a new Chapter 80 Marijuana Facilities.

To grant the amendment, Council must find the proposal meets the criteria of Tualatin Development Code 1.032(1-10) relating to the public interest; timeliness; conformity with objectives of the Tualatin Community Plan; consideration of the factors listed in Section 1.032(4); the Tigard-Tualatin School District Facility Plan; the Statewide Planning Goals; the Metro Urban Growth Management Functional Plan; and impact on the transportation system.

You are invited to attend and participate in the public hearing. Failure to raise an issue at the hearing or in writing or to provide sufficient specificity to afford the Council an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals (LUBA). Copies of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost. A copy of the staff report will be available at no cost prior to the hearing.

Individuals wishing to comment may do so in writing to the Planning Division prior to the hearing or present written or verbal testimony to the City Council at the hearing. Hearings begin with a staff presentation, followed by testimony by proponents, testimony by opponents, and rebuttal. The time of individual testimony may be limited.

To view the application materials visit www.tualatinoregon.gov/projects. This meeting and any materials being considered can be made accessible upon request. For additional information, contact Cindy Hahn at 503-691-3029 or chahn@ci.tualatin.or.us.

CITY OF TUALATIN, OREGON

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City of Tualatin

PTA 15-01 Marijuana Regulations Public Hearing

City Council Meeting
March 9, 2015

Background

- City Council provided direction to staff at a City Council Work Session on January 26, 2015
- Staff sent DLCD notice of the proposed code changes January 30, 2015
- Planning Commission recommendation to City Council on February 19, 2015
- City Council provided further direction to staff at the City Council Work Session on February 23, 2015

Regulations Overview

- ▶ **Definitions - Chapter 31**
- ▶ **Permitted use in ML, MG and MBP - Chapters 60, 61 and 64**
- ▶ **New Marijuana Facility Regulations - New Chapter 80**
 - ▶ Marijuana Facilities
 - ▶ Edible Marijuana
 - ▶ Butane Extraction
 - ▶ Homegrown Marijuana

Definitions

- ▶ Marijuana
- ▶ Marijuana, edible
- ▶ Marijuana extract
- ▶ Marijuana facilities
- ▶ Marijuana, homegrown

Development Standards

- ▶ Comply with all applicable State requirements
- ▶ A retail sales marijuana facility may be open to the public between 10:00 am and 8:00 pm the same day
- ▶ A medical dispensary marijuana facility may be open to registry identification cardholders between 10:00 am and 8:00 pm the same day
- ▶ Primary entrances located on street-facing facades and clearly visible from a public or private street.
- ▶ Located inside a permanent building
- ▶ Prohibit location within a trailer, shipping container, cargo container, tent, motor vehicle or drive-through marijuana facilities
- ▶ Prohibit outdoor storage of merchandise, plants or other materials
- ▶ Confine all marijuana odors and other objectionable odors to levels undetectable at the property line.

Development Standards

- ▶ **Facilities allowed in:**
 - ▶ Light Manufacturing
 - ▶ General Manufacturing
 - ▶ Manufacturing Business Park

- ▶ **3,000' buffer from the following:**
 - ▶ Residential Planning District and residential uses
 - ▶ Schools- as defined in Chapter 31
 - ▶ City Parks - identified in the City Charter
 - ▶ Libraries

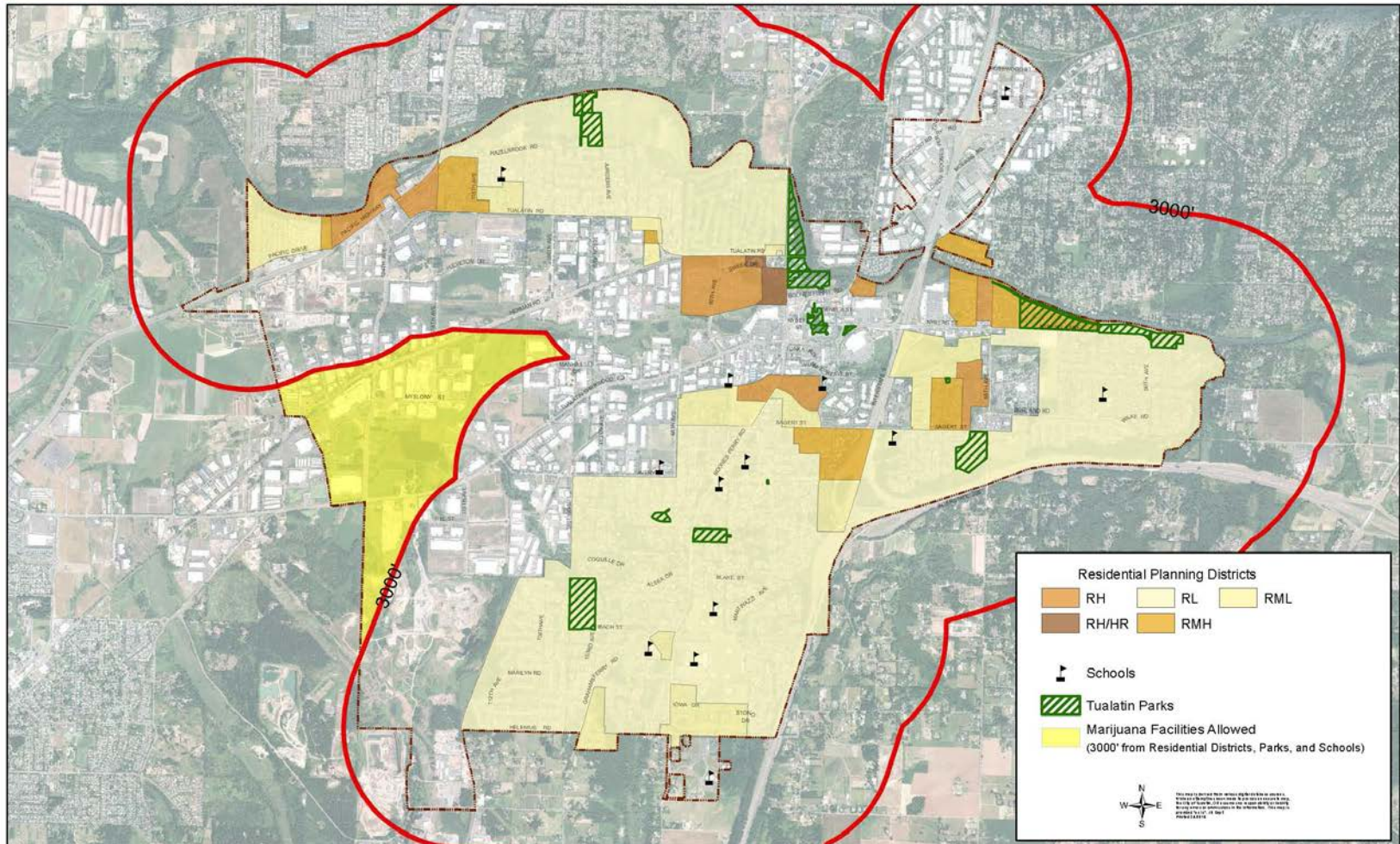
- ▶ **Retail and dispensaries shall not co-locate with other marijuana facilities**

- ▶ **2,000' buffer between all facilities**

- ▶ **Facilities limited to 3,000 square feet in size**

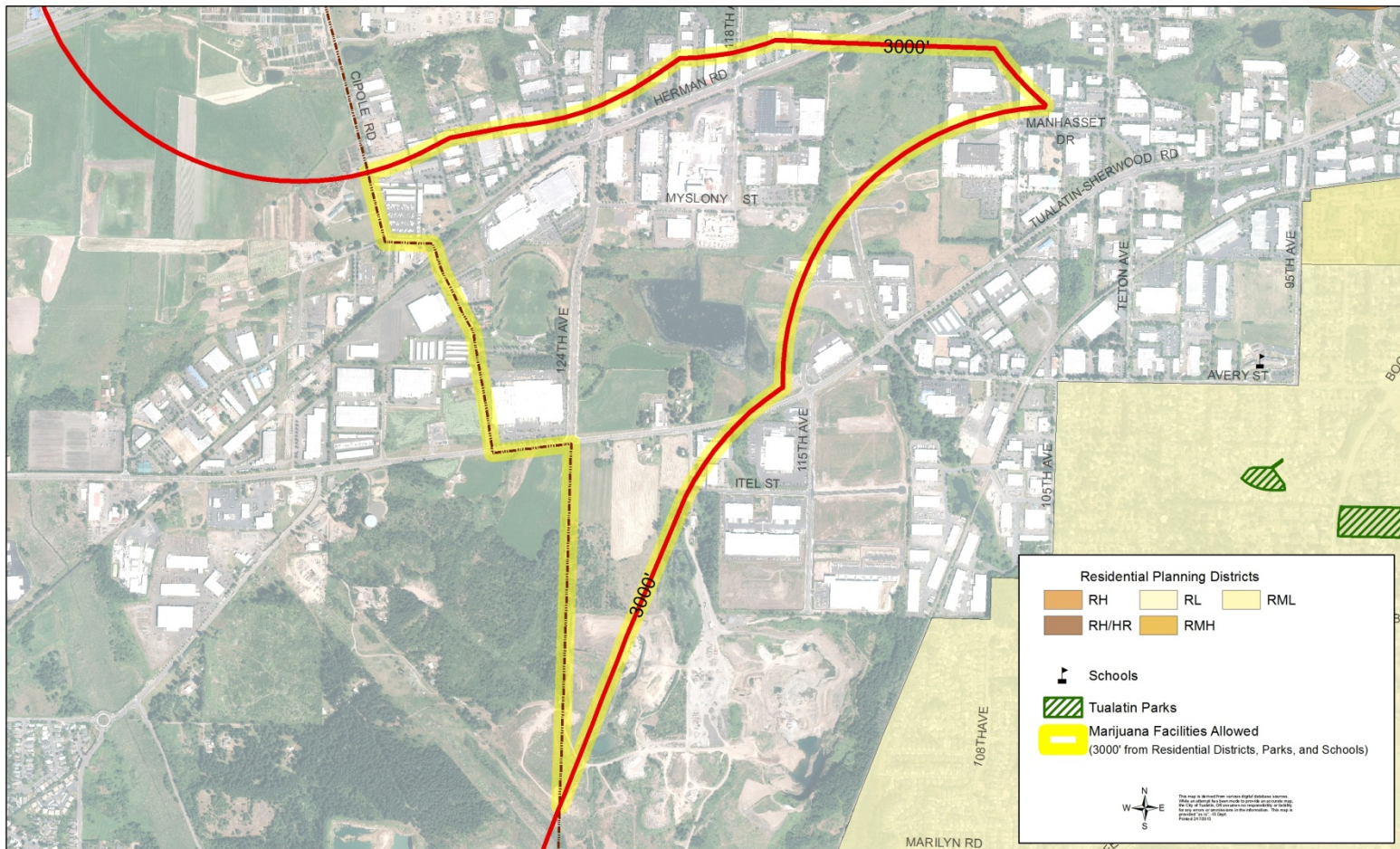
Buffer from Residential and Schools

Potential Medical Marijuana Zoning - 3000' from Residential Districts, Parks, & Schools



Marijuana Facilities Area Close-up

Potential Marijuana Facilities Zoning - 3000' from Residential Districts, Parks, & Schools



Development Standards

- ▶ **Edible Marijuana standards**
 - ▶ Individually wrapped when produced
 - ▶ Child-resistant packaging
 - ▶ Prohibit packaging attractive to children or imitates candy
 - ▶ Clear warning label must note:
 - ▶ Contents contain marijuana
 - ▶ Contents are not a food product
 - ▶ Emphasize that the product is to be kept away from children
 - ▶ The sale of edibles must be behind a commercial counter or in an enclosed case.

Development Standards

- ▶ Butane extraction is prohibited

- ▶ Homegrown Marijuana Standards
 - ▶ Comply with state law.
 - ▶ Homemade extracts are prohibited
 - ▶ Homegrown plants;
 - ▶ Prohibited in the front yard
 - ▶ Must be fully screened from view
 - ▶ Must be 10 feet away from all property lines and 25 feet away from adjacent residences

Next Steps



**March:
Public Hearing +
Ordinance Adoption**

**May: Ordinance in
Effect**

Discussion and Questions



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos

FROM: Sean Brady, City Attorney

DATE: 03/09/2015

SUBJECT: Consideration of **Ordinance No. 1379-15** 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)

ISSUE BEFORE THE COUNCIL:

Consideration of **Ordinance No. 1379-15** (First Reading) to allow Marijuana Facilities in the Light Manufacturing, General Manufacturing, and Manufacturing Business Park Planning Districts with certain restrictions and allow homegrown marijuana outdoors with certain restrictions.

RECOMMENDATION:

Staff recommends Council consider Ordinance No. 1379-15 to allow Marijuana Facilities in the Light Manufacturing, General Manufacturing, and Manufacturing Business Park Planning Districts with certain restrictions and allow homegrown marijuana outdoors with certain restrictions.

EXECUTIVE SUMMARY:

The City of Tualatin submitted an application for Plan Text Amendment (PTA 15-01) to allow marijuana facilities in the Light Manufacturing, General Manufacturing, and Manufacturing Business Park Planning Districts with certain restrictions and to allow homegrown marijuana outdoors with certain restrictions. The City provided notice of PTA 15-01 to the Oregon Department of Land Conservation and Development as provided by ORS 197.610. The City also provided notice of the public hearing as required by Tualatin Development Code 1.031.

A public hearing is being held before the Council this same night, March 9, 2015, to consider PTA 15-01. The Council will consider the testimony and evidence presented by City staff and the comments of those appearing at the public hearing. If a majority of Council approves PTA 15-01, the Council will then consider Ordinance No. 1379-15 for first reading.

Ordinance No. 1379-15 implements PTA 15-01 to modify the Tualatin Development Code to

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)(11)~~ 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)(17)~~ Manufacture of musical instruments, toys and novelties.

~~(13)(16)~~ 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)(18)~~ Molding of small products from plastic.

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

~~(18)~~(10) 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)~~(21) 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)~~(31) 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)~~(10) 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)~~(41) 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)(11)~~ 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)(1)~~ 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)~~(46) 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 ____ Day of _____, 2015.

CITY OF TUALATIN, OREGON

BY _____
Mayor

APPROVED AS TO FORM

ATTEST:

BY _____
City Attorney

BY _____
City Recorder

Exhibit 1 to Ordinance 1379-15

PTA-15-01: ANALYSIS AND FINDINGS

MARIJUANA FACILITIES

Plan Text Amendment 15-01 (PTA-15-01) proposed definitions and reasonable time, place and manner restrictions of marijuana facilities by amending the Tualatin Development Code.

Amendments are proposed to the following chapters:

- Chapter 31 General Provisions;
- Chapter 60 Light Manufacturing;
- Chapter 61 General Manufacturing;
- Chapter 64 Manufacturing Business Park;
- Chapter 80 Marijuana Facilities

Background

The City of Tualatin proposes legislative amendments to the Tualatin Development Code (TDC) to establish reasonable time, place and manner regulations for marijuana facilities. Proposed changes include new definitions added to Section 31.060 Definitions; Creating a new Chapter 80 Marijuana Facilities which regulates such aspects as hours of operation, buffer distances from Residential Planning Districts, residential uses, schools, park and libraries, buffers from other facilities and off site odor standards, edible marijuana, butane extraction and homegrown marijuana; adding marijuana facilities as an allowed use in Light and General Manufacturing and the Manufacturing Business Park Planning District (Chapters 60,61 and 64).

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

Plan Amendment Criteria (TDC Section 1.032)

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

1. Granting the amendment is in the public interest.

The State of Oregon has a legislative history dating back to 1998 which has progressively allowed the growing, production, and use of marijuana and marijuana products.

Legislative History

November 1998 - Ballot Measure 67, the Oregon Medical Marijuana Act, was approved by Oregon voters.

August 2013 - The Oregon Health Authority developed a process to register medical marijuana dispensaries under HB 3460.

March 2014 - Senate Bill 1531 reaffirms the existing home rule authority of local governments to adopt reasonable regulations regarding the hours of operation, location, and manner in which medical marijuana dispensaries are operated. Additionally, jurisdictions were allowed to enact a moratorium on dispensaries set to expire May 1, 2015.

April 2014 - The City of Tualatin adopted Ordinance No. 1373-14 which placed a moratorium on medical marijuana facilities until May 1, 2015.

November 2014 - Oregon voters approved Ballot Measure 91 to legalize the use and possession of recreational marijuana on July 1, 2015. Measure 91 creates four types of licenses: producers, processors, wholesalers and retailers. The measure also recognizes that local governments can adopt reasonable time, place and manner regulations of the nuisance aspects of businesses that sell marijuana to consumers.

FINDING: Under Article XI, section 2 of the Oregon Constitution, the City has “home rule” authority to adopt regulations relating to marijuana and marijuana facilities, the time, place and manner regulations. The ability to regulate marijuana facilities was reaffirmed in both SB 1531 and Measure 91.

The current Tualatin Municipal Code (TMC) and Tualatin Development Code (TDC) do not allow marijuana facilities as a use in any planning district. Given the statewide authorization of both medical and recreational marijuana and its related businesses, the lack of regulations causes legal uncertainty about whether and under what circumstances marijuana facilities could be located in the City. City regulations are needed to clarify this uncertainty and establish which planning districts marijuana facilities can be located in and under what restrictions they may operate.

The City hired Riley Research Associates to conduct a Public Opinion Survey among Tualatin residents to gauge their level of support for Marijuana Dispensaries (Attachment 104). While the poll found that a majority of those surveyed supported both medical and recreational dispensaries, the polling also revealed recommendations for time, place and manner regulations.

The City Council has discussed this topic at several meetings over the past year expressing an interest in regulating marijuana uses. In February 2014 and April 2014 the discussion centered around moratoriums on marijuana uses. In August 2014 they received an update on

other Oregon cities' marijuana regulations. Finally, on October 27, 2014, the Council received a briefing on the results from the Public Opinion Survey conducted by Riley Research Associates (Attachment 104).

Based on the laws changing at the State level regarding marijuana uses, the public opinions gathered through a City sponsored research survey and the discussions of elected officials it is in the public's interest to grant this amendment.

Granting the amendment is in the public interest.

Criterion "1" is met.

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

FINDING: The City of Tualatin adopted Ordinance No. 1373-14 which created the city-wide moratorium on marijuana facilities. This was authorized by Article XI, section 2 of the Oregon Constitution and SB 1531. The moratorium is set to expire on May 1, 2015 at which time certain marijuana businesses could operate. However, neither the TMC nor TDC allows marijuana facilities as permitted use in any City planning district. Given the statewide authorization of both medical and recreational marijuana and its related businesses, the lack of City regulations causes legal uncertainty about whether and under what circumstances marijuana facilities could be located in the City. City regulations are needed to clarify this uncertainty and establish which planning districts marijuana facilities can be located and under what restrictions they may operate.

In order to implement reasonable time, place and manner regulations when the moratorium ends, the public interest is best protected by granting the amendment at this time.

Granting the amendment at this time best protects the public interest.

Criterion "2" is met.

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

The applicable objectives of the Tualatin Community Plan are discussed below:

Chapter 7 Manufacturing Planning Districts

Section 7.040 Manufacturing Planning District Objectives

(2) Light Manufacturing Planning District

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, with appropriate restrictions, are the retail sale of products not allowed for sale in General Commercial areas, subject to the Special Commercial Setback from arterial streets and Commercial Services Overlay as generally illustrated in Map 9-5 and specifically set forth in TDC 60.035, and office commercial uses where any portion of a legally created lot is within 60 feet of a CO Planning District boundary.

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...

(3) General Manufacturing Planning District

Suitable for light manufacturing uses and also for a wide range of heavier manufacturing and processing activities. Such areas could be expected to be more unsightly and to have more adverse environmental effects.

(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.

(4) Manufacturing Business Park Planning District

The purpose of the MBP Planning District is to provide an environment for industrial development consistent with the Southwest Tualatin Concept Plan (accepted by the City in October 2010) and as a Metro-designated Regionally Significant Industrial Area (RSIA) consistent with Metro's Urban Growth Boundary expansion decisions of 2002 and 2004.

The MBP Planning District will be a mix of light industrial and high-tech uses in a corporate campus setting, consistent with MBP Planning District development standards.

FINDING: Marijuana facilities as defined will include commercial or public uses or structures where marijuana is sold, consumed, produced, processed, distributed, or transferred. The retail sale of marijuana is not proposed as a permitted use in General Commercial areas of the City and therefore is suitable for Light Manufacturing, General Manufacturing and Manufacturing Business Park with appropriate restrictions. All remaining types of facilities are appropriate for Light Manufacturing and General Manufacturing such as warehousing, wholesaling or manufacturing processes.

The proposed development standards restrict all marijuana facilities to 3,000 square feet in size and therefore comply with objectives of this Chapter.

Facilities that receive a processor license from the OLCC are businesses that will transform raw marijuana into another product or extract. They are also responsible for packaging and labeling of recreational marijuana. This type of use is not expected to create undue amounts of noise, dust, vibration or smoke; however these facilities may produce an odor and there may be hazardous processes associated with extraction. Proposed development standards require that developments confine all marijuana odors and other objectionable odors to levels undetectable at the property line. Tualatin Valley Fire and Rescue reviews all proposed developments and building permits and therefore will regulate any hazardous processes associated with extraction.

Chapter 10. Community Design

Section 10.020 Design Objectives.

(4) Protect and enhance the City's appeal to tourists and visitors and thus support and stimulate business and industry and promote the desirability of investment and occupancy in business, commercial and industrial properties.

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

FINDING: The proposed text amendments are intended to protect and enhance the City's appeal to tourists and visitors by providing for additional development standards beyond what is currently required by the Tualatin Development Code in Chapter 73 Design Standards.

These development standards include:

- hours of operations;
- location of primary entrances facing public or private streets;
- location in a permanent building;
- prohibiting outdoor storage;
- prohibiting drive-through facilities;
- buffers from residential land;
- buffers between facilities

Additionally, the proposed text amendments are intended to sustain the comfort, health, tranquility and contentment of residents. Marijuana businesses can have an adverse impact to residential areas. Businesses containing usable marijuana have greater security issues compared with the average business. Additionally, there is concern that marijuana-related businesses can negatively impact neighborhood character due to increased crime, such as the increased potential for robberies and burglaries. In addition, marijuana businesses increase transitory traffic that is not conducive to neighborhoods. Therefore, in order to

sustain the comfort, health, tranquility, and contentment of residents, a large buffer between marijuana facilities and residential areas is necessary. By requiring marijuana facilities to be located at least 3,000 feet from residential areas, the adverse impacts of marijuana facilities are mitigated.

In addition, placing regulations on home grow uses that require plants to be grown 10 feet away from property lines, 25 feet away from residences on neighboring properties and limiting growing to back yards sustains the comfort, health, tranquility and contentment of residents.

The proposed development standards allow the development of marijuana facilities within the City in a manner that is compatible with surrounding land uses and public facilities.

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

Criterion “3” is met.

4. The following factors were consciously considered:

The various characteristics of the areas in the City.

FINDING: The characteristics of manufacturing and commercial areas were considered in preparation of the text amendments. Medical marijuana facilities are only allowed by state law in commercial, industrial, mixed use, or agricultural land (ORS 475.314). Based on input from the Tualatin Planning Commission and the Tualatin City Council, the downtown area was not recommended as an appropriate location for marijuana facilities given that businesses with usable marijuana have greater security issues and can increase the potential for criminal activity, such as robberies and burglaries. After applying a 3,000 foot buffer to residential areas and excluding commercial planning districts that are found in or near the downtown area, manufacturing planning districts were left as viable opportunities excluding Manufacturing Park (Tualatin Development Code Chapter 62).

Infrastructure such as roads, water lines and sanitary sewer lines in the Manufacturing Park Planning District were built with tax increment financing. The purpose for doing this was to open new lands for employment and industry and over the last 26 years it has accommodated 35 new employers and 2,200 jobs. Therefore, the City strives to maintain this area for high tech or other campus style industrial development.

Based on the above findings, the City finds that the characteristics of the various areas of the City that best suit proposed uses are in the Light and General Manufacturing and Manufacturing Business Park Planning Districts.

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

FINDING: Marijuana facilities are suitable to Light, General and Business Park Manufacturing districts because they are typically removed from places where minors congregate such as schools and libraries. These are industrial lands that are deemed appropriate for medical marijuana dispensaries according to ORS 475.314 and the City intends to equally apply regulations to recreational marijuana retailers as defined in Measure 91.

Trends in land improvement and development.

FINDING: As described above in the background statement the State of Oregon has progressively moved toward a legalized status of marijuana possession and facilities. The proposed text amendment is intended to be adaptive to the new marijuana economy as business and property owners try new and unknown business models.

Property Values.

FINDING: The proposed text amendment is intended to create minimum compliance standards to prevent or mitigate potential negative impacts to property values that could result from marijuana related business activity.

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

FINDING: As described above, the proposed text amendment is intended to be adaptive to the new marijuana economy as business and property owners try new and unknown business models.

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

Not applicable.

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

Not applicable.

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

Not applicable.

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

FINDING: The proposed text amendments are intended to protect the public need for healthful, safe, aesthetic surroundings and conditions. Marijuana businesses can have an

adverse impact to areas. Businesses containing usable marijuana have greater security issues compared with the average business. Additionally, marijuana businesses can result in increased crime, such as the increased potential for robberies and burglaries. By providing for appropriate distance buffers from residential areas and between facility locations in order to prevent or reduce hazards associated with a cash only business, a product with a strong black market value, and the exposure of a controlled product to minors, the text amendment protects the public need for healthful, safe, aesthetic surroundings and conditions.

Proof of change in a neighborhood or area.

FINDING: The City does not assert proof of change in a neighborhood or area.

Mistake in the Plan Text or Plan Map.

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

The above factors were consciously considered.

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.

Because the PTA does not result in a change to plans or development regulations that would impact school facility capacity, Criterion “5” is not applicable.

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

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

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

FINDING: This goal will be met by complying with Tualatin Development Code 1.031 Notice Requirements for Plan Amendments. A notice was published in the Tualatin Times 10 City business days prior to the public hearing. Notices were posted in two conspicuous places within the City and a notice was sent to designated representatives of recognized Citizen Involvement Organizations.

The Tualatin Planning Commission held a public meeting on February 19, 2015. This public meeting gave citizens and members of the public an opportunity to comment on the proposed

text and the Planning Commission considered these comments when making a recommendation to the City Council. A public hearing before the City Council will occur tonight (March 9, 2015), during which the public can give input on the proposed amendment. All work session agendas and minutes are available to the public through the City website.

The City sought input from the public in the form of a public opinion survey the results of which were presented to the City Council during a work session on October 27, 2014.

This Goal is satisfied.

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

The Department of Land Conservation and Development (DLCD) has acknowledged the City’s Comprehensive Plan as being consistent with the statewide planning goals. The Development Code implements the Community Plan and both pieces combine to make the Comprehensive Plan. The Community Plan establishes a process and standards to review changes to the Tualatin Development Code in compliance with the Community Plan and other applicable state requirements. As discussed above under Criteria “3”, the applicable Community Plan standards have been applied to the proposed amendment.

This Goal is satisfied

Goal 6, “Air, Water, and Land Resources Quality”, states, “To maintain and improve the quality of the air, water and land resources of the state.

The Department of Land Conservation and Development (DLCD) has acknowledged the City’s Comprehensive Plan as being consistent with the statewide planning goals. The proposed text amendments create a development standard that will buffer land uses and prevent or mitigate off-site impacts that could lead to conflicting impacts upon air resources.

This Goal is satisfied

Article XI, Section 2 of the Oregon Constitution.

The City of Tualatin has “home rule” authority over the civil affairs of its City. The City’s regulations of marijuana business are consistent with this home rule authority, as well as state land use laws.

Applicable Provisions of the Oregon Medical Marijuana Act

Initially adopted by State ballot measure in 1998, the Oregon Medical Marijuana Act (ORS 475) governs the production, distribution, and use of medical marijuana within the State of

Oregon. In March 2014, the Oregon Legislature amended ORS 475 under Senate Bill 1531 which restates the already existing ability of local governments to impose reasonable regulations on the operation of medical marijuana facilities under home rule authority.

SECTION 2. Notwithstanding ORS 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of medical marijuana facilities registered, or applying for registration, under ORS 475.314 that are located in the area subject to the jurisdiction of the city or county. For purposes of this section, “reasonable regulations” includes reasonable limitations on the hours during which a medical marijuana facility may be operated, reasonable limitations on where a medical marijuana facility may be located within a zone described in ORS 475.314 (3)(a) and reasonable conditions on the manner in which a medical marijuana facility may dispense medical marijuana.

FINDING: The proposed amendments establish reasonable restrictions on hours of operation, allowed locations, and design and operational requirements to prevent or mitigate potential offsite community impacts. Senate Bill 1531 does not define “reasonable” therefore the City has relied on existing regulations in the Tualatin Development Code and proposed regulations from other cities and counties in the state. The proposed amendments allow facilities in three manufacturing zones located in the western portion of the City. Proposed language is included as Attachment 102 and a map with 3,000 foot buffers from residential districts is included as Attachment 101.

Based on the findings above, the City finds that the proposed text amendment is consistent with the Oregon Medical Marijuana Act.

Applicable Provisions of the Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act (Measure 91)

On November 4, 2014 Oregon voters approved ballot Measure 91 (Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act) to legalize the use and possession of recreational marijuana on July 1, 2015. The law also directs the Oregon Liquor Control Commission to tax, license, and regulate recreational marijuana. Section 59 of the act specifically authorizes local governments seeking to impose reasonable time, place, and manner restrictions in order to address adverse community impacts.

SECTION 59. Authority of cities and counties over establishments that serve marijuana. (1) Cities and counties may adopt reasonable time, place and manner regulations of the nuisance aspects of establishments that sell marijuana to consumers if the city or county makes specific findings that the establishment would cause adverse effects to occur.

FINDING: The proposed amendments establish reasonable restrictions on hours of operation, allowed locations, and design and operational requirements to prevent or mitigate

potential offsite community impacts. The City regulations are consistent with existing reasonable regulations in the Tualatin Development Code and reasonable regulations relating to marijuana, including regulations from other cities and counties in the state. The proposed amendments allow facilities in three manufacturing zones located in the western portion of the City. Proposed language is included as Attachment 102 and a map with 3,000 foot buffers from residential districts is included as Attachment 101.

As described below and in the purpose statement of the proposed text, the intent of proposed amendments is to prevent or mitigate possible adverse community impacts associated with marijuana facilities. These include but are not limited to the following:

- (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.

Based on the findings above, the City finds that the proposed code text amendment is consistent with Measure 91 (Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act).

Ballot Measure 56 Notice to property owners of hearing on certain zone change; form of notice; exceptions; reimbursement of cost. (ORS 227.186)

Section (3) Except as provided in subsection (6) of this section, at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to amend an existing comprehensive plan or any element thereof, or to adopt a new comprehensive plan, a city shall cause a written individual notice of a land use change to be mailed to each owner whose property would have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance becomes effective.

Section (4) At least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone property, a city shall cause a written individual notice of a land use change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone.

- (9) For purposes of this section, property is rezoned when the city:**
- (a) Changes the base zoning classification of the property; or**
 - (b) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.**

FINDING: Measure 56 requires local jurisdictions to notify property owners when a change to a comprehensive plan or zoning ordinance could result in a rezone of property. As stated above, ORS 227.186 (9) defines rezone as a change to the base zoning classification or a change that limits or prohibits previously allowed land uses. The proposed amendments in this application will not change the base zoning classification of any properties. The City of Tualatin does not have a zoning ordinance but instead relies on Planning Districts to implement land use. No Planning Districts are proposed to change as a result of these amendments. Additionally, the proposed amendments do not limit or prohibit currently allowed land uses. Marijuana facilities and marijuana uses are currently not permitted in any Planning District (see, e.g., Tualatin Municipal Code Chapter 9-08). The amendments will actually create new permitted uses in three existing Planning Districts: Light Manufacturing, General Manufacturing and Manufacturing Business Park.

Based on the findings above, the City finds that the proposed amendments will not change the base zoning or limit or prohibit currently or previously allowed land uses in the affected Planning Districts and therefore a Measure 56 notice is not required.

The PTA complies with Goals 1, 2 and 6, and it complies with the Oregon Medical Marijuana Act, Measure 91 and Measure 56. Criterion “6” is met.

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

Title 4: Industrial and Other Employment Areas

3.07.430 Protection of Industrial Areas

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.**

FINDING: The Oregon Medical Marijuana Act, ORS 475.314, requires medical marijuana facilities to locate in land zoned for commercial, industrial, mixed-use, or agricultural land. The City's proposed amendments require a 3,000 foot buffer from residential Planning Districts. This buffer eliminates the ability for marijuana facilities to locate in commercial Planning Districts, and the City does not have agricultural land use designations. The remaining land that is eligible for marijuana facilities as shown on Metro's Employment and Industrial Areas Map as of January 8, 2014, is Industrial Area.

We believe it is acceptable to locate marijuana facilities on land identified by Metro as Industrial for the following reasons:

1. The proposed amendment limits the size of each facility to 3,000 square feet which is below the 5,000 square foot limitation in Metro Code 3.07.430. Additionally, the Oregon Medical Marijuana Act and the City's proposed amendments prohibit co-location of retail and grow sites which means that at no time could there be more than 3,000 square feet of any type of facility on a parcel of land identified as Industrial Area.
2. The proposed amendments also establish a minimum distance of 2,000 feet between marijuana facilities which also limits the possibility of too much industrial land being converted to a retail use.
3. The proposed amendments define marijuana facilities as "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)." It is possible that not all marijuana facilities will be retail and some may be manufacturing uses that fit in a traditional industrial area.

Based on the above findings, the City finds that the proposed amendments continue to protect land identified as industrial by Metro for industrial and employment purposes, and therefore, the amendments comply with Title 4 Industrial and Other Employment Areas.

The PTA complies with Metro's Urban Growth Management Functional Plan. Criterion "7" is 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.

Because the PTA does not relate to vehicle trip generation, Criterion "8" is not applicable.