



**PUBLIC WORKS COMMITTEE
AGENDA**

**Online via Zoom and In Person at
Tumwater City Hall, Council Conference
Room, 555 Israel Rd. SW, Tumwater, WA
98501**

**Thursday, July 07, 2022
8:00 AM**

1. Call to Order
2. Roll Call
- [3.](#) Ordinance No. O2022-006, Planned Unit Development – Development Guide Amendments – Private Streets (Brad Medrud)
- [4.](#) 2022 Annual Striping Project - Authority to Solicit Bids and Award Contract (Christopher Ed)
- [5.](#) Interagency Agreement No. K7666, Department of Enterprise Services Energy Program (Alyssa Jones Woods)
6. Additional Items
7. Adjourn

Meeting Information

All committee members will be attending remotely. The public are welcome to attend in person, by telephone or online via Zoom.

Watch Online

<https://us02web.zoom.us/j/85000253522?pwd=OXB0TEJITjNJdjZrenpTVU5MM0VXQT09>

Listen by Telephone

Call (253) 215-8782, listen for the prompts and enter the Webinar ID 850 0025 3522 and Passcode 016839.

Public Comment

The public may submit comments by sending an email to council@ci.tumwater.wa.us, no later than 5:00 p.m. the day before the meeting. Comments are submitted directly to the Committee members and will not be read individually into the record of the meeting.

Post Meeting

Audio of the meeting will be recorded and later available by request, please email CityClerk@ci.tumwater.wa.us.

Accommodations

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accommodation or alternate format of communication, please contact the City Clerk by calling (360) 252-5488 or email CityClerk@ci.tumwater.wa.us. For vision or hearing impaired services, please contact the Washington State Relay Services at 7-1-1 or 1-(800)-833-6384. To contact the City's ADA Coordinator directly, call (360) 754-4128 or email ADACoordinator@ci.tumwater.wa.us.

TO: Public Works Committee
FROM: Brad Medrud, Planning Manager
DATE: July 7, 2022
SUBJECT: Ordinance No. O2022-006, Planned Unit Development – Development Guide Amendments – Private Streets

1) Recommended Action:

Conduct a briefing on the amendments to the *Tumwater Development Guide* related to private streets that are a part of Ordinance No. O2022-006.

2) Background:

The City's current regulations for planned unit developments in TMC 18.36 *PUD Planned Unit Development Overlay* have not been substantially updated since 2000. To date, planned unit developments in the City have provided a benefit to developers in the form of flexibility with existing regulations such as setbacks, maximum land coverage, and private streets, but have provided no quantifiable benefit to the City or the public.

Planned unit developments in other jurisdictions typically provide a quantifiable public benefit in exchange for flexibility in addressing existing regulations. The amendments to TMC Chapter 18.36 *PUD Planned Unit Development Overlay* provide developers flexibility in addressing existing regulations in exchange for requiring that new developments provide quantifiable public benefits.

In addition, TMC Chapter 18.36 *PUD Planned Unit Development Overlay* does not clearly address the requirements for private streets as part of planned unit developments. The amendments to the planned unit development chapter will provide more specificity in regards to when and how private streets are allowed. The definition of a private street in TMC Title 17 *Land Division* is not consistent with the definition in the *Tumwater Development Guide*. The proposed amendments will amend the definition of a private street in the Tumwater Municipal Code so it is consistent the *Tumwater Development Guide* and amend the sections of the *Tumwater Development Guide* that addresses private streets as needed.

3) Policy Support:

Economic Development Plan Goal 1: "Establish a development climate that stimulates economic activity and desirable investment."

Economic Development Plan Strategy 1.D: "Ensure a predictable and efficient experience for business owners and developers seeking to invest in Tumwater."

Land Use Element Implementation Policy 11 of Section 3.3: "Modify the land use regulatory review, permitting, and approval system for consistency with the Growth Management Act and adopted plans to ensure predictability and allow processing of development permits in a timely and fair manner."

4) Alternatives:

☐ None

5) Fiscal Notes:

This is an internally funded work program task.

6) Attachments:

- A. Development Guide Amendments Staff Report
- B. Ordinance No. O2022-006
- C. Ordinance No. O2022-006 Staff Report
- D. Presentation



Attachment A

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**PLANNED UNIT DEVELOPMENT AMENDMENTS
(ORDINANCE NO. O2022-006)
TUMWATER DEVELOPMENT GUIDE AMENDMENTS –
PRIVATE STREETS STAFF REPORT
PUBLIC WORKS COMMITTEE JULY 7, 2022 BRIEFING**

Issue

The City's current regulations for planned unit developments have not been substantially updated since 2000. The regulations in TMC Chapter 18.36 *Planned Unit Development Overlay* are being amended by Ordinance No. O2022-006 and portions of the *Tumwater Development Guide* related to private streets will be amended at the same time.

The Public Works Committee of the City Council will meet on July 7, 2022 to review and discuss the amendments to the *Tumwater Development Guide* related to private streets, and send a recommendation to the City Council for discussion at a worksession on July 26, 2022 and consideration on August 1, 2022.

The General Government Committee of the City Council will meet on July 13, 2022 to review and discuss the rest of the amendments to Title 18 *Zoning* and TMC Chapter 18.36 *Planned Unit Development Overlay*. These amendments are discussed in more detail in the Ordinance No. O2022-006 Staff Report (Attachment C).

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Summary

The proposed amendments are intended to update the requirements for private streets and to be consistent with the amendments to TMC Chapter 18.36 *Planned Unit Development Overlay* proposed by Ordinance No. O2022-006.

Background

Planned unit developments are intended to provide a benefit to developers in the form of flexibility with existing regulations such as setbacks, maximum land coverage, and private streets in exchange for providing quantifiable public benefits. As currently written, TMC Chapter 18.36 *Planned Unit Development Overlay* provides a benefit to developers in the form of flexibility with existing regulations such as setbacks, maximum land coverage, and private streets, but has provided no quantifiable benefit to the public.

The amendments to TMC Chapter 18.36 *Planned Unit Development Overlay* provide developers flexibility in addressing existing regulations in exchange for requiring that new developments provide quantifiable public benefits.

TMC Chapter 18.36 *Planned Unit Development Overlay* does not clearly address the requirements for private streets as part of planned unit developments and the amendments will provide more specificity in regards to when and how private streets are allowed. TMC Title 17 *Land Division* has a definition of a private street that is not consistent with the definition in the *Tumwater Development Guide* and the amendments amend the definition of a private street in the Tumwater Municipal Code so it is consistent with the *Tumwater Development Guide*.

The amendments are a part of the approved 2022 Long Range Planning work program.

Tumwater Development Guide Amendments

CHAPTER THREE

Section 3.4.A (Page 3-4)

GENERAL ENGINEERING CONSIDERATIONS

3.4 Definitions and Terms

[...]

"PRIVATE STREET" - A privately owned and maintained vehicular access serving property, which is provided for by an access tract, easement, or other legal means~~Private vehicular access provided for by an access tract, easement, or other legal means, to serve property that is privately owned and maintained.~~

[...]

Staff Notes: The definition in Section 3.4 of the Tumwater Development Guide for “private street” is amended to be consistent with the amended definition of “private street” in TMC 17.04.385 Private Street.

Section 3.9 (Page 3-8)

GENERAL ENGINEERING CONSIDERATIONS

3.9 Construction Control and Inspection

Work performed for the construction or improvement of public or private roads and utilities, whether by or for a private developer, by City staff, or by a City contractor, shall be done in accordance with approved plans. It is emphasized that no work shall be started until such plans are approved. Any revision to such plans shall be approved by the City before being implemented. Failure to receive the City's approval can result in removal or modification of construction at the contractor's or developer's expense to bring it into conformance with approved plans.

Staff Notes: No amendments are proposed to this section.

Section 3.18 (Page 3-15 and 3-16)**GENERAL ENGINEERING CONSIDERATIONS****3.18 Utility Extension**

- A. Anyone who wishes to extend any City utility should contact the ~~Development Services~~Transportation and Engineering Department for an Extension/Connection Fee Estimate and any special extension requirements.
- B. Utility mains shall be required to be extended to and along all frontages, including private roads, any property being developed for loop closures and/or future development as determined by the City. Size shall be as shown on comprehensive plans or as required to serve future development but not less than the minimums required elsewhere in this document.
- C. In the case of a property being developed and, upon the determination of the ~~Development Services~~Transportation and Engineering Director, not being required to connect to the city utility for reasons typically associated with the property's lack of proximity to existing utilities or location outside city limits, but within the urban growth area, the owner may be allowed the option, at the discretion of the ~~Development Services~~Transportation and Engineering Director, of paying a fee in lieu of actual installation of the otherwise required extensions. The fee in lieu payment will be equal to 50% of the estimated cost for the city to install the extensions.
- D. For utility extensions outside the City limits, all infrastructure improvements should be made at the more restrictive jurisdictional requirements.
- E. For more specific information regarding utilities, please refer to the appropriate chapter in this Guide.

Staff Notes: *Section 3.18 is updated to reflect the current structure of the City Departments and the Growth Management Act requirements about limiting urban services to the City and its urban growth area.*

CHAPTER FOUR**Section 4.4 Functional Classification (Page 4-7)****STREETS****4.4 Functional Classification**

[...]

[Note: TABLE ONE in Section 4.4 was replaced in its entirety by the Street Section Design table on the next page as part of the October 5, 2020 *Tumwater Development Guide* amendments.]

Street Section Design

Street Classification	Minimum ^{5,9} Structural Design	20 Year ADT	Right-of-Way	Pavement Width	Parking Lane	Min/Max Grade	Curb	Sidewalks	Planter Strip	Intersection Curb Radius	Minimum Design Speed	Bike Lanes ⁸
Principal/ Minor Arterial ^{1,2}	0.50' HMA 0.20' CSTC 1.50' CSBC	15,000	Width of required improvement + 2' per side (60' min.)	12' per lane plus bike	None	0.5%-8%	Concrete curb and gutter	Both side 6' SEP	6'-10' determined by City	35-50	40	(2) 7' bike lanes ⁷ in designated areas
Commercial/Industrial Collector	0.50' HMA 0.20' CSTC 1.00' CSBC	2,000-6,000	Width of required improvement + 2' per side (60' min.)	12' per lane plus bike	None	0.5%-10%	Concrete curb and gutter	Both side 6' SEP	6'-10' determined by City	40	30	(2) 6' bike lanes in designated areas
Urban Collector ^{3,3}	0.50' HMA 0.20' CSTC 1.00' CSBC	500-7,000	Width of required improvement + 2' per side (60' min.)	12' per lane plus bike and/or parking	Two	0.5%-10%	Concrete curb and gutter	Both side 6' SEP	6'-10' determined by City	35	25	(2) 6' bike lanes in designated areas
Local Residential ^{4,6}	0.33' HMA 0.20' CSTC 0.80' CSBC	Less than 500	60 50 (alternate)	32 (20)	Two	0.5%-15%	Concrete curb and gutter	Both side 6' SEP	6' or (variable)	25	20	N/A
Local Residential Reduced ¹⁰	0.33' HMA 0.20' CSTC 0.80' CSBC	Less than 500	35 - 60	24 - 32	None to Two	0.5%-15%	Concrete curb and gutter	One side min.	6' or (variable)	25	20	N/A
Private	0.20' HMA 0.20' CSTC 0.70' CSBC	N/A	30' easement	26	One	0.5%-15%	N/A	One side min.	6' or (variable)	25	N/A	N/A
Private Alleys	0.20' HMA 0.20' CSTC 0.70' CSBC	N/A	N/A	16	None	N/A	N/A	N/A	N/A	N/A	N/A	N/A
MINIMUM STREET STANDARDS				CITY OF TUMWATER				ENGINEERING DEPARTMENT		STANDARD PLAN	UPDATED 05-04-2020	

1. Principal arterial should be a minimum width of four lanes

2. Landscaped medians may be required upon review and approval of the Public Works Director

3. See detail ST-01, ST-02

4. See detail ST-03, ST-04

5. Minimum structural sections shall be used absent a site specific AASHTO structural roadway design utilizing a field verified "R" value. A site specific AASHTO structural roadway design will be required where poor soil characteristics exist

6. Roadways within developments estimated to create less than 500 ADT, with single access, no thru, and no potential for thru street will not be required to have sidewalks on one side

7. 7' bike lanes consist of 5' of pavement plus a 2' buffer stripe

8. Bike lanes include gutter (City may reduce bike lane width to 5' at its sole discretion)

9. For designated truck routes the section shall be 0.67' of HMA, 0.20' of CSTC, and 1.50' of CSBC. Truck routes include those shown in City of Tumwater Municipal Code 10.20.050, additional road segments designated by the City since the last update to applicable sections of the Tumwater Municipal Code, and additional road segments the City determines need to meet designated truck route requirements as a result of the proponent's development activity

10. At the discretion of the City, improvements and right-of-way widths may be reduced where there exists conditions of topography, access, location, shape, size, drainage or other physical features of the site or other adjacent development. The City may also consider use of this provision for narrow infill sites where it is unlikely redevelopment of other properties in the vicinity will occur. This provision should not be considered the preferred alternative

[...]

Staff Notes: No amendments are proposed to this section.

Section 4.5 Naming (Page 4-5)**STREETS****4.5 Naming**

Streets and roads shall be named according to specific criteria. All streets lying west of Capitol Boulevard are designated Southwest (SW). Streets lying east of Capitol Boulevard are designated Southeast (SE). "Avenues" run east-west and are numbered with the exception of certain long-standing historical names. "Streets" run north-south and are named. "Drives" are irregular or diagonal streets over two grid blocks in length not conforming to the grid pattern. "Places" shall be a north-south street, parallel to but between streets. "Ways" shall be an east-west street parallel to but between avenues. "Courts" shall be a cul-de-sac which cannot be extended. Courts are to be named or numbered and carry the number of the preceding street or avenue. "Loops" shall be small loop-type streets to carry the name of the street from which they originate. "Lanes" shall be private streets.

An address number will be assigned to all new buildings at the time the building permit is issued. It is then the owner's responsibility to see that the house numbers are placed clearly and visibly on the structure at the main entrance to the residence or place of business and/or at the principal place of ingress.

New development projects must check with the Building Official regarding the naming of streets within proposed developments. This should be done at the time the preliminary plat is submitted and again upon approval of the final plat. The Building Official will insure that the name assigned to a new street is consistent with policies of the City and is not in conflict with existing street names within the county and other cities. The City has final authority for designation of street names.

Staff Notes: *No amendments are proposed to this section. Private streets will continue to be called "Lanes".*

Section 4.8 Private Streets (Pages 4-6 and 4-7)**STREETS****4.8 Private Streets**

See definition of private street in Section 3.4.

A. Private streets may be allowed under the following conditions:

1. A private street may be pPermanently established by tract or easement to provide legal access to serve no more than four dwelling units. If all of the dwelling units in a development meet the

~~federal definition of low income, then the private street may serve up to nine detached single family dwellings or up to thirty-five attached single family or multifamily dwelling units. A private street may serve up to four businesses on separate parcels, or four businesses situated on one parcel, or businesses on four separate parcels, or unlimited dwelling units or businesses situated on one parcel and sufficient to accommodate required improvements, to include provisions for future use by adjacent property owners when applicable. The four parcel restriction does not apply to private streets in the Port of Olympia Airdustrial Park private roads New Market Industrial Center due to Federal Aviation Administration requirements. In addition, private streets may be allowed as part of an approved PUD, if conditions 2-5, below, are met.~~

2. ~~In addition, private streets may be allowed as part of an approved PUD, if conditions 2-5, below, are met.~~ Meet the minimum design standards for private streets in ~~Table 1~~ the Street Section Design table in Section 4.4.
3. Accessible at all times for emergency and public service vehicle use.
4. -Will not result in landlocking of present or future parcels nor obstruct public street circulation.
5. Covenants have been approved, recorded, and verified with the City, which provide for maintenance of the private streets and associated parking areas by the owner or homeowners association or other legal entity.
6. Private streets must include provisions for future use by adjacent property owners when applicable.
- ~~5-7.~~ Private streets may be allowed as part of an approved planned unit development, if the requirements of TMC 18.36.100(B) are met.

B. Acceptance as Public Streets.

Acceptance of private streets as public streets will be considered only if the street(s) meet all applicable public street standards, including right-of-way widths. The developers engineer shall provide as built designs and testing to confirm proper construction standards.

Staff Notes: Amendments to this section match proposed amendments to the Planned Unit Development Chapter in TMC 18.36.

Section 4.10 Cul-de-sac (Pages 4-8)**STREETS****4.10 Cul-de-sac**

Streets designed to have one end permanently closed shall be no longer than 500 feet. At the closed end, there shall be a widened "bulb" having a minimum paved traveled radius as shown in the Minimum Street Design Standards Table. A "Y" or "T" which allows for comparable ease in turning for emergency vehicles may be allowed on private streets.

Staff Notes: No amendments are proposed to this section.

Section 4.31 Design Standards (Page 4-23)**ILLUMINATION****4.31 Design Standards**

[...]

AVERAGE MAINTAINED HORIZONTAL ILLUMINATION**(FOOT CANDLES)****AREA CLASS**

Road Class	Residential	Intermediate	Industrial	Commercial
Local/Private	0.2	0.6	N/A	N/A
Collector	0.5	0.7.	0.8	0.9
Arterial	0.7	1.0	1.2	1.4

Uniformity ratio: 6:1 average: minimum for local
 4:1 average: minimum for collector
 3:1 average: minimum for arterial

Dirt Factor = 0.85, lamp lumen depreciation factor = 0.73

Weak Point Light = 0.2fc except residential local street

Average illumination at intersections 1.5 times the illumination required on the more highly illuminated street.

Line loss calculations shall show that no more than five percent voltage drop occurs in any circuit. Lamp Load factor shall equal 1.2. Pole foundations shall be per detail number ST-25 and ST-26. Poles shall be as follows:

	6' Single Arm	8' Single Arm	8' Twin Arm
GE	RRTA40SA6S8.01B	RRTA40SA8S8.01B	RRTA40SA8D10.02B
Hap Co	50700-001	50700-002	50701.013
Lexington	3608-45806T4	3608-45806T4	3608-60106T4
Valmont	21-40006CS0845	21-40008CS0845	22-40008CLS1060

Use type of pole already in use on a roadway.

Staff Notes: *No amendments are proposed to this section.*

Public Approval Process

The Planning Commission held a briefing on the proposed amendments on April 26, 2022 and its first worksession on May 10, 2022. The Planning Commission held a second worksession on June 14, 2022.

An Environmental Checklist for a non-project action was prepared on April 5, 2022 under the State Environmental Policy Act (Chapter 43.21C RCW), pursuant to Chapter 197-11 WAC, and a Determination of Non-Significance was issued on April 28, 2022.

The ordinance was sent to the Washington State Department of Commerce on April 5, 2022 for the required 60-day review before the proposed text amendments were adopted, in accordance with RCW 36.70A.106.

A Notice of Public Hearing for the Planning Commission was issued on June 17, 2022 prior to a public hearing. The notice was posted, published as a press release, distributed to interested individuals and entities that have requested such notices, and published in The Olympian.

The Planning Commission held a public hearing for the proposed amendments on June 28, 2022. Following the public hearing and deliberations, the Planning Commission is expected to make a recommendation that Council on the proposed amendments.

The Public Works Committee will hold a briefing on the proposed private streets amendments to the *Tumwater Development Guide* on July 7, 2022.

The General Government Committee will review the proposed amendments in a briefing on July 13, 2022 and recommend that the ordinance be discussed at a City Council worksession. The City Council is scheduled to review the amendments at a worksession on July 26, 2022 and consider the amendments on August 1, 2022.

Public Notification

A Notice of Public Hearing for the Planning Commission was issued, posted, mailed to interested parties, and published in The Olympian on June 17, 2022, after the Planning Commission set the public hearing date on June 14, 2022.

Staff Conclusions

1. The proposed text amendments are consistent with the goals of the Washington State Growth Management Act.

- a. The amendments in Ordinance No. O2022-006 and to the *Tumwater Development Guide* are consistent with Goal 7 of the Growth Management Act which states:

“Permits. Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.”

The amendments establish concise requirements for the application, review process, and approval of planned unit developments.

2. The proposed amendments are consistent with the Economic Development Plan because the proposed amendments improve the clarity and specificity of the regulations for submittal, review, and approval of planned unit developments.

- a. Goal #1 of the Economic Development Plan states:

“Establish a development climate that stimulates economic activity and desirable investment.”

- b. The text of the Economic Development Plan states that one of the ways to support Goal #1 is:

“...by making ongoing improvements to existing development regulations, systems, and processes.”

- c. Action item 1.D. of the Economic Development Plan states:

“Ensure a predictable and efficient experience for business owners and developers seeking to invest in Tumwater.”

The amendments improve the existing regulations for the application, review process, and approval of planned unit developments.

3. The proposed amendments are consistent with the Land Use Element because it clarifies and refines the process for reviewing and approving planned unit developments.

- a. Implementation Policy 11 of Section 3.3 of the Land Use Element states:

“Modify the land use regulatory review, permitting, and approval system for consistency with the Growth Management Act and adopted plans to

ensure predictability and allow processing of development permits in a timely and fair manner.”

4. Based on the above review and analysis, staff concludes that the proposed text amendments are consistent with the requirements of the Washington State Growth Management Act and the Tumwater Comprehensive Plan.

Planning Commission Recommendation

The Planning Commission recommends approval of the proposed amendments to the *Tumwater Development Guide* as shown in this memorandum.

Effects of the Proposed Amendments

The proposed text amendments would necessitate changes to the Tumwater Municipal Code as shown in Ordinance No. O2022-006 and to the *Tumwater Development Guide*.

Staff Contact

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ORDINANCE NO. O2022-006

AN ORDINANCE of the City Council of the City of Tumwater, Washington updating planned unit development requirements by amending Tumwater Municipal Code (TMC) Title 17 *Land Division* and TMC Title 18 *Zoning* as more particularly described herein.

WHEREAS, TMC Chapter 18.36 *PUD Planned Unit Development Overlay* contains requirements for planned unit developments that have not been substantially updated since 2000; and

WHEREAS, TMC Chapter 18.36 *PUD Planned Unit Development Overlay* provides a benefit to developers in the form of flexibility with existing regulations such as setbacks, maximum land coverage, and private streets and has provided no quantifiable benefit to the public; and

WHEREAS, planned unit developments in other jurisdictions typically provide a quantifiable public benefit in exchange for flexibility in addressing existing regulations; and

WHEREAS, the amendments to TMC Chapter 18.36 *PUD Planned Unit Development Overlay* provide developers flexibility in addressing existing regulations in exchange for requiring that new developments provide quantifiable public benefits; and

WHEREAS, the amendments to TMC Chapter 18.36 *PUD Planned Unit Development Overlay* revise the criteria for the Hearing Examiner decision; and

WHEREAS, TMC Chapter 18.36 *PUD Planned Unit Development Overlay* does not clearly address the requirements for private streets as part of planned unit developments; and

WHEREAS, the amendments to TMC Chapter 18.36 *PUD Planned Unit Development Overlay* provide more specificity in regards to when and how private streets are allowed; and

WHEREAS, the definition of a private street in TMC Title 17 *Land Division* is not consistent with the definition in the Tumwater Development Guide; and

WHEREAS, the amendments amend the definition of a private street in the Tumwater Municipal Code so it is consistent the Tumwater Development Guide; and

WHEREAS, the City is required to plan under Chapter 36.70A RCW, the Growth Management Act; and

WHEREAS, Goal #7 of the Growth Management Act states “...applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability”; and

WHEREAS, this ordinance establishes concise requirements for the application, review process, and approval of planned unit developments; and

WHEREAS, this ordinance meets the goals and requirements of the Growth Management Act; and

WHEREAS, the City has adopted a Comprehensive Plan, in accordance with the Growth Management Act; and

WHEREAS, the Economic Development Plan and the Land Use Element are elements of the Comprehensive Plan; and

WHEREAS, Goal 1 of the Economic Development Plan is “Establish a development climate that stimulates economic activity and desirable investment”; and

WHEREAS, the Economic Development Plan mentions that one of the ways to support Goal 1 is “...by making ongoing improvements to existing development regulations, systems, and processes”; and

WHEREAS, Strategy 1.D of the Economic Development Plan is “Ensure a predictable and efficient experience for business owners and developers seeking to invest in Tumwater”; and

WHEREAS, clear and consistent development regulations support Goal 1 and Strategy 1.D of the Economic Development Plan; and

WHEREAS, the proposed amendments to TMC Title 17 *Land Division* and TMC Title 18 *Zoning* improve the clarity and specificity of the regulations for the submission, review process, decision making, and approval for planned unit developments; and

WHEREAS, the proposed amendments to TMC Title 17 *Land Division* and Title 18 *Zoning* are consistent with the Economic Development Plan; and

WHEREAS, Implementation Policy 11 of Section 3.3 of the Land Use Element states, “Modify the land use regulatory review, permitting, and approval system for consistency with the Growth Management Act and adopted plans to ensure

predictability and allow processing of development permits in a timely and fair manner”; and

WHEREAS, this ordinance is consistent with Implementation Policy 11 of Section 3.3 of the Land Use Element because it clarifies and refines the process for reviewing and approving planned unit developments; and

WHEREAS, this ordinance is consistent with the Comprehensive Plan; and

WHEREAS, in accordance with RCW 36.70A.106 and WAC 365-196-630, a notice of intent to adopt the proposed new development regulations was sent to the State of Washington Department of Commerce and to other state agencies on April 5, 2022 to allow for a sixty-day review and comment period, which comment period ended prior to adoption of this ordinance; and

WHEREAS, an Environmental Checklist for a non-project action was prepared under the State Environmental Policy Act (Chapter 43.21C RCW) on April 5, 2022, pursuant to Chapter 197-11 WAC, and a Determination of Non-Significance (DNS) was issued on April 28, 2022; and

WHEREAS, the Attorney General *Advisory Memorandum and Recommended Process for Evaluating Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property* (September 2018) was reviewed and utilized by the City in objectively evaluating the proposed amendments; and

WHEREAS, the Planning Commission received a briefing on the proposed code amendments on April 26, 2022, held worksessions on May 10, 2022 and June 14, 2022, and held a public hearing on June 28, 2022; and

WHEREAS, following the public hearing and deliberations, the Planning Commission recommended the proposed code amendments to the Tumwater Municipal Code to the City Council; and

WHEREAS, the General Government Committee held a briefing on the proposed code amendments on July 13, 2022; and

WHEREAS, the Public Works Committee held a briefing on the proposed amendments to the Tumwater Development Guide on July 7, 2022; and

WHEREAS, the City Council discussed the proposed code amendments in a worksession on July 26, 2022 and considered the proposed code amendments on August 1, 2022; and

WHEREAS, the City Council finds that the provisions of this ordinance are in the best interest of and protect the health, safety, and welfare of the residents of the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUMWATER, STATE OF WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Section 17.04.385 of the Tumwater Municipal Code is hereby amended to read as follows:

17.04.385 Private street.

“Private street” means a privately owned and maintained vehicular access serving property, which is provided for by an access tract, easement, or other legal means~~roadway owned and maintained by five or more individuals or businesses for the purpose of providing vehicular access to their properties.~~

(Ord. 1308, Added, 10/15/1991)

Section 2. Section 17.04.390 of the Tumwater Municipal Code is hereby amended to read as follows:

17.04.390 Public facilities.

“Public facilities” includes s, but is not limited to, streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and open space, recreational facilities, schools, school bus stops, ~~and~~ transit centers, and transit stops.

(Ord. 1308, Added, 10/15/1991)

Section 3. Section 18.07.010 of the Tumwater Municipal Code is hereby amended to read as follows:

18.07.010 Residential zone districts permitted and conditional uses.

If there are any inconsistencies between Table 18.07.010 and the specific requirements in the underlying zoning district, the requirements in the underlying zoning district shall be followed.

TABLE 18.07.010
RESIDENTIAL ZONE DISTRICTS PERMITTED AND CONDITIONAL
USES

RESIDENTIAL DISTRICTS Note: See Figure 18.23.020 for residential uses allowed in the TC town center zone district; and Table 18.27.040 for residential uses allowed in the BD brewery district zone	RSR	SFL	SFM	MFMM	MFH	MHP	Applicable Regulations
Adult family homes, residential care facilities	P	P	P	P	P		18.53
Agriculture up to 30 acres in size	P	P	P	P			18.42.070
Animals (the housing, care and keeping of)	P	P	P	P			6.08
Attached wireless communication facilities	P	P	P	P	P		11.20
Bed and breakfasts	C ¹	C ¹	C ¹	P		C ¹	18.56
Cemeteries	C	C	C	C	C	C	18.56
Child day care center	C	C	C	C	C	C	18.56
Churches	C	C	C	C	C	C	18.56
Community garden	P	P	P	P	P		
Cottage housing	P	P	P	P			18.51
Designated manufactured home parks				P			18.48; 18.49
Designated manufactured homes	P	P	P	P		P	18.48
Duplexes	P ²	P ²	P ³	P			
Emergency communication towers or antennas	C	C	C	C	C	C	18.56; 11.20

TABLE 18.07.010

**RESIDENTIAL ZONE DISTRICTS PERMITTED AND CONDITIONAL
USES**

RESIDENTIAL DISTRICTS Note: See Figure 18.23.020 for residential uses allowed in the TC town center zone district; and Table 18.27.040 for residential uses allowed in the BD brewery district zone	RSR	SFL	SFM	MFMM	MFH	MHP	Applicable Regulations
Family child care home, child mini-day care center	P	P	P	P	P	P	18.52
Fourplexes				P	P		
Group foster homes	C	C	C	C	C	C	18.56
Inpatient facilities				C	C		18.56
Medical clinics or hospitals				C	C		18.56
Mental health facilities				C	C		18.56
Multifamily dwellings				P	P		
Manufactured home parks in accordance with the provisions of TMC Chapter 18.48						P	18.48
Mobile home parks which were legally established prior to July 1, 2008						P	18.48
Neighborhood community center	C	C	C	C	C	C	18.56
Neighborhood-oriented commercial center		C	C	C	C	C	18.56
Parks, trails, open space areas and recreational facilities	P	P	P	P	P	P	

TABLE 18.07.010

RESIDENTIAL ZONE DISTRICTS PERMITTED AND CONDITIONAL USES

RESIDENTIAL DISTRICTS Note: See Figure 18.23.020 for residential uses allowed in the TC town center zone district; and Table 18.27.040 for residential uses allowed in the BD brewery district zone	RSR	SFL	SFM	MFMM	MFH	MHP	Applicable Regulations
Planned unit developments		P	P	P	P	<u>P</u>	18.36
Private clubs and lodges			C	C	C		18.56
Recreational vehicle parks				C			18.56
Schools	C	C	C	C	C	C	18.56
Senior housing facilities, assisted				C	C		18.56
Senior housing facilities, independent				P	P		
Single-family detached dwellings	P	P	P			P	
Single-family detached dwellings existing prior to April 15, 2021				P ⁴			
Single-family detached dwellings and duplexes as part of a PUD planned unit development overlay					P⁵		18.36
Support facilities	P	P	P	P	P	P	
Temporary expansions of schools, such as portable classrooms	C	C	C	C	C	C	18.56
Townhouses and rowhouses			P ⁶	P	P		18.16.050(F)(1)(a)

TABLE 18.07.010
RESIDENTIAL ZONE DISTRICTS PERMITTED AND CONDITIONAL
USES

RESIDENTIAL DISTRICTS Note: See Figure 18.23.020 for residential uses allowed in the TC town center zone district; and Table 18.27.040 for residential uses allowed in the BD brewery district zone	RSR	SFL	SFM	MFM	MFH	MHP	Applicable Regulations
Triplexes				P	P		
Wildlife refuges and forest preserves	P	P	P	P	P		
Wireless communication towers	C	C	C	C	C	C	11.20; 18.56

LEGEND

P = Permitted Use

C = Conditional Use

RSR = Residential/Sensitive Resource

SFL = Single-Family Low Density Residential

SFM = Single-Family Medium Density Residential

MFM = Multifamily Medium Density Residential

MFH = Multifamily High Density Residential

MHP = Manufactured Home Park

Table 18.07.010 Footnotes:

(1) “Bed and breakfasts” with only one guest room are a permitted use, but are subject to the notice of application requirements in TMC Chapter 14.06 to allow for public notice for neighbors and an appeal of the administrative decision to the hearing examiner.

(2) “Duplexes” are allowed in the residential/sensitive resource (RSR) and single-family low density residential (SFL) zone districts. Such uses shall not occupy more than twenty percent of the total lots in a new short plat or subdivision, which was legally established after April 15, 2021. In such cases, the community development director shall have the discretion to alter the percentage in order to allow the new

short plat or subdivision to meet minimum required densities due to topography or other special conditions related to the site, such as critical areas.

(3) “Duplexes” are allowed in the single-family medium density residential (SFM) zone district. Such uses shall not occupy more than thirty percent of the total lots in a new short plat or subdivision, which was legally established after April 15, 2021. In such cases, the community development director shall have the discretion to alter the percentage in order to allow the new short plat or subdivision to meet minimum required densities due to topography or other special conditions related to the site, such as critical areas.

(4) Single-family detached dwellings constructed after April 15, 2021, are not allowed in the multifamily medium density residential (MFM) zone district, ~~except as part of a PUD planned unit development overlay as regulated by TMC Chapter 18.36 if the site to be developed has more than one zone district.~~

~~(5) Single family detached dwellings and duplexes are not allowed in the multifamily high density residential (MFH) zone district, except as part of a PUD planned unit development overlay as regulated by TMC Chapter 18.36 if the site to be developed has more than one zone district.~~

(56) “Townhouses and rowhouses” are allowed within a residential planned unit development in the single family medium density residential (SFM) zone district.

Table 18.07.010 Explanatory Notes:

1. If the box is shaded, the use is not allowed in that zone district.
2. Accessory uses are listed in each zoned district chapter.

(O2020-005, Amended, 03/16/2021; Ord. O2020-003, Amended, 09/15/2020; Ord. O2019-007, Amended, 09/03/2019; Ord. O2018-025, Amended, 12/18/2018; Ord. O2017-006, Added, 07/18/2017)

Section 4. Section 18.07.030 of the Tumwater Municipal Code is hereby amended to read as follows:

18.07.030 Industrial zone districts permitted and conditional uses.

If there are any inconsistencies between Table 18.07.030 and the specific requirements in the underlying zoning district, the requirements in the underlying zoning district shall be followed.

TABLE 18.07.030**INDUSTRIAL ZONE DISTRICTS PERMITTED AND CONDITIONAL USES**

INDUSTRIAL DISTRICTS Note: See Table 18.27.040 for industrial uses allowed in the BD brewery district zone	LI	HI	ARI	Applicable Regulations
Agriculture	P		P	
All industrial activities involving the manufacture, assembly, bulk storage, processing, repair, recycling or servicing of goods or products		P		
Animal clinics or hospitals	P	C		18.56
Attached wireless communication facilities	P	P	P	11.20
Automobile repair facilities	P		P	
Automobile service stations	P	P	P	
Aviation, aviation related uses, aviation fueling facilities			P	18.34.020(A); 18.34.020(F)
Breweries, wineries, distilleries, and associated restaurants	P		P	
Cemeteries	C	C		18.56
Child day care center	P	C	P	18.52; 18.56
Child mini-day care center	P	C	P	18.52
Community gardens	P	P	P	
Crematories	P	P	P	
Cross-dock facilities, 50,000 square feet or smaller in size	P	P	P	
Electric vehicle infrastructure	P	P	P	

INDUSTRIAL DISTRICTS Note: See Table 18.27.040 for industrial uses allowed in the BD brewery district zone	LI	HI	ARI	Applicable Regulations
Emergency communication towers or antennas	C	C	C	18.56
Emergency housing			P	18.42.150
Emergency shelter			P	18.42.150
Energy systems			P	
Equipment rental and sales	P	P	P	
Family child care home	P	C		18.52; 18.56
Farmers markets	P	P	P	
Food truck or trailer courts	P	P	P	18.42.120
Food trucks or trailers	P	P	P	18.42.120
Hotel/motel and conference facilities			P	
Kennels	P		P	
Marijuana retailer	P		P	18.42.080
Marijuana processor, within a fully enclosed secure indoor structure only	C		C	18.42.080
Marijuana producer, within a fully enclosed secure indoor structure only	C		C	18.42.080
Mineral extraction		P		
Mini-storage	P		P	
Motor freight terminals, 50,000 square feet or smaller in size	P	P	P	
Motor pool and equipment parking	P		P	
Motor vehicle sales facilities	P		P	18.42.090

INDUSTRIAL DISTRICTS Note: See Table 18.27.040 for industrial uses allowed in the BD brewery district zone	LI	HI	ARI	Applicable Regulations
Motorsports facility – Indoor	P		P	
Motorsports sales facility	P		P	
Nurseries, retail or wholesale	P		P	18.24.020(P)
Offices	P		P	
Off-site hazardous waste treatment and storage facilities	P	P	C	18.24.020(L); 18.56
Park and ride facilities	P	P	P	
Parks, open space areas and recreational facilities	P	C	P	18.56
Permanent supportive housing			P	18.42.150
Personal and professional services	P		P	
Planned unit developments not including residential uses	P	P	P	18.36
Post offices, museum, library, art gallery	P		P	
Prisons, jails or other correctional facilities	C	C	C	18.56
Private post-secondary education facilities			C	18.56
Recycling collection centers	C	P		18.25.020(A); 18.56
Residential care facilities	P		P	18.34.020(O)
Restaurants	P		P	
Retail sale of goods or products manufactured on the premises, or utilized in manufacturing, repairing, or		P	P	

INDUSTRIAL DISTRICTS Note: See Table 18.27.040 for industrial uses allowed in the BD brewery district zone	LI	HI	ARI	Applicable Regulations
servicing activities which are permitted in the same zoning district				
Schools, other than through the eighth grade	P			
Schools on parcels abutting residential zones and outside of air hazard areas			P	
Secure community transition facilities	C			18.56
Sewage treatment facilities	C	C	C	18.56
Sexually oriented businesses	P		P	18.04; 18.42.050
Solid waste handling facilities	C	C	C	18.56
State education facilities	C		C	18.56
Storage, manufacture or sale of highly volatile or extremely hazardous substances or materials other than airport fueling facilities			C	18.56
Support facilities	P	P	P	
Taverns, cocktail lounges	P			
Temporary expansions of schools, such as portable classrooms	P		P	
The raising of crops, including trees			P	18.34.020(J)
Transit facilities	P		P	
Transitional housing			P	18.42.150
Transportation facilities, large scale or regional	C	C	C	18.56
Transportation terminal facilities	P	P	P	

INDUSTRIAL DISTRICTS Note: See Table 18.27.040 for industrial uses allowed in the BD brewery district zone	LI	HI	ARI	Applicable Regulations
Truck stops or travel centers ³	P ³			
Uses having to do with buying, selling, and personal and professional services or offices, or of a general commercial nature	P			
Warehouse distribution centers ⁴	P		P	18.42.110
Warehouses, nondistribution, 200,000 sq. ft. or smaller in size	P	P	P	
Warehouses, nondistribution, larger than 200,000 sq. ft. in size ⁴	P		P	18.42.110
Wholesaling, manufacturing, assembling, repairing, fabricating, or other handling of products and equipment	P	P	P	
Wildlife refuges and forest preserves	P		P	
Wireless communication towers	P	P	P	11.20
Wrecking yards and junk yards		C		18.56

LEGEND

P = Permitted Use

C = Conditional Use

LI = Light Industrial

HI = Heavy Industrial

ARI = Airport Related Industrial

Table 18.07.030 Explanatory Notes:

1. If the box is shaded, the use is not allowed in that zone district.
2. Accessory uses are listed in each zoned district chapter.
3. Truck stops or travel centers are limited to an area within one-half mile of the Interstate 5 and 93rd Avenue SW interchange.

4. All warehouse distribution centers regardless of size and nondistribution warehouses that are larger than 200,000 sq. ft. in size are subject to the requirements of TMC 18.42.110.

(O2021-019, Amended, 01/18/2022; Ord. O2019-020, Amended, 11/19/2019; Ord. O2019-007, Amended, 09/03/2019; Ord. O2019-019, Amended, 07/23/2019; Ord. O2019-018, Amended, 04/02/2019; Ord. O2018-025, Amended, 12/18/2018; Ord. O2018-007, Amended, 10/16/2018; Ord. O2017-023, Amended, 07/17/2018; Ord. O2017-022, Amended, 12/05/2017; Ord. O2017-006, Added, 07/18/2017)

Section 5. Section 18.14.020 of the Tumwater Municipal Code is hereby amended to read as follows:

18.14.020 Permitted uses.

Permitted uses in the MFM district are as follows:

- A. Single-family detached dwellings which were legally established prior to April 15, 2021;*
- B. Duplexes;
- C. Triplexes;
- D. Fourplexes;
- E. Townhouses and rowhouses;
- F. Multifamily dwellings;
- G. Cottage housing;
- H. Designated manufactured homes on single lots of record, and in designated manufactured home parks, in accordance with the provisions of TMC Chapter 18.48;
- I. Designated manufactured home parks;
- J. Senior housing facilities, independent;
- K. Parks, trails, open space areas, and recreational facilities;
- L. Support facilities;
- M. Planned unit developments;
- N. Family child care home; child mini-day care center, subject to TMC Chapter 18.52;
- O. Adult family homes, residential care facilities;
- P. Any combination of the permitted uses listed in this section may be combined on one site, in accordance with the provisions of TMC 18.14.050;
- Q. Attached wireless communication facilities, except that it is prohibited to attach a nonaccessory wireless communication antenna on a single-family or two-family dwelling;**

R. Bed and breakfasts;

S. Agriculture uses up to thirty acres in size, which were established prior to January 1, 2011, subject to TMC 18.42.070;

T. Community gardens;

U. The housing, care and keeping of animals consistent with the requirements of TMC Chapter 6.08;

V. Wildlife refuges and forest preserves;

W. Permanent supportive housing, subject to TMC 18.42.150;

X. Transitional housing, subject to TMC 18.42.150.

*Single-family detached dwellings constructed after April 15, 2021, are not allowed in the multifamily medium density residential (MFM) zone district, ~~except as part of a PUD planned unit development overlay as regulated by TMC Chapter 18.36 if the site to be developed has more than one zone district.~~

**Wireless communication facilities are subject to Federal Aviation Administration (FAA) standards and approval, and furthermore are subject to provisions for wireless communication facilities in TMC Chapter 11.20, Wireless Communication Facilities.

(Ord. O2021-019, Amended, 01/18/2022; Ord. O2020-005, Amended, 03/16/2021; Ord. O2020-003, Amended, 09/15/2020; Ord. O2018-025, Amended, 12/18/2018; Ord. O2017-006, Amended, 07/18/2017; Ord. O2010-029, Amended, 06/07/2011; Ord. O2011-002, Amended, 03/01/2011; Ord. O2010-005, Amended, 09/07/2010; Ord. O2005-011, Amended, 07/05/2005; Ord. O2001-012, Amended, 03/19/2002; Ord. O2000-004, Amended, 07/18/2000; Ord. O97-019, Amended, 06/17/1997; Ord. O95-035, Added, 12/19/1995)

Section 6. Section 18.16.020 of the Tumwater Municipal Code is hereby amended to read as follows:

18.16.020 Permitted uses.

Permitted uses in the MFH district are as follows:

~~A. Single family detached dwellings and duplexes are permitted only as part of a PUD planned unit development overlay as regulated by TMC Chapter 18.36 if the site to be developed has more than one zone district;~~

AB. Triplexes;

BC. Fourplexes;

CD. Multifamily dwellings;

DE. Parks, trails, open space areas, and recreational facilities;

EF. Support facilities;

FG. Planned unit developments;

GH. Family child care home; child mini-day care center, subject to TMC Chapter 18.52;

HI. Adult family homes, residential care facilities;

IJ. Senior housing facilities, independent;

JK. Any combination of the permitted uses listed in this section may be combined on one site, in accordance with the provisions of TMC 18.16.050;

KL. Attached wireless communication facilities, except that it is prohibited to attach a nonaccessory wireless communication antenna on a single-family or two-family dwelling;*

LM. Townhouses and rowhouses;

MN. Community gardens;

NO. Wildlife refuges and forest preserves;

OP. Permanent supportive housing, subject to TMC 18.42.150;

PQ. Transitional housing, subject to TMC 18.42.150.

*Wireless communication facilities are subject to Federal Aviation Administration (FAA) standards and approval, and furthermore are subject to provisions for wireless communication facilities in TMC Chapter 11.20, Wireless Communication Facilities.

(Ord. O2021-019, Amended, 01/18/2022; Ord. O2020-005, Amended, 03/16/2021; Ord. O2018-025, Amended, 12/18/2018; Ord. O2017-006, Amended, 07/18/2017; Ord. O2010-029, Amended, 06/07/2011; Ord. O2011-002, Amended, 03/01/2011; Ord. O2010-005, Amended, 09/07/2010; Ord. O98-001, Amended, 09/15/1998; Ord. O97-019, Amended, 06/17/1997; Ord. O95-035, Added, 12/19/1995)

Section 7. Section 18.34.020 of the Tumwater Municipal Code is hereby amended to read as follows:

18.34.020 Permitted uses.

Permitted uses in the ARI district are as follows:

- A. Aviation and aviation-related uses;
- B. Wholesaling, manufacturing, assembling, repairing, fabricating, or other handling of products and equipment;
- C. Warehouse distribution centers, subject to the requirements of TMC 18.42.110;
- D. General retail, personal and professional services;
- E. Offices;

- F. Aviation fueling facilities;
- G. Motor pool and equipment parking;
- H. Park and ride facilities;
- I. Transit facilities;
- J. The raising of crops, including trees;
- K. Hotel/motel and conference facilities;
- L. Support facilities;
- M. Parks, open space areas, and recreational facilities;
- N. Post offices;
- O. Child day care center, child mini-day care center;
- P. Schools on parcels abutting residential zones and outside of the airport hazard area subject to the provisions of TMC Chapter 18.56;
- Q. Sexually oriented businesses subject to the provisions of TMC 18.42.050;
- R. Retail and wholesale nurseries or greenhouses;
- S. Museums, libraries, art galleries;
- T. Transportation terminal facilities;
- U. Restaurants;
- V. Automobile service stations;
- W. Attached wireless communication facilities, except that it is prohibited to attach a nonaccessory wireless communication antenna on a single-family or two-family dwelling;*
- X. Wireless communication towers;*
- Y. Motor vehicle sales facilities, subject to the requirements set forth in TMC Chapter 18.42;
- Z. Equipment rental and sales facilities;
- AA. Motorsports facility – indoor;
- BB. Motorsports sales facility;
- CC. Auto repair facilities;

- DD. Crematories;
- EE. Electric vehicle infrastructure;
- FF. Agriculture;
- GG. Community gardens;
- HH. Farmers markets;
- II. Marijuana retailer;
- JJ. Breweries, wineries, distilleries;
- KK. Kennels;
- LL. Mini-storage;
- MM. Wildlife refuges and forest preserves;
- NN. Temporary expansions of schools, such as portable classrooms;
- OO. Cross-dock facilities, fifty thousand square feet or smaller in size;
- PP. Motor freight terminals, fifty thousand square feet or smaller in size;
- QQ. Warehousing, nondistribution, two hundred thousand square feet or smaller in size;
- RR. Warehousing, nondistribution, larger than two hundred thousand square feet in size, subject to the requirements of TMC 18.42.110;
- SS. Energy systems;
- TT. Food trucks or trailers in accordance with TMC 18.42.120;
- UU. Food truck or trailer courts in accordance with TMC 18.42.120;
- VV. Permanent supportive housing, subject to TMC 18.42.150;
- WW. Transitional housing, subject to TMC 18.42.150;
- XX. Emergency housing, subject to TMC 18.42.150;
- YY. Emergency shelter, subject to TMC 18.42.150;
- ZZ. Planned unit developments not including residential uses.

*Wireless communication facilities are subject to Federal Aviation Administration (FAA) standards and approval, and furthermore are subject to provisions for

wireless communication facilities in TMC Chapter 11.20, Wireless Communication Facilities.

(Ord. O2021-019, Amended, 01/18/2022; Ord. O2019-020, Amended, 11/19/2019; Ord. O2019-007, Amended, 09/03/2019; Ord. O2018-025, Amended, 12/18/2018; Ord. O2018-007, Amended, 10/16/2018; Ord. O2017-023, Amended, 07/17/2018; Ord. O2017-006, Amended, 07/18/2017; Ord. O2016-023, Amended, 01/03/2017; Ord. O2016-006, Amended, 06/07/2016; Ord. O2014-012, Amended, 08/19/2014; Ord. O2013-025, Amended, 01/07/2014; Ord. O2013-013, Amended, 10/01/2013; Ord. O2010-029, Amended, 06/07/2011; Ord. O2010-015, Amended, 09/07/2010; Ord. O2008-017, Amended, 10/21/2008; Ord. O2008-016, Amended, 09/16/2008; Ord. O2006-037, Amended, 03/04/2008; Ord. O2003-001, Amended, 02/18/2003; Ord. O2000-004, Amended, 07/18/2000; Ord. O98-009, Amended, 10/20/1998; Ord. O97-019, Amended, 06/17/1997; Ord. O96-022, Amended, 12/17/1996; Ord. O95-035, Added, 12/19/1995)

Section 8. Chapter 18.36 of the Tumwater Municipal Code is hereby amended to read as follows:

Chapter 18.36

PUD PLANNED UNIT DEVELOPMENT ~~OVERLAY~~

18.36.010 Intent.

~~A.—The intent of the a planned unit development (PUD) overlay zoning district is to offer flexibility to the applicant in exchange for tangible benefits to the city and the public.~~

A. Through the planned unit development process, the applicant is given flexibility in regard to site design, placement of buildings, use of required open spaces, setbacks, lot sizes and dimensions, and otherwise better utilize the potential of sites characterized by special features, such as geography, topography, size or shape.

B. In exchange, the applicant shall provide at least two points from the following list of tangible benefits to the city and the public for projects that provide twenty or more residential dwelling units or industrial, commercial, or institutional projects that are twenty acres or more in size. For projects that provide less than twenty residential dwelling units or industrial, commercial, or institutional projects that are less than twenty acres in size, the applicant shall provide at least one point from the following list of tangible benefits to the city and the public:

1. 1.0 point: Provide superior useable parks and open space as a result of the planned unit development. Both the applicant and the city shall agree upon the location, size, and extent of the superior useable parks and open space;

2. 1.0 point to 2.0 points: Significant public facilities or other public amenities that could not be required by the city for development of the subject property without a planned unit development. Both the applicant and the city shall agree

upon the type of significant public facility or amenity, the size, location, and other pertinent aspects, as well as the number of points for the significant public facility or other public amenity. Significant public facilities or other public amenities shall not include the minimum public facilities and public improvements already required of the development;

3. 1.0 point: Going significantly beyond the minimum requirements for critical area protections to preserve, enhance, or rehabilitate critical areas and buffers in the planned unit development. Both the applicant and the city shall agree upon the location, size, and extent of the additional protection, enhancement, or rehabilitation;

4. 1.0 point: Dedication of a site containing a historic landmark to the city or a qualifying nonprofit organization capable of restoring and/or maintaining the premises to standards set by Washington State Office of Archaeology and Historic Preservation;

5. 2.0 points: Incorporation of energy systems, as defined in TMC 18.04.050, that produce energy from nondepletable energy sources that will result in at least fifty percent or more of the energy needs for the planned unit development being met. Both the applicant and the city shall agree upon the type and conditions for the energy systems provided;

6. 2.0 points: For residential developments, building passive homes that meet the Passive Home Institute US (PHIUS) standards, which will result in fifty percent or more of the total dwelling units in the planned unit development qualifying as passive homes. Both the applicant and the city shall agree whether the PHIUS standards for passive homes are addressed;

7. 1.0 point: Going significantly beyond the minimum required energy efficiency requirements for at least fifty percent or more of the energy needs of the planned unit development. Both the applicant and the city shall agree upon how the project goes beyond the minimum required energy efficiency requirements;

8. 2.0 points: The provision of at least twenty percent or more of the total dwelling units in the planned unit development as permanently affordable housing consistent with TMC 18.42.140(D)-(K); and

9. 1.0 point to 2.0 points: Any other public facility, feature, item, project, or amenity proposed by the applicant that the City agrees meets the intent of this section. Both the applicant and the city shall agree upon the type of other public facility, feature, item, project, or amenity, the size, location, and other pertinent aspects.

C. For tangible benefits that have a range of potential points, both the applicant and the city shall agree upon the number of points assigned.

~~encourage new development not limited by the strict application of this title. The hearing examiner may approve, disapprove or modify the proposal submitted by an applicant.~~

~~B. More specifically, it is the purpose of this chapter to:~~

- ~~1. Encourage flexibility in design and development that will result in a more efficient and desirable use of land;~~
- ~~2. Permit flexibility of design, placement of buildings, use of required open spaces, circulation facilities, off-street parking areas, and otherwise better utilize the potential of sites characterized by special features, such as geography, topography, size or shape;~~
- ~~3. Provide for maximum efficiency in layout of streets, utility networks, and other public improvements;~~
- ~~4. Produce an integrated or balanced development of mutually supportive uses that might otherwise be inharmonious or incongruous; and~~
- ~~5. Provide a guide for developers and city officials who review and approve developments meeting the standards and purposes of this chapter.~~

(Ord. O2000-004, Amended, 07/18/2000; Ord. O95-035, Amended, 12/19/1995; Ord. 883, Added, 05/06/1984)

18.36.020 Overlay Planned unit development and zoning.

~~Planned unit development, approved in accordance with the procedures of this chapter, shall be an overlay zone and the uses are limited to those which are allowed in the underlying zone district. Planned unit developments shall be required where this overlay zone appears on the Tumwater zoning map.~~

A. Planned unit developments ~~also~~ are permitted in all ~~zoning~~ districts except greenbelt (GB), open space (OS), residential/sensitive resource (RSR) ~~due to the extreme sensitivity of the areas to environmental disturbance, and~~ historic commercial (HC), ~~and airport related industry (ARI).~~

B. The approval of a ~~final~~ planned unit development shall modify and supersede the regulations of the underlying zone district, ~~as outlined in this chapter, in accordance with the requirements and allowances of the Tumwater municipal code, except in the case of allowable uses.~~

C. The minimum project size for a planned unit development is one gross acre. Planned unit developments must still meet applicable development requirements such as minimum density, parking standards, land coverage limits, and stormwater regulations, subject to the requirements and allowances of this chapter.

(Ord. O96-022, Amended, 12/17/1996; Ord. O95-035, Amended, 12/19/1995; Ord. 883, Added, 05/06/1984)

18.36.030 Procedure for Initiation—Application—Fee.

~~A preliminary p~~Planned unit development-~~projects~~ may be initiated by any owner or group of owners of property acting jointly, or as a developer authorized to act as agent for an owner or group of owners. ~~Such application shall be made on the forms provided by the community development department, together with a filing fee as established by resolution of the city council, no part of which is refundable.~~

(Ord. O2011-002, Amended, 03/01/2011; Ord. O2000-004, Amended, 07/18/2000; Ord. O95-035, Amended, 12/19/1995; Ord. 1147, Amended, 12/15/1987; Ord. 883, Added, 05/06/1984)

18.36.040 ~~Application—Supporting documentation~~Application.

Applications for a preliminary planned unit development shall be made on the forms provided by the community development department. Applications shall include all the items on the application checklist, together with an application fee as established by resolution of the city council, no part of which is refundable.

Additions or deletions to the contents of the application may be made by the community development director. The application for a preliminary planned unit development shall also include and address all these items:

A. A description of how the development meets the requirements of TMC 18.36.010;

B. How the planned unit development relates to the surrounding area. This would include a description of any existing adjacent development and address how the proposed development would be consistent with existing adjacent development. If the existing adjacent development is not consistent with the existing comprehensive plan designations and zone districts then a comparison of the proposed development with the intent of the adjacent comprehensive plan designations and zone districts is acceptable;

C. If there is more than one underlying zone district then the application must include:

1. A map showing the existing zone district locations, sizes, and densities within the planned unit development. This can be augmented with a table or description in addition to a map; and

2. A map showing the proposed locations of the zone districts within the planned unit development. The borders, areas with sizes in acres, and proposed locations of the zone districts shall be shown graphically on the site plan. The borders shall follow the proposed tract or lot lines and the centerlines of streets and alleys of the planned unit development in a balanced, cohesive, and interrelated manner that does not create irregular areas.

a. The planned unit development process cannot modify the sizes of the original comprehensive plan designations on the comprehensive plan land use designation map or the zone districts on the zoning map without an amendment approved by the process in TMC 18.60.

b. The planned unit development process cannot modify the densities of the original comprehensive plan designations and zone districts without an amendment approved by the process in TMC 18.60;

D. How the planned unit development is being accessed and how internal circulation will be addressed. This shall include multimodal considerations;

E. The location and size of critical areas and their buffers on or within 300 feet of the project site. Protection measures shall be described or shown on a map;

F. The location and size of open space, parks, and landscaped areas and how they serve the development;

G. The location of stormwater facilities;

H. SEPA environmental review;

I. Covenants for ongoing maintenance of common areas and stormwater facilities;

J. If the planned unit development will be phased, a map of the proposed phasing, a description of the proposed phasing timeline, and the general type and location of the development to occur in each phase consistent with TMC 18.36.090;

K. How the planned unit development relates to adjacent properties under similar ownership. This can include future development plans, if known; and

L. How the planned unit development allows for future development or redevelopment of neighboring properties. This should address, but it is not limited to, access, circulation, sizing and location of utilities, type and locations of stormwater facilities, and locations of structures.

~~An application for a planned unit development shall be accompanied by the following:~~

~~(Note: See TMC Chapter 15.44 for complete information on vesting of development rights.)~~

~~A.—A vicinity sketch showing location of the site and its relationship to surrounding areas, including existing streets, driveways, major physiographic features such as railroads, lakes, streams, shorelines, schools, parks and other prominent features;~~

~~B.—A map or maps of the site at a scale not smaller than one hundred feet to the inch, showing at least, but not limited to, the following items:~~

- ~~1.—Site boundaries,~~
- ~~2.—Streets bounding or abutting the site,~~
- ~~3.—Proposed buildings, including dimensions, identification of types, and the number of dwelling units in each residential type,~~
- ~~4.—Location and dimension of all common open space,~~

~~5.—Location, dimension and design of off-street parking facilities showing points of ingress to and egress from the site,~~

~~6.—Existing buildings and indication of future use or disposition,~~

~~7.—Landscaping plans, and~~

~~8.—Proposed land use and densities;~~

~~C.—A written statement for development setting out detailed information concerning the following subjects as they may be involved in the development, including, but not limited to, the following items:~~

~~1.—Proposed ownership method,~~

~~2.—Proposed operation and maintenance of the development and landscaping,~~

~~3.—General timetable for development,~~

~~4.—Provisions to assure permanence and maintenance of common open space through homes association formation, condominium development, or other means acceptable to the city.~~

(Amended during 2011 reformat; O95-035, Amended, 12/19/1995; Ord. 883, Added, 05/06/1984)

~~18.36.050 Public hearing—Criteria for decision~~Environment.

~~The provisions of TMC Title 16 may not be modified by a planned unit development, except modifications consistent with TMC 18.36.010(B)(3).~~

~~The application for a planned unit development shall be heard before the hearing examiner of the city at a duly published public meeting. The hearing examiner's decision to approve or deny the development shall be based on at least, but not limited to, the following criteria:~~

~~A.—Substantial conformance to the Tumwater comprehensive plan;~~

~~B.—The proposal's harmony with the surrounding area or its potential future use; and~~

~~C.—The adequacy of the size of the proposed overlay to accommodate the contemplated developments.~~

(Ord. O95-035, Amended, 12/19/1995; Ord. 1259, Amended, 11/06/1990; Ord. 883, Added, 05/06/1984)

~~18.36.060 Appeal~~Land division and review process.

~~If a planned unit development involves land division then it shall be subject to the platting and procedural requirements of TMC Title 17 and the restrictions and allowances of this chapter.~~

~~The decision of the hearing examiner shall be final unless appealed to superior court in accordance with the provisions of TMC 2.58.150.~~

(Ord. O2014-018, Amended, 12/16/2014; Ord. O95-035, Amended, 12/19/1995; Ord. 1259, Added, 11/06/1990)

18.36.070 ~~Standards~~—~~Bond~~Modification of development requirements.

A planned unit development may only modify the development requirements of TMC Title 12 and TMC Title 18 consistent with this section. If a development requirement is not addressed in this section, it shall not be modified by a planned unit development.

A. Zone Districts.

1. The type and size of the underlying zone districts designated by the zoning map shall not be modified by a planned unit development.
2. Some individual development standards of the underlying zone districts may be modified by this section.

B. Planned unit developments with multiple underlying zone districts.

1. A planned unit development may move the location of underlying zone districts as part of the planned unit development process, but the type and size of each of the underlying zone districts shall remain the same and follow the requirements of TMC 18.36.040(C).
2. Some individual development standards of the underlying zone districts may be modified by this section.

C. Densities. Densities established by the underlying zone districts shall not be altered by a planned unit development.

D. Uses.

1. A planned unit development is limited to the permitted, accessory, or conditional uses established by the underlying zone districts.
2. If a proposed use in a planned unit development requires a conditional use permit, a separate conditional use permit shall be obtained consistent with the process in TMC 18.56.

E. Setbacks.

1. Setbacks established by the underlying zone districts shall prevail on the perimeter boundary lines of a planned unit development.
2. A planned unit development may modify internal setbacks within the planned unit development.

F. Lot sizes. Lot sizes as specified by the underlying zone districts may be modified by up to twenty-five percent by a planned unit development, either larger or smaller, provided the densities of the underlying zone district are met.

G. Land Coverage. Maximum land coverage as established by the underlying zone districts may be exceeded by no more than twenty-five percent by a planned unit development.

H. Structure height. Structure height requirements as established by the underlying zone districts may be modified up to twenty-five percent by a planned unit development.

I. Yards. Yards as specified by the underlying zone districts may be reduced by up to twenty-five percent by a planned unit development, provided the land coverage requirements of the underlying zone district are met.

J. Parks and open space area. In addition to the park and open space dedication requirements of TMC 17.12.210 or TMC 18.42.130, as applicable, the planned unit development may provide additional park and open space areas consistent with TMC 18.36.010.

K. Parking. Parking requirements shall not be modified by a planned unit development.

L. Landscaping. Landscaping requirements shall not be modified by a planned unit development.

M. Citywide design guidelines. Citywide design guidelines shall not be modified by a planned unit development.

N. Tumwater development guide. Requirements of the Tumwater development guide shall not be modified by a planned unit development, except as noted in TMC 18.36.080.

O. Signage. Signage requirements shall not be modified by a planned unit development.

P. Stormwater. Stormwater requirements shall not be modified by a planned unit development.

Q. Provisions of this chapter. The requirements of this chapter shall not be modified by a planned unit development.

R. Procedural requirements. Procedural requirements shall not be modified by a planned unit development.

~~A.—The developer shall bear the responsibility of creating a perimeter transition sufficient to protect the interests of the surrounding property owners, the neighborhood, and the city as a whole, in a manner and to a degree as specified by the hearing examiner.~~

~~B.—Planned unit development projects shall be complete developments and may be required to include facilities such as paved streets, curbs, sidewalks, street lights, drainage, open space, sanitary sewer, underground power and telephone lines, landscaping, screening, signs, and off-street parking in conformance with the requirements and allowances of the hearing examiner.~~

~~C.—The applicant shall furnish the city with a performance bond or other acceptable surety approved by the city attorney, guaranteeing installation of specified public improvements and landscaping.~~

(Ord. O95-035, Amended, 12/19/1995; Ord. 1259, Amended, 11/06/1990; Ord. 883, Added, 05/06/1984)

18.36.080 ~~Exemption from zoning requirements~~Public and private streets.

A. Public streets shall be required in a planned unit development except as allowed in TMC 18.36.080(B).

B. Private streets.

1. A private street may only serve four or fewer residential dwelling units, unless all of the dwelling units meet the federal definition of low income, then the private street may serve up to nine detached single family dwellings or up to thirty-five attached single family or multifamily dwelling units.

2. A private street may serve up to four businesses on separate parcels, or up to four businesses situated on one parcel.

3. The private street must meet the minimum design standards and requirements for private streets in the Tumwater development guide.

~~A planned unit development shall be exempt from the minimum zoning ordinance requirements, except as provided for below:~~

~~A.—Minimum Project Size. There is no minimum project size for a planned unit development.~~

~~B.—Project Densities. Densities established by the underlying zone district shall prevail.~~

~~C.—Setbacks. Project setbacks as required by the underlying zoning district shall prevail on all perimeter boundary lines.~~

~~D.—Land Coverage. Maximum land coverage as established by the underlying zone district may be exceeded by no more than twenty-five percent.~~

~~E.—Uses Allowed. The use of the development shall be limited to those allowed either as permitted, accessory, or conditional uses in the underlying zones.~~

~~F.—Open Space/Park. The open space/park dedication requirements of the underlying zoning district shall prevail.~~

~~G.—Design Review Guidelines. The design review guideline requirements shall prevail.~~

(Ord. O2019-007, Amended, 09/03/2019; Ord. O96-021, Amended, 12/02/1997; Ord. O96-022, Amended, 12/19/1996; Ord. O95-035, Amended, 12/19/1995; Ord. 883, Added, 05/06/1984)

18.36.090 ~~Exemption from subdivision requirements~~Phasing of planned unit developments.

A. Planned unit developments containing more than one hundred dwelling units or commercial or industrial planned unit developments covering more than twenty acres are eligible to attain preliminary planned unit development approval in

phases. Phased approval of preliminary planned unit developments is limited to developments with at least two but not more than four phases.

B. The application shall show the number of phases, the area each phase encompasses, and the sequence for development of the various phases. A submittal for a phased development shall demonstrate how transportation, access, traffic, stormwater, parks and open space, critical areas, and utilities will be addressed for all phases of the development.

C. Hearing examiner review.

1. Upon receipt of the recommendation from the development review committee, the hearing examiner shall review the phased preliminary planned unit development in accordance with this section as part of a consolidated hearing according to TMC 18.36.100(B).

2. At the hearing, the hearing examiner shall consider and may alter any part of the proposed phased development.

3. The hearing examiner may approve, approve with conditions, or disapprove the phasing plan in a decision as part a consolidated hearing according to TMC 18.36.100(B).

D. The period between the date of the preliminary approval of the phased planned unit development by the hearing examiner and the date of filing for final approval for the first phase shall be consistent with TMC 18.36.170.

E. Construction plans for each phase of a phased development shall include transportation, utilities, and stormwater management facilities that comply with all state and local requirements in effect at the beginning of the period allotted for that phase.

F. Applications for approval for each successive phase must be submitted within three years of the submittal for final approval on the previous phase and within the other timelines as established by the Tumwater municipal code and TMC 18.36.170.

~~A planned unit development shall be exempt from the platting and procedural requirements of the subdivision ordinance, except that when the planned unit development is a part of a larger ownership and is intended for individual ownership, sale or public dedication, or if any parcel of land within a planned unit development is intended for individual ownership, sale or public dedication, the platting and procedural requirements of the subdivision ordinance and applicable state laws pertaining to the subdivision, and conveyance of land and the preparation of maps shall be followed.~~

(Ord. O98-009, Amended, 10/20/1998; Ord. O95-035, Amended, 12/19/1995; Ord. 883, Added, 05/06/1984)

18.36.100. Public hearing – Preliminary planned unit development

A. Upon receipt of the recommendation from the development review committee, a public hearing shall be set before the hearing examiner on the preliminary planned

unit development. At the conclusion of the public hearing, the hearing examiner may approve, approve with conditions, deny, or continue the matter. A preliminary planned unit development shall only be approved if it meets the criteria in TMC 18.36.110.

B. If a project with a preliminary planned unit development requires a public hearing for phasing according to TMC 18.36.090, a land division approval, a conditional use permit, a variance, and/or another action that requires a hearing, the hearings should be consolidated.

18.36.110 Public hearing – Criteria for decision.

In determining whether to approve or disapprove the proposed preliminary planned unit development project, the hearing examiner shall determine if the preliminary planned unit development provides for and meets all these criteria:

A. Substantial conformance to the Tumwater comprehensive plan;

B. Conformance to the Tumwater municipal code and Tumwater development guide;

C. The quantifiable public benefits required by TMC 18.36.010;

D. The public health, safety, and general welfare;

E. The adequacy of the size of the proposed planned unit development to accommodate the contemplated developments;

F. Adequate access to the project site for all users of the project including the public, if applicable;

G. Appropriate access for public safety such as fire protection and police services; and

H. Adequate mitigation measures for impacts associated with the physical characteristics of the site such as groundwater, stormwater, floodplains, critical areas, steep slopes, and critical habitat.

18.36.120 Appeal.

The decision of the hearing examiner shall be final unless appealed to superior court in accordance with the provisions of TMC 2.58.150.

18.36.130 Final planned unit development approval.

Final approval of the planned unit development will not be issued until all requirements listed in the hearing examiner decision have been met. Certificate(s) of occupancy shall not be issued until final approval unless the community development director, or their designee, determines it is in the best interest of the city. The city and the applicants must agree on a reasonable deadline for obtaining final approval for the planned unit development. Failure of the applicants to obtain final approval prior to the agreed upon date shall result in revocation of the certificate(s) of occupancy.

18.36.140 Minor modifications.

Minor modifications to a planned unit development may be administratively approved provided they meet all these conditions:

A. The modification will not have the effect of reducing required landscaped area, or reducing or encroaching into required buffer areas or reducing the amount of required open space or parks in the planned unit development;

B. The modification will not have the effect of increasing the residential density of the planned unit development;

C. The modification will not have the effect of increasing the area devoted to nonresidential uses in the planned unit development; and

D. The modification will not increase any adverse impacts or undesirable effects of the project, or that the modification in no way significantly alters the project.

18.36.150 Major Modifications.

A. Modifications to planned unit developments that do not meet the all the conditions of TMC 18.36.140 shall be considered major modifications.

B. A public hearing shall be required before the hearing examiner and follow the requirements of TMC 18.36.100 and TMC 18.36.110.

18.36.160 Vesting of planned unit developments.

A. Planned unit developments that involve land division are vested when a complete land division application has been submitted to the community development department.

B. Planned unit developments that do not involve land division vest when a complete building permit application has been submitted to the community development department after preliminary planned unit development approval is granted consistent with TMC 18.36.100.

18.36.170 Duration of approval for planned unit developments.

A. Preliminary approval of a planned unit development by the hearing examiner is valid for a period of five years.

B. An initial one-year extension, which has been filed at least thirty days prior to the expiration of the period of approval, may be granted by the community development director or his/her designee upon a finding that the applicant has attempted in good faith to complete the final planned unit development within the period of approval. Submittal of complete engineering plans for the project and the start of construction prior to the expiration of the approval period time limit shall constitute a good faith effort.

C. Two additional one-year extensions may be administratively granted, which shall be reviewed for compliance with these criteria:

1. The applicant has pursued submitting the final land division in good faith. Submittal of complete engineering plans and the start of construction for the project

prior to the expiration of the approval period time limit shall constitute a good faith effort on the part of the applicant;

2. There have been no amendments to the comprehensive plan, zoning ordinance, development standards or other applicable codes which are inconsistent with the approved preliminary planned unit development, unless such amendments can be incorporated into the existing preliminary planned unit development without significantly altering the project as originally approved by the hearing examiner; and

3. There are no other significant changed conditions that would render the planned unit development contrary to the public health, safety, or general welfare.

18.36.180 Standards – Bond.

A. Planned unit development projects shall be complete developments and may be required to include facilities such as, but not limited to, streets, curbs, sidewalks, street lights, drainage, open space, sanitary sewer, underground power and telephone lines, landscaping, screening, signs, and off-street parking in conformance with the requirements and allowances of the hearing examiner.

B. The applicant shall furnish the city with a performance bond or other acceptable surety approved by the city attorney, guaranteeing installation of specified public improvements and landscaping.

Section 9. Section 18.49.020 of the Tumwater Municipal Code is hereby amended to read as follows:

18.49.020 Permitted uses.

Permitted uses within the MHP zone district are as follows:

- A. Manufactured home parks in accordance with the provisions of TMC Chapter 18.48;
- B. Designated manufactured homes on existing single lots of record, in accordance with the provisions of TMC Chapter 18.48;
- C. Mobile home parks, which were legally established prior to July 1, 2008;
- D. One single-family detached dwelling per existing single lot of record;
- E. Parks, trails, open space areas, and other related recreation facilities;
- F. Support facilities;
- G. Family child care home; child mini-day care center, subject to review by the community development director, the building official, and the fire chief;

H. Planned unit developments.

(Ord. O2011-002, Amended, 03/01/2011; Ord. O2008-009, Added, 02/17/2009)

Section 10. Corrections. The City Clerk and codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not

limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 11. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 12. Severability. The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the ordinance, or the validity of its application to other persons or circumstances.

Section 13. Effective Date. This ordinance shall become effective thirty (30) days after passage, approval, and publication as provided by law.

ADOPTED this _____ day of _____, 2022.

CITY OF TUMWATER

Debbie Sullivan, Mayor

ATTEST:

Melody Valiant, City Clerk

APPROVED AS TO FORM:

Karen Kirkpatrick, City Attorney

Published:_____

Effective Date:_____



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**PLANNED UNIT DEVELOPMENT AMENDMENTS
(ORDINANCE NO. O2022-006)
STAFF REPORT
PUBLIC WORKS COMMITTEE – JULY 7, 2022 BRIEFING**

Issue

The City's regulations for planned unit developments in TMC Chapter 18.36 *PUD Planned Unit Development Overlay* have not been substantially updated since 2000. To date, planned unit developments in the City have provided a benefit to developers in the form of flexibility with existing regulations such as setbacks, maximum land coverage, and private streets, but have not provided a quantifiable benefit to the City or the public.

In other jurisdictions, planned unit developments typically provide a quantifiable public benefit in exchange for flexibility in addressing existing regulations. The amendments to TMC Chapter 18.36 *PUD Planned Unit Development Overlay* provide developers flexibility in addressing existing regulations in exchange for requiring that new developments provide quantifiable public benefits.

In addition, TMC Chapter 18.36 *PUD Planned Unit Development Overlay* does not clearly address the requirements for private streets as part of planned unit developments. The amendments to the planned unit development chapter will provide more specificity in regards to when and how private streets are allowed. The definition of a private street in TMC Title 17 *Land Division* is not consistent with the definition in the *Tumwater Development Guide*. The proposed amendments will amend the definition of a private street in the Tumwater Municipal Code so it is consistent the *Tumwater Development Guide* and amend the sections of the *Tumwater Development Guide* that addresses private streets as needed.

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Summary

The proposed amendments are intended to establish clear requirements for the type of development that can utilize a planned unit development, an updated list of submittal requirements for a planned unit development application, and updated criteria and process for review and approval of a planned unit development.

Background

Planned unit developments are intended to allow for flexibility in addressing existing development regulations in exchange for a quantifiable public benefit to allow for superior development than would be allowed under the zoning code or development of sites that may be challenging because of critical areas or other constraints.

The amendments are a part of the approved 2022 Long Range Planning work program.

Planned Unit Development Amendments

The following is a summary of the proposed amendments related to planned unit developments found in Ordinance No. O2022-006:

1. Private Streets
 - a. Amended the definition of private street in TMC 17.04.385 to read:

“Private street” means a privately owned and maintained vehicular access serving property, which is provided for by an access tract, easement, or other legal means.
 - b. Amendments to the *Tumwater Development Guide* (See Attachment C *Development Guide Amendments Staff Report*).
2. Permitted uses for planned unit development:
 - a. Added “planned unit developments” as a permitted use in the Manufactured Home Park (MHP) zone district.
 - b. Removed Single-family detached dwellings as part of a planned unit development as a permitted use from the Multifamily Family Medium (MFM) zone district.

PLANNED UNIT DEVELOPMENTS (O2022-006)

- c. Removed “Single-family detached dwellings and duplexes are permitted only as part of a PUD planned unit development overlay as regulated by TMC Chapter 18.36 *PUD Planned Unit Development Overlay* if the site to be developed has more than one zone district” as a permitted use from the Multifamily Family High (MFH) zone district.
- d. Added “planned unit developments not including residential uses” as a permitted use in the Airport Related Industry (ARI) zone district.
- 3. Substantially revised TMC Chapter 18.36 *PUD Planned Unit Development Overlay*. Amendments included the following:
 - a. Changed the name of the chapter from *PUD Planned Unit Development Overlay* to *PUD Planned Unit Development*.

Based on input from the development community, staff updated the intent section to establish a clear list of tangible benefits to be provided by a planned unit development to the City and the public in exchange for flexibility addressing in zoning regulations and addressed how the scale of the project affects the number of tangible benefits required for a planned unit development. See Appendix A – Tangible Benefits and Flexibility.

The updated section reads as follows:

18.36.010 Intent.

The intent of a planned unit development is to offer flexibility to the applicant in exchange for tangible benefits to the city and the public.

A. Through the planned unit development process, the applicant is given flexibility in regard to site design, placement of buildings, use of required open spaces, setbacks, lot sizes and dimensions, and otherwise better utilize the potential of sites characterized by special features, such as geography, topography, size or shape.

B. In exchange, the applicant shall provide at least two points from the following list of tangible benefits to the city and the public for projects that provide twenty or more residential dwelling units or industrial, commercial, or institutional projects that are twenty acres or more in size. For projects that provide less than twenty residential dwelling units or industrial, commercial, or institutional projects that are less than twenty acres in size, the applicant shall provide at least one point from the following list of tangible benefits to the city and the public:

- 1. 1.0 point: Provide superior useable parks and open space as a result of the planned unit development. Both the applicant and the city shall agree upon the location, size, and extent of the superior useable parks and open space;*

PLANNED UNIT DEVELOPMENTS (O2022-006)

2. *1.0 point to 2.0 points: Significant public facilities or other public amenities that could not be required by the city for development of the subject property without a planned unit development. Both the applicant and the city shall agree upon the type of significant public facility or amenity, the size, location, and other pertinent aspects, as well as the number of points for the significant public facility or other public amenity. Significant public facilities or other public amenities shall not include the minimum public facilities and public improvements already required of the development;*
3. *1.0 point: Going significantly beyond the minimum requirements for critical area protections to preserve, enhance, or rehabilitate critical areas and buffers in the planned unit development. Both the applicant and the city shall agree upon the location, size, and extent of the additional protection, enhancement, or rehabilitation;*
4. *1.0 point: Dedication of a site containing a historic landmark to the city or a qualifying nonprofit organization capable of restoring and/or maintaining the premises to standards set by Washington State Office of Archaeology and Historic Preservation;*
5. *2.0 points: Incorporation of energy systems, as defined in TMC 18.04.050, that produce energy from nondepletable energy sources that will result in at least fifty percent or more of the energy needs for the planned unit development being met. Both the applicant and the city shall agree upon the type and conditions for the energy systems provided;*
6. *2.0 points: For residential developments, building passive homes that meet the Passive Home Institute US (PHIUS) standards, which will result in fifty percent or more of the total dwelling units in the planned unit development qualifying as passive homes. Both the applicant and the city shall agree whether the PHIUS standards for passive homes are addressed;*
7. *1.0 point: Going significantly beyond the minimum required energy efficiency requirements for at least fifty percent or more of the energy needs of the planned unit development. Both the applicant and the city shall agree upon how the project goes beyond the minimum required energy efficiency requirements;*
8. *2.0 points: The provision of at least twenty percent or more of the total dwelling units in the planned unit development as permanently affordable housing consistent with TMC 18.42.140(D)-(K); and*

PLANNED UNIT DEVELOPMENTS (O2022-006)

9. *1.0 point to 2.0 points: Any other public facility, feature, item, project, or amenity proposed by the applicant that the City agrees meets the intent of this section. Both the applicant and the city shall agree upon the type of other public facility, feature, item, project, or amenity, the size, location, and other pertinent aspects.*

C. For tangible benefits that have a range of potential points, both the applicant and the city shall agree upon the number of points assigned.

- b. Updated the section to establish where planned units would be allowed, which modified the list in the current section, amended the current code language about the effect of a planned unit development approval on existing zone district regulations, and establishes a minimum size for a planned unit development, which does not currently exist.

The updated and new section reads as follows:

18.36.020 Planned unit development and zoning.

A. Planned unit developments are permitted in all zone districts except greenbelt (GB), open space (OS), residential/sensitive resource (RSR) due to the extreme sensitivity of the areas to environmental disturbance, and historic commercial (HC).

B. The approval of a final planned unit development shall modify and supersede the regulations of the underlying zone district, as outlined in this chapter, in accordance with the requirements and allowances of the Tumwater municipal code.

C. The minimum project size for a planned unit development is one gross acre. Planned unit developments must still meet applicable development requirements such as minimum density, parking standards, land coverage limits, and stormwater regulations, subject to the requirements and allowances of this chapter.

- c. Updated the section to about who can initiate an application and moved the application process to an updated section TMC 18.36.040.

The updated section reads as follows:

18.36.030 Initiation.

A preliminary planned unit development may be initiated by any owner or group of owners of property acting jointly, or as a developer authorized to act as agent for an owner or group of owners.

- d. Updated the section to establish the items that need to be included in a planned unit development application.

The updated section reads as follows:

PLANNED UNIT DEVELOPMENTS (O2022-006)

18.36.040 Application.

Applications for a preliminary planned unit development shall be made on the forms provided by the community development department. Applications shall include all the items on the application checklist, together with an application fee as established by resolution of the city council, no part of which is refundable. Additions or deletions to the contents of the application may be made by the community development director. The application for a preliminary planned unit development shall also include and address all these items:

- A. A description of how the development meets the requirements of TMC 18.36.010;*
- B. How the planned unit development relates to the surrounding area. This would include a description of any existing adjacent development and address how the proposed development would be consistent with existing adjacent development. If the existing adjacent development is not consistent with the existing comprehensive plan designations and zone districts then a comparison of the proposed development with the intent of the adjacent comprehensive plan designations and zone districts is acceptable;*
- C. If there is more than one underlying zone district then the application must include:*
 - 1. A map showing the existing zone district locations, sizes, and densities within the planned unit development. This can be augmented with a table or description in addition to a map; and*
 - 2. A map showing the proposed locations of the zone districts within the planned unit development. The borders, areas with sizes in acres, and proposed locations of the zone districts shall be shown graphically on the site plan. The borders shall follow the proposed tract or lot lines and the centerlines of streets and alleys of the planned unit development in a balanced, cohesive, and interrelated manner that does not create irregular areas.*
 - a. The planned unit development process cannot modify the sizes of the original comprehensive plan designations on the comprehensive plan land use designation map or the zone districts on the zoning map without an amendment approved by the process in TMC 18.60.*
 - b. The planned unit development process cannot modify the densities of the original comprehensive plan designations and zone districts without an amendment approved by the process in TMC 18.60;*

PLANNED UNIT DEVELOPMENTS (O2022-006)

- D. How the planned unit development is being accessed and how internal circulation will be addressed. This shall include multimodal considerations;*
- E. The location and size of critical areas and their buffers on or within 300 feet of the project site. Protection measures shall be described or shown on a map;*
- F. The location and size of open space, parks, and landscaped areas and how they serve the development;*
- G. The location of stormwater facilities;*
- H. SEPA environmental review;*
- I. Covenants for ongoing maintenance of common areas and stormwater facilities;*
- J. If the planned unit development will be phased, a map of the proposed phasing, a description of the proposed phasing timeline, and the general type and location of the development to occur in each phase consistent with TMC 18.36.090;*
- K. How the planned unit development relates to adjacent properties under similar ownership. This can include future development plans, if known; and*
- L. How the planned unit development allows for future development or redevelopment of neighboring properties. This should address, but it is not limited to, access, circulation, sizing and location of utilities, type and locations of stormwater facilities, and locations of structures.*
- e. Staff created a new section to explain that a planned unit development application cannot modify requirements in TMC Title 16 *Environment*. See Appendix A – Tangible Benefits and Flexibility.

The new section reads as follows:

18.36.050 Environment.

The provisions of TMC Title 16 may not be modified by a planned unit development, except modifications consistent with TMC 18.36.010(B)(3).

- f. Created a new section to explain that if a planned unit development application involves the creation of new lots, it would need to follow the requirements in TMC Title 17 *Land Division*.

The new section reads as follows:

18.36.060 Land division and review process.

If a planned unit development involves land division then it shall be subject to the platting and procedural requirements of TMC Title 17 and the restrictions and allowances of this chapter.

- g. Moved from TMC 18.36.080 and updated the section to establish what development requirements in TMC Title 12 *Streets, Sidewalks and Public Ways* and TMC Title 18 *Zoning* can be modified by a planned unit development and what cannot be modified. See Appendix A – Tangible Benefits and Flexibility.

The updated section reads as follows:

18.36.070 Modification of development requirements.

A planned unit development may only modify the development requirements of TMC Title 12 and TMC Title 18 consistent with this section. If a development requirement is not addressed in this section, it shall not be modified by a planned unit development.

A. Zone Districts.

- 1. The type and size of the underlying zone districts designated by the zoning map shall not be modified by a planned unit development.*
- 2. Some individual development standards of the underlying zone districts may be modified by this section.*

B. Planned unit developments with multiple underlying zone districts.

- 1. A planned unit development may move the location of underlying zone districts as part of the planned unit development process, but the type and size of each of the underlying zone districts shall remain the same and follow the requirements of TMC 18.36.040(C).*
- 2. Some individual development standards of the underlying zone districts may be modified by this section.*

C. Densities. Densities established by the underlying zone districts shall not be altered by a planned unit development.**D. Uses.**

- 1. A planned unit development is limited to the permitted, accessory, or conditional uses established by the underlying zone districts.*

2. *If a proposed use in a planned unit development requires a conditional use permit, a separate conditional use permit shall be obtained consistent with the process in TMC 18.56.*

E. Setbacks.

1. *Setbacks established by the underlying zone districts shall prevail on the perimeter boundary lines of a planned unit development.*

2. *A planned unit development may modify internal setbacks within the planned unit development.*

F. Lot sizes. Lot sizes as specified by the underlying zone districts may be modified by up to twenty-five percent by a planned unit development, either larger or smaller, provided the densities of the underlying zone district are met.

G. Land Coverage. Maximum land coverage as established by the underlying zone districts may be exceeded by no more than twenty-five percent by a planned unit development.

H. Structure height. Structure height requirements as established by the underlying zone districts may be modified up to twenty-five percent by a planned unit development.

I. Yards. Yards as specified by the underlying zone districts may be reduced by up to twenty-five percent by a planned unit development, provided the land coverage requirements of the underlying zone district are met.

J. Parks and open space area. In addition to the park and open space dedication requirements of TMC 17.12.210 or TMC 18.42.130, as applicable, the planned unit development may provide additional park and open space areas consistent with TMC 18.36.010.

K. Parking. Parking requirements shall not be modified by a planned unit development.

L. Landscaping. Landscaping requirements shall not be modified by a planned unit development.

M. Citywide design guidelines. Citywide design guidelines shall not be modified by a planned unit development.

N. Tumwater development guide. Requirements of the Tumwater development guide shall not be modified by a planned unit development, except as noted in TMC 18.36.080.

PLANNED UNIT DEVELOPMENTS (O2022-006)

O. Signage. Signage requirements shall not be modified by a planned unit development.

P. Stormwater. Stormwater requirements shall not be modified by a planned unit development.

Q. Provisions of this chapter. The requirements of this chapter shall not be modified by a planned unit development.

R. Procedural requirements. Procedural requirements shall not be modified by a planned unit development.

- h. Created a new section to establish the process for when public or private streets can be used in a planned unit development.

The new section reads as follows:

18.36.080 Public and private streets.

A. Public streets shall be required in a planned unit development except as allowed in TMC 18.36.080(B).

B. Private streets.

1. A private street may only serve four or fewer residential dwelling units, unless all of the dwelling units meet the federal definition of low income, then the private street may serve up to nine detached single family dwellings or up to thirty-five attached single family or multifamily dwelling units.

2. A private street may serve up to four businesses on separate parcels, or up to four businesses situated on one parcel.

3. The private street must meet the minimum design standards and requirements for private streets in the Tumwater development guide.

- i. Created a new section to establish the process for phasing a planned unit development.

The new section reads as follows:

18.36.090 Phasing of planned unit developments.

A. Planned unit developments containing more than one hundred dwelling units or commercial or industrial planned unit developments covering more than twenty acres are eligible to attain preliminary planned unit development approval in phases. Phased approval of preliminary planned unit developments is limited to developments with at least two but not more than four phases.

B. The application shall show the number of phases, the area each phase encompasses, and the sequence for development of the various

phases. A submittal for a phased development shall demonstrate how transportation, access, traffic, stormwater, parks and open space, critical areas, and utilities will be addressed for all phases of the development.

C. Hearing examiner review.

1. Upon receipt of the recommendation from the development review committee, the hearing examiner shall review the phased preliminary planned unit development in accordance with this section as part of a consolidated hearing according to TMC 18.36.100(B).

2. At the hearing, the hearing examiner shall consider and may alter any part of the proposed phased development.

3. The hearing examiner may approve, approve with conditions, or disapprove the phasing plan in a decision as part a consolidated hearing according to TMC 18.36.100(B).

D. The period between the date of the preliminary approval of the phased planned unit development by the hearing examiner and the date of filing for final approval for the first phase shall be consistent with TMC 18.36.170.

E. Construction plans for each phase of a phased development shall include transportation, utilities, and stormwater management facilities that comply with all state and local requirements in effect at the beginning of the period allotted for that phase.

F. Applications for approval for each successive phase must be submitted within three years of the submittal for final approval on the previous phase and within the other timelines as established by the Tumwater municipal code and TMC 18.36.170.

- j. Moved from TMC 18.36.050 and updated the section describing the hearing examiner approval process.

The updated section reads as follows:

18.36.100. Public hearing – Preliminary planned unit development

A. Upon receipt of the recommendation from the development review committee, a public hearing shall be set before the hearing examiner on the preliminary planned unit development. At the conclusion of the public hearing, the hearing examiner may approve, approve with conditions, deny, or continue the matter. A preliminary planned unit development shall only be approved if it meets the criteria in TMC 18.36.110.

PLANNED UNIT DEVELOPMENTS (O2022-006)

B. If a project with a preliminary planned unit development requires a public hearing for phasing according to TMC 18.36.090, a land division approval, a conditional use permit, a variance, and/or another action that requires a hearing, the hearings should be consolidated.

- k. Moved from TMC 18.36.050 and updated the section describing the criteria the hearing examiner would use to approve or deny an application.

The updated section reads as follows:

18.36.110 Public hearing – Criteria for decision.

In determining whether to approve or disapprove the proposed preliminary planned unit development project, the hearing examiner shall determine if the preliminary planned unit development provides for and meets all these criteria:

- A. Substantial conformance to the Tumwater comprehensive plan;*
- B. Conformance to the Tumwater municipal code and Tumwater development guide;*
- C. The quantifiable public benefits required by TMC 18.36.010;*
- D. The public health, safety, and general welfare;*
- E. The adequacy of the size of the proposed planned unit development to accommodate the contemplated developments;*
- F. Adequate access to the project site for all users of the project including the public, if applicable;*
- G. Appropriate access for public safety such as fire protection and police services; and*
- H. Adequate mitigation measures for impacts associated with the physical characteristics of the site such as groundwater, stormwater, floodplains, critical areas, steep slopes, and critical habitat.*

- l. Moved from TMC 18.36.050 and updated the section about the appeal process for a planned unit development.

The updated section reads as follows:

18.36.120 Appeal.

The decision of the hearing examiner shall be final unless appealed to superior court in accordance with the provisions of TMC 2.58.150.

- m. Created a new section to establish how a final planned unit development approval is achieved.

The new section reads as follows:

PLANNED UNIT DEVELOPMENTS (O2022-006)

18.36.130 Final planned unit development approval.

Final approval of the planned unit development will not be issued until all requirements listed in the hearing examiner decision have been met. Certificate(s) of occupancy shall not be issued until final approval unless the community development director, or their designee, determines it is in the best interest of the city. The city and the applicants must agree on a reasonable deadline for obtaining final approval for the planned unit development. Failure of the applicants to obtain final approval prior to the agreed upon date shall result in revocation of the certificate(s) of occupancy.

- n. Created a new section to establish the process for minor modifications to a planned unit development.

The new section reads as follows:

18.36.140 Minor modifications.

Minor modifications to a planned unit development may be administratively approved provided they meet all these conditions:

- A. The modification will not have the effect of reducing required landscaped area, or reducing or encroaching into required buffer areas or reducing the amount of required open space or parks in the planned unit development;*
- B. The modification will not have the effect of increasing the residential density of the planned unit development;*
- C. The modification will not have the effect of increasing the area devoted to nonresidential uses in the planned unit development; and*
- D. The modification will not increase any adverse impacts or undesirable effects of the project, or that the modification in no way significantly alters the project.*

- o. Created a new section to establish the process for major modifications to a planned unit development.

The new section reads as follows:

18.36.150 Major Modifications.

- A. Modifications to planned unit developments that do not meet the all the conditions of TMC 18.36.140 shall be considered major modifications.*
- B. A public hearing shall be required before the hearing examiner and follow the requirements of TMC 18.36.100 and TMC 18.36.110.*

- p. Created a new section to establish the process for how planned unit development applications vest.

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The new section reads as follows:

18.36.160 Vesting of planned unit developments.

A. Planned unit developments that involve land division are vested when a complete land division application has been submitted to the community development department.

B. Planned unit developments that do not involve land division vest when a complete building permit application has been submitted to the community development department after preliminary planned unit development approval is granted consistent with TMC 18.36.100.

- q. Created a new section to establish how long an approved preliminary approval for a planned unit development is valid.

The new section reads as follows:

18.36.170 Duration of approval for planned unit developments.

A. Preliminary approval of a planned unit development by the hearing examiner is valid for a period of five years.

B. An initial one-year extension, which has been filed at least thirty days prior to the expiration of the period of approval, may be granted by the community development director or his/her designee upon a finding that the applicant has attempted in good faith to complete the final planned unit development within the period of approval. Submittal of complete engineering plans for the project and the start of construction prior to the expiration of the approval period time limit shall constitute a good faith effort.

C. Two additional one-year extensions may be administratively granted, which shall be reviewed for compliance with these criteria:

- 1. The applicant has pursued submitting the final land division in good faith. Submittal of complete engineering plans and the start of construction for the project prior to the expiration of the approval period time limit shall constitute a good faith effort on the part of the applicant;*
- 2. There have been no amendments to the comprehensive plan, zoning ordinance, development standards or other applicable codes which are inconsistent with the approved preliminary planned unit development, unless such amendments can be incorporated into the existing preliminary planned unit development without significantly altering the project as originally approved by the hearing examiner; and*

3. *There are no other significant changed conditions that would render the planned unit development contrary to the public health, safety, or general welfare.*

- r. Moved from TMC 18.36.070 and updates the section on the standards for bonding required facilities for a planned unit development.

The updated section reads as follows:

18.36.180 Standards – Bond.

A. Planned unit development projects shall be complete developments and may be required to include facilities such as, but not limited to, streets, curbs, sidewalks, street lights, drainage, open space, sanitary sewer, underground power and telephone lines, landscaping, screening, signs, and off-street parking in conformance with the requirements and allowances of the hearing examiner.

B. The applicant shall furnish the city with a performance bond or other acceptable surety approved by the city attorney, guaranteeing installation of specified public improvements and landscaping.

Planning Commission Discussion

After the Planning Commission briefing on April 26, 2022, staff added Appendix A – Tangible Benefits and Flexibility to the staff report, which provides tables on the tangible benefits that would be allowed by a planned unit development and sections of the development code that a developer would or would not have flexibility to address.

At their May 10, 2022 meeting, staff suggested that the Planning Commissioners focus on their evaluation on the following:

1. The type of tangible benefits proposed. Should more be added or should some be taken off?
2. The points assigned for each benefit. Are points too many or too few?
3. The total number of tangible benefits points required. Is the number of points required balanced by the sections of the development code where the developer has flexibility?
4. Code modifications allowed. Should more be added or should some be taken off? Are the code modifications allowed balanced by the tangible benefits required?
5. Code modifications not allowed. Should more be added or should some be taken off?

At the Planning Commission May 10, 2022 meeting, the Commission asked staff to reach out to local residential, commercial, and industrial developers to get their input on the quantifiable public benefits that would be required in exchange for flexibility in existing bulk and dimensional regulations in the ordinance. Staff contacted five local developers who do a lot of work in the City on May 16, 2022, explained the project, provided them with the list of quantifiable public benefits and code modification allowed, and asked that they consider the following questions while reviewing the tables:

1. For the type of tangible benefits that are proposed, what tangible benefits should be added or taken off?
2. What are your suggestions on the points assigned for each tangible benefit?
3. How should the size of a planned unit development scale with the tangible benefits required?
4. Are the tangible benefits required balanced by the flexibility in the code modifications?
5. Should more code modifications be added or be taken off?
6. How should the size of a planned unit development scale with the code modifications allowed?
7. Are the code modifications allowed balanced by the tangible benefits required?

Staff heard back from one developer on May 26, 2022, incorporated their suggestions into the ordinance, and modified Appendix A – Tangible Benefits and Flexibility. Staff also addressed how the scale of the project affects the number of tangible benefits required for a planned unit development. Staff presented their findings at the Planning Commission's June 14, 2022 worksession.

Public Approval Process

The Planning Commission held a briefing on the proposed amendments on April 26, 2022 and its first worksession on May 10, 2022. The Planning Commission held a second worksession on June 14, 2022.

An Environmental Checklist for a non-project action was prepared on April 5, 2022 under the State Environmental Policy Act (Chapter 43.21C RCW), pursuant to Chapter 197-11 WAC, and a Determination of Non-Significance was issued later on April 28, 2022.

The ordinance was sent to the Washington State Department of Commerce on April 5, 2022 for the required 60-day review before the proposed text amendments were adopted, in accordance with RCW 36.70A.106.

PLANNED UNIT DEVELOPMENTS (O2022-006)

A Notice of Public Hearing for the Planning Commission was issued on June 17, 2022 prior to a public hearing. The notice was posted, published as a press release, distributed to interested individuals and entities that have requested such notices, and published in *The Olympian*.

The Planning Commission held a public hearing for the proposed amendments on June 28, 2022. Following the public hearing and deliberations, the Planning Commission recommended that Council approve the proposed amendments.

The Public Works Committee will hold a briefing on the proposed private streets amendments to the *Tumwater Development Guide* on July 7, 2022.

The General Government Committee will review the proposed amendments in a briefing on July 13, 2022 and recommend that the ordinance be discussed at a City Council worksession. The City Council is scheduled to review the amendments at a worksession on July 26, 2022 and consider the amendments on August 1, 2022.

Public Notification

A Notice of Public Hearing for the Planning Commission was issued, posted, mailed to interested parties, and published in *The Olympian* on June 17, 2022, after the Planning Commission set the public hearing date on June 14, 2022.

Staff Conclusions

1. The proposed text amendments are consistent with the goals of the Washington State Growth Management Act.

- a. This ordinance is consistent with Goal 7 of the Growth Management Act which states:

“Permits. Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.”

The Ordinance establishes concise requirements for the application, review process, and approval of planned unit developments.

2. The proposed amendments are consistent with the Economic Development Plan because the proposed amendments improve the clarity and specificity of the regulations for submittal, review, and approval of planned unit developments.

- a. Goal #1 of the Economic Development Plan states:

“Establish a development climate that stimulates economic activity and desirable investment.”

- b. The text of the Economic Development Plan states that one of the ways to support Goal #1 is:

PLANNED UNIT DEVELOPMENTS (O2022-006)

“...by making ongoing improvements to existing development regulations, systems, and processes.”

c. Action item 1.D. of the Economic Development Plan states:

“Ensure a predictable and efficient experience for business owners and developers seeking to invest in Tumwater.”

This Ordinance improves the existing regulations for the application, review process, and approval of planned unit developments.

3. Based on the above review and analysis, staff concludes that the proposed text amendments are consistent with the requirements of the Washington State Growth Management Act and the Tumwater Comprehensive Plan.

Planning Commission Recommendation

The Planning Commission recommends approval of the proposed amendments as shown in Ordinance No. O2022-006.

Effects of the Proposed Amendments

The proposed text amendments would necessitate changes to the Tumwater Municipal Code as shown in Ordinance No. O2022-006.

Staff Contact

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Appendix A – Tangible Benefits and Flexibility

Tangible Benefits (Amended Section TMC 18.36.010)

Through the planned unit development process, the applicant is given flexibility in regard to site design, placement of buildings, use of required open spaces, setbacks, lot sizes and dimensions, and otherwise better utilize the potential of sites characterized by special features, such as geography, topography, size or shape.

In exchange, the applicant shall provide at least two points from the following list of tangible benefits to the city and the public for projects that provide twenty or more residential dwelling units or industrial, commercial, or institutional projects that are 20 acres or more in size. For projects that provide less than twenty residential dwelling units or industrial, commercial, or institutional projects that are less than 20 acres in size, the applicant shall provide at least one point from the following list of tangible benefits to the city and the public.

For tangible benefits that have a range of potential points, both the applicant and the city shall agree upon the number of points assigned.

#	Points	Tangible Benefit	Notes
1	1.0	Provide superior useable parks and open space.	Both the applicant and the city shall agree upon the location, size, and extent of the superior useable parks and open space.
2	1.0 to 2.0	Significant public facilities or other public amenities that could not be required by the city for development of the subject property without a planned unit development.	Both the applicant and the city shall agree upon the type of significant public facility or amenity, the size, location, and other pertinent aspects, as well as the number of points for the significant public facility or other public amenity. Significant public facilities or other public amenities shall not include the minimum public facilities and public improvements already required of the development.

PLANNED UNIT DEVELOPMENTS (O2022-006)

#	Points	Tangible Benefit	Notes
3	1.0	Going significantly beyond the minimum requirements for critical area protections to preserve, enhance, or rehabilitate critical areas and buffers.	Both the applicant and the city shall agree upon the location, size, and extent of the additional protection, enhancement, or rehabilitation.
4	1.0	Dedication of a site containing a historic landmark.	Dedication would be to the city or a qualifying nonprofit organization capable of restoring and/or maintaining the premises to standards set by Washington State Office of Archaeology and Historic Preservation.
5	2.0	Incorporation of energy systems that produce energy from nondepletable energy sources will result in at least fifty percent of the energy needs for the planned unit development being met.	Both the applicant and the city shall agree upon the type and conditions for the energy systems provided. "Energy systems" are defined in TMC 18.04.050.
6	2.0	For residential developments, building passive homes that meet the Passive Home Institute US (PHIUS) standards, which will result in fifty percent or more of the total dwelling units in the planned unit development qualifying as passive homes.	Both the applicant and the city shall agree whether the PHIUS standards for passive homes are addressed.
7	1.0	Going significantly beyond the minimum required energy efficiency requirements for at least fifty percent or more of the energy needs of the planned unit development.	Both the applicant and the city shall agree upon how the project goes beyond the minimum required energy efficiency requirements.

PLANNED UNIT DEVELOPMENTS (O2022-006)

#	Points	Tangible Benefit	Notes
8	2.0	The provision of at least twenty percent of the total dwelling units as permanently affordable housing.	Consistent with TMC 18.42.140(D)-(K).
9	1.0 to 2.0	Any other public facility, feature, item, project, or amenity proposed by the applicant that the City agrees meets the intent of this section.	Both the applicant and the city shall agree upon the type of other public facility, feature, item, project, or amenity, the size, location, and other pertinent aspects.

Code Modifications Allowed (Amended Sections TMC 18.36.050 and TMC 18.36.070)

A planned unit development may only modify the development requirements of TMC Title 12 *Streets, Sidewalks and Open Spaces*, 16 *Environment*, and TMC Title 18 *Zoning* consistent with TMC 18.36.050 and TMC 18.36.070. If a development requirement is not addressed in TMC 18.36.070, it shall not be modified by a planned unit development.

Code Modifications Allowed	Notes
Environment	The provisions of TMC Title 16 <i>Environment</i> may not be modified by a planned unit development, except modifications consistent with TMC 18.36.010(B)(3).
Zone Districts	The type and size of the underlying zone districts designated by the zoning map shall not be modified by a planned unit development. Some individual development standards of the underlying zone districts may be modified by this section

PLANNED UNIT DEVELOPMENTS (O2022-006)

Code Modifications Allowed	Notes
Planned unit developments with multiple underlying zone districts	<p>A planned unit development may move the location of underlying zone districts as part of the planned unit development process, but the type and size of each of the underlying zone districts shall remain the same and follow the requirements of TMC 18.36.040(C).</p> <p>Some individual development standards of the underlying zone districts may be modified by this section.</p>
Setbacks	<p>Setbacks established by the underlying zone districts shall prevail on the perimeter boundary lines of a planned unit development.</p> <p>A planned unit development may modify internal setbacks within the planned unit development</p>
Lot sizes	Lot sizes as specified by the underlying zone districts may be modified by up to twenty-five percent by a planned unit development, either larger or smaller, provided the densities of the underlying zone district are met.
Land Coverage	Maximum land coverage as established by the underlying zone districts may be exceeded by no more than twenty-five percent by a planned unit development.
Structure height	Structure height requirements as established by the underlying zone districts may be modified up to twenty-five percent by a planned unit development.
Yards	Yards as specified by the underlying zone districts may be reduced by up to twenty-five percent by a planned unit development, provided the land coverage requirements of the underlying zone district are met.

PLANNED UNIT DEVELOPMENTS (O2022-006)

Code Modifications Allowed	Notes
Parks and open space area	In addition to the park and open space dedication requirements of TMC 17.12.210 or TMC 18.42.130, as applicable, the planned unit development may provide additional park and open space areas consistent with TMC 18.36.010.

Code Modifications Not Allowed (Amended Sections TMC 18.36.050 and TMC 18.36.070)

A planned unit development may only modify the development requirements of TMC Title 12 *Streets, Sidewalks and Public Ways* and TMC Title 18 *Zoning* consistent with TMC 18.36.070. If a development requirement is not addressed in TMC 18.36.070, it shall not be modified by a planned unit development. The provisions of TMC Title 16 *Environment* may not be modified by a planned unit development, except modifications consistent with TMC 18.36.010(B)(3).

Code Modifications Allowed	Notes
Environment	The provisions of TMC Title 16 <i>Environment</i> may not be modified by a planned unit development, except modifications consistent with TMC 18.36.010(B)(3).
Zone Districts	The type and size of the underlying zone districts designated by the zoning map shall not be modified by a planned unit development. Some individual development standards of the underlying zone districts may be modified by this section
Planned unit developments with multiple underlying zone districts	A planned unit development may move the location of underlying zone districts as part of the planned unit development process, but the type and size of each of the underlying zone districts shall remain the same and follow the requirements of TMC 18.36.040(C). Some individual development standards of the underlying zone districts may be modified by this section.

PLANNED UNIT DEVELOPMENTS (O2022-006)

Code Modifications Allowed	Notes
Densities	Densities established by the underlying zone districts shall not be altered by a planned unit development.
Uses	<p>A planned unit development is limited to the permitted, accessory, or conditional uses established by the underlying zone districts.</p> <p>If a proposed use in a planned unit development requires a conditional use permit, a separate conditional use permit shall be obtained consistent with the process in TMC Chapter 18.56 <i>Conditional Use Permits</i>.</p>
Setbacks	<p>Setbacks established by the underlying zone districts shall prevail on the perimeter boundary lines of a planned unit development.</p> <p>A planned unit development may modify internal setbacks within the planned unit development</p>
Parking	Parking requirements shall not be modified by a planned unit development.
Landscaping	Landscaping requirements shall not be modified by a planned unit development.
Citywide design guidelines	Citywide design guidelines shall not be modified by a planned unit development.
<i>Tumwater Development Guide</i>	Requirements of the <i>Tumwater Development Guide</i> shall not be modified by a planned unit development, except as noted in TMC 18.36.080.
Signage	Signage requirements shall not be modified by a planned unit development.
Stormwater	Stormwater requirements shall not be modified by a planned unit development.
Provisions of this chapter	The requirements of this chapter shall not be modified by a planned unit development.

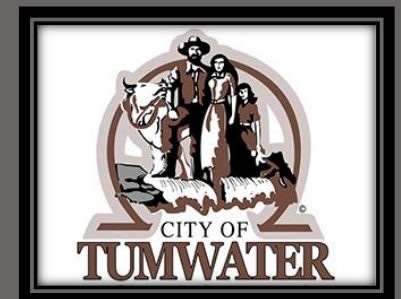
PLANNED UNIT DEVELOPMENTS (O2022-006)

Code Modifications Allowed	Notes
Procedural requirements	Procedural requirements shall not be modified by a planned unit development.

Planned Unit Development Amendments

Tumwater Development Guide Amendments
Ordinance No. O2022-006

July 7, 2022
Public Works Committee Briefing



Issue

- The City's planned unit development regulations were last substantially updated in 2000
- In other jurisdictions, planned unit developments provide a quantifiable public benefit in exchange for flexibility in addressing existing regulations

Issue – Benefits & Flexibility

- Currently, planned unit developments in the City provide a benefit to developers by giving flexibility in addressing existing regulations, but have not provided a quantifiable benefit to the public
- The proposed amendments provide developers flexibility in addressing existing regulations in exchange for requiring quantifiable public benefits

Issue – Private Streets

- Current regulations do not clearly address the requirements for private streets as part of planned unit developments
- The amendments would:
 - Provide more specificity in regards to when and how private streets are allowed
 - Amend the definition of a private street in TMC Title 17 to be consistent with the *Tumwater Development Guide* and amend the sections of the *Tumwater Development Guide* that addresses private streets as needed

Summary of Amendments

1. Private Streets

- a. Amend the definition of private street in TMC 17.04.385 to read:

“Private street” means a privately owned and maintained vehicular access serving property, which is provided for by an access tract, easement, or other legal means.

Summary of Amendments

1. Private Streets

b. Tumwater Development Guide

CHAPTER THREE

Section 3.4.A (Page 3-4)

GENERAL ENGINEERING CONSIDERATIONS

3.4 Definitions and Terms

[...]

"PRIVATE STREET" - A privately owned and maintained vehicular access serving property, which is provided for by an access tract, easement, or other legal means~~Private vehicular access provided for by an access tract, easement, or other legal means, to serve property that is privately owned and maintained.~~

[...]

Staff Notes: The definition in Section 3.4 of the Tumwater Development Guide for "private street" is amended to be consistent with the amended definition of "private street" in TMC 17.04.385 Private Street.

Summary of Amendments

1. Private Streets

b. Tumwater Development Guide

Section 4.8 Private Streets (Pages 4-6 and 4-7)

STREETS

4.8 Private Streets

See definition of private street in Section 3.4.

A. Private streets may be allowed under the following conditions:

1. ~~A private street may be p~~Permanently established by tract or easement ~~to provide~~ing legal access to serve no more than four dwelling units. If all of the dwelling units in a development meet the federal definition of low income, then the private street may serve up to nine detached single family dwellings or up to thirty-five attached single family or multifamily dwelling units. A private street may serve up to four businesses on separate parcels, or four businesses situated on one parcel, or businesses on four separate parcels, or unlimited dwelling units or businesses situated on one parcel and sufficient to accommodate required improvements, to include provisions for future use by adjacent property owners when applicable. The four parcel restriction does not apply to private streets in the Port of Olympia Airdustrial Park private roadsNew Market Industrial Center due to Federal Aviation Administration requirements. ~~In addition, private streets may be allowed as part of an approved PUD, if conditions 2-5, below, are met.~~

Summary of Amendments

1. Private Streets

b. Tumwater Development Guide

2. ~~In addition, private streets may be allowed as part of an approved PUD, if conditions 2-5, below, are met.~~ Meet the minimum design standards for private streets in ~~Table 1~~ the Street Section Design table in Section 4.4.
3. Accessible at all times for emergency and public service vehicle use.
4. ~~Will not result in landlocking~~ of present or future parcels nor obstruct public street circulation.
5. ~~Covenants have been approved, recorded, and verified with the City, which provide for maintenance of the private streets and associated parking areas by the owner or homeowners association or other legal entity.~~
6. ~~Private streets must include provisions for future use by adjacent property owners when applicable.~~
- 5.7. ~~Private streets may be allowed as part of an approved planned unit development, if the requirements of TMC 18.36.100(B) are met.~~

B. Acceptance as Public Streets.

Acceptance of private streets as public streets will be considered only if the street(s) meet all applicable public street standards, including right-of-way widths. The developers engineer shall provide as built designs and testing to confirm proper construction standards.

Staff Notes: Amendments to this section match proposed amendments to the Planned Unit Development Chapter in TMC 18.36.

Summary of Amendments

1. Private Streets

b. Tumwater Development Guide

Section 3.18 (Page 3-15 and 3-16)

GENERAL ENGINEERING CONSIDERATIONS

3.18 Utility Extension

- A. Anyone who wishes to extend any City utility should contact the ~~Development Services~~Transportation and Engineering Department for an Extension/Connection Fee Estimate and any special extension requirements.
- B. Utility mains shall be required to be extended to and along all frontages, including private roads, any property being developed for loop closures and/or future development as determined by the City. Size shall be as shown on comprehensive plans or as required to serve future development but not less than the minimums required elsewhere in this document.
- C. In the case of a property being developed and, upon the determination of the ~~Development Services~~Transportation and Engineering Director, not being required to connect to the city utility for reasons typically associated with the property's lack of proximity to existing utilities or location outside city limits, but within the urban growth area, the owner may be allowed the option, at the discretion of the ~~Development Services~~Transportation and Engineering Director, of paying a fee in lieu of actual installation of the otherwise required extensions. The fee in lieu payment will be equal to 50% of the estimated cost for the city to install the extensions.
- D. For utility extensions outside the City limits, all infrastructure improvements should be made at the more restrictive jurisdictional requirements.
- E. For more specific information regarding utilities, please refer to the appropriate chapter in this Guide.

Staff Notes: Section 3.18 is updated to reflect the current structure of the City Departments and the Growth Management Act requirements about limiting urban services to the City and its urban growth area.

Summary of Amendments

2. Public streets are required in a planned unit development, except private streets are allowed:
 - a. When serving 4 or fewer residential dwelling units, unless all of the dwelling units are low income, then private streets may serve up to 9 detached single family dwellings or up to 25 attached single family or multifamily dwelling units
 - b. When serving up to 4 businesses on separate parcels, or up to 4 businesses situated on 1 parcel
 - c. The private street must meet the minimum design standards and requirements for private streets in the *Tumwater Development Guide*

Recommendation

Planning Commission recommends approval of the proposed amendments as shown in Ordinance No. O2022-006

Next Steps

City Council

- Public Works Committee briefing – July 7, 2022
- General Government Committee briefing – July 13, 2022
- Worksession – July 26, 2022
- Consideration – August 1, 2022

TO: Public Works Committee
FROM: Christopher Ed, Transportation Engineer
DATE: July 7, 2022
SUBJECT: 2022 Annual Striping Project - Authority to Solicit Bids and Award Contract

1) Recommended Action:

Staff requests that the Public Works Committee authorize staff to solicit bids for the 2022 Annual Striping Project and recommend City Council award and authorize the Mayor to sign a public works contract with the lowest responsible bidder.

2) Background:

Historically, Thurston County has performed the restriping work for the City's 140 miles of painted longitudinal pavement markings. Due to the COVID-19 pandemic and staffing constraints, Thurston County has been unable to do the restriping work for the City. Staff are now looking to contract the work for furnishing and installing of the painted longitudinal pavement markings and any removal of pavement markings needed to complete the project.

The Engineer's estimate for the annual striping project is \$110,000.

3) Policy Support:

City of Tumwater Strategic Priorities and Goals 2021-2026:

C. Create and Maintain Transportation System Safe for All Modes of Travel

4) Alternatives:

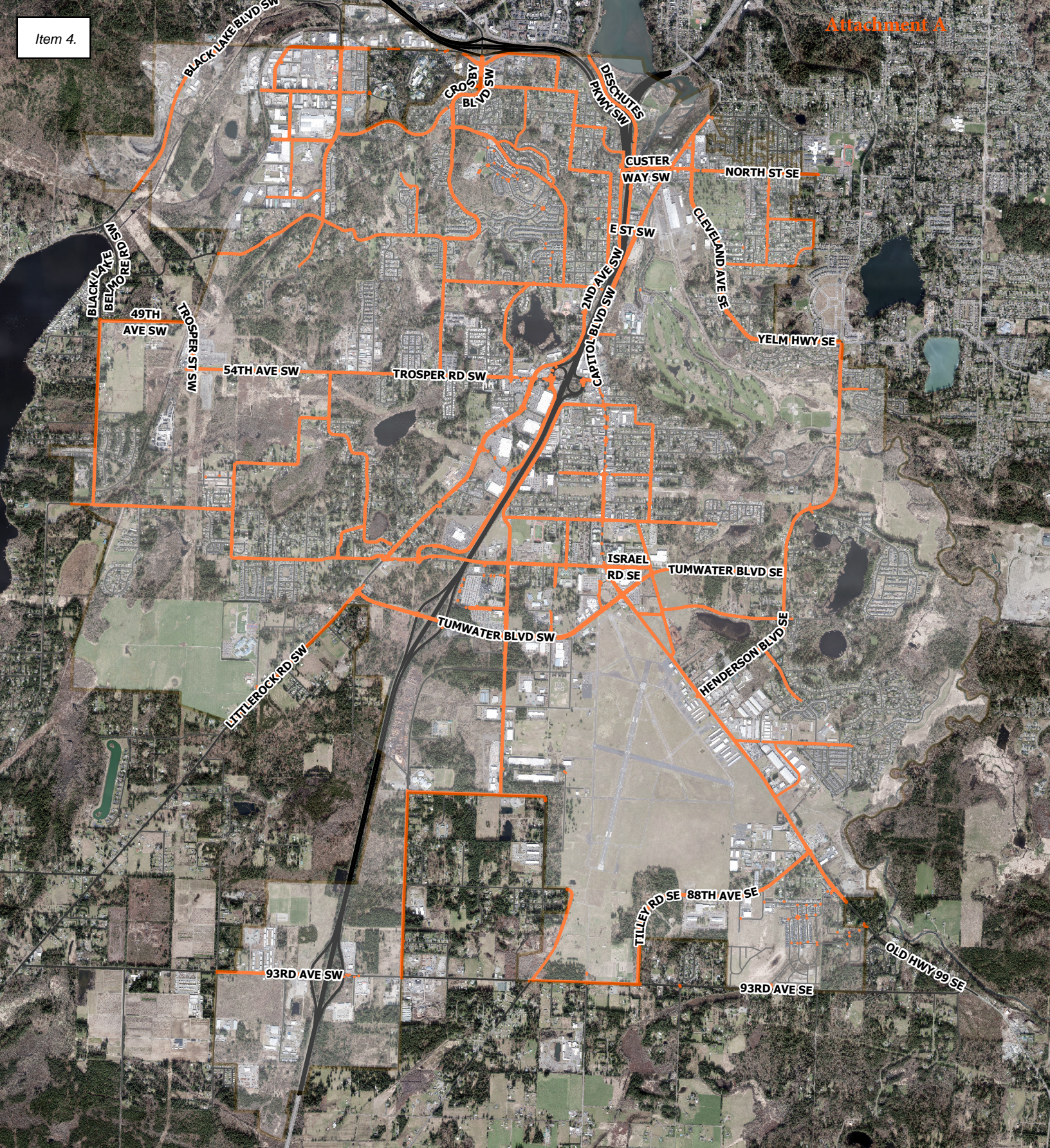
☐ Do not authorize staff to solicit Bids.

5) Fiscal Notes:

Funding for project will come from General Fund – Streets operating budget.

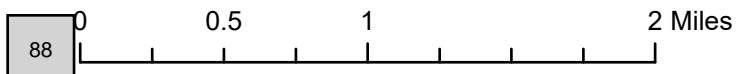
6) Attachments:

A. 2022 Annual Striping Project Map



City of Tumwater 2022 Annual Striping Map

- Annual Striping
- Residential
- Arterial/Collector
- Freeway/Highway
- City of Tumwater



TO: Public Works Committee
FROM: Alyssa Jones Wood, Sustainability Coordinator
DATE: July 7, 2022
SUBJECT: Interagency Agreement No. K7666, Department of Enterprise Services Energy Program

1) Recommended Action:

Staff requests the Public Works Committee recommend City Council approve and authorize the Mayor to sign Interagency Agreement No. K7666 with the Department of Enterprise Services in substantially similar form as approved by City Attorney.

2) Background:

The 2020 Green Team Sustainability Report showed that 76% of our City Operations Greenhouse Gas Emissions come from water wells (48%), lift stations (7%), and facilities (21%). City staff intends to undertake an Energy & Water Audit of city facilities and infrastructure, through the ESCO process, with the goal to reduce energy and potable water consumption and thus emissions. This Interagency Agreement with the Department of Enterprise Services allows the City to begin the ESCO process.

3) Policy Support:

2023-2024 Strategic Priority: Be a Leader in Environmental Sustainability.

- Reduce the carbon footprint of the City organization; and
 - Work with partners to develop and implement a regional climate action plan with measurable targets to reduce our community's carbon footprint.
-

4) Alternatives:

- ☐ Do not recommend approval of Interagency Agreement No. K7666.
-

5) Fiscal Notes:

The preliminary assessment of city facilities and infrastructure will be done at no cost to the City. Following the preliminary assessment, the ESCO will perform an Investment Grade Audit and prepare an Energy Services Proposal for the Committee to consider at a later date.

6) Attachments:

- A. Interagency Agreement No. K7666

State of Washington ENERGY PROGRAM Department of Enterprise Services P.O. Box 41476 Olympia, WA 98504-1476	INTERAGENCY AGREEMENT	
	IAA No.:	K7666
CITY OF TUMWATER 555 Israel Road SW Tumwater, WA 98501	Date:	June 13, 2022

INTERAGENCY AGREEMENT
BETWEEN
CITY OF TUMWATER
AND
WASHINGTON STATE DEPARTMENT OF ENTERPRISE SERVICES

Pursuant to RCW chapter 39.34 and RCW chapter 39.35C, this *Interagency Agreement (Agreement)* is made and entered into by and between the State of Washington acting by and through the Energy Program of the Department of Enterprise Services, a Washington State governmental agency (“Enterprise Services”) and City of Tumwater, a Washington State governmental agency (“Client Agency”) and is dated and effective as of the date of the last signature.

RECITALS

- A. Enterprise Services, through its Energy Program (“Energy Program”), helps owners of public facilities reduce energy and operational costs. The Energy Program is a national leader in developing and managing energy savings performance contracts that help reduce energy and operational costs in publicly-owned facilities.
- B. Upgrading to energy efficient infrastructure helps reduce long-term operations and maintenance costs. This allows owners to be better financial stewards while achieving their mission, so that Washington is a better place to live, learn, and work.
- C. Acting as the owner’s advocate, the Energy Program delivers professional expertise and contract management services. By leveraging capital investments, owners can achieve efficiencies, improve facilities, and reduce carbon emissions in their publicly-owned facilities. Energy Program also creates value to owners by managing risk through guaranteed total project costs, equipment performance, and energy savings.
- D. Client Agency, an owner of a public facility, desires to contract with Energy Program to access and obtain certain Energy Program Services.
- E. The purpose of this Agreement is to establish a vehicle for Energy Program to provide future energy/utility conservation project management services to Client Agency and to authorize the development of the energy services proposal in a cost-effective, efficient manner.

A G R E E M E N T

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the parties agree as follows:

1. **TERM.** The term of this *Agreement* commences on the date of the last signature and ends **December 31 2026**.

2. **STATEMENT OF WORK.**

A. **ENERGY PROGRAM.** Energy Program agrees to provide the following Services:

- i. Upon request by Client Agency for energy services for a specific Energy/Utility Conservation Project(s), the Parties shall execute an amendment to this *Agreement* to specify the project and associated project management fees as set forth by Attachment B. Enterprise Services shall furnish necessary personnel and services as specified and set forth in Attachment A, *Project Management Services Scope of Work*.
- ii. Assist in Dispute Resolution. Dispute resolution is an ongoing process throughout the project. However, this assistance does not include formal dispute resolution, arbitration or legal advice or representation in any legal action, and does not include legal fees and costs related to any dispute. Formal dispute resolution begins when a written claim is received demanding arbitration or other legal process is received. All formal dispute fees and costs will be borne separately by Client Agency. The Attorney General cannot and will not represent or advise a non-state agency.

B. **CLIENT AGENCY.** Client Agency agrees to the following:

- i. Will conform to the protocols of this *Agreement*, including Enterprise Services' *General Conditions for Washington State Energy Savings Performance Contracting ("General Conditions")*, and as supplemented.
- ii. Will conform to the requirements of the *General Conditions* for timely processing and approval of agreed upon changes to construction contracts involving cost, and for payment.
- iii. Will conform to the following guidelines for communications between Client Agency, Enterprise Services and ESCOs (Energy Services Company) through the design, construction and post-construction phases as outlined below:
 - a) Communications between Client Agency, Energy Program Project Manager ("PM") and ESCO shall go through the PM. The PM may authorize exceptions for specific projects or situations. The PM may authorize the ESCO to communicate directly with Client Agency personnel to expedite the design and to avoid communication delays. This action does not authorize additional work, change in scope, or exclude copying all communications between ESCO and Client Agency to the PM.
 - b) All drawings, specifications, reports, and project correspondence must contain the State Project Number and suffix.
 - The State Project Number consists of the fiscal year and a numerical sequence number, for example 2018-024, followed by an alphabetical suffix.

- Professional services agreements have suffixes A through F, for example 2018-024 A.
 - Construction contracts have suffixes G through Z, for example 2018-024 G.
- iv. All identification and monitoring of documentation required by the funding source shall remain the responsibility of Client Agency.

3. COMPENSATION AND REQUIREMENTS.

- A. **COMPENSATION.** Compensation under this *Agreement* shall be by amendment to this *Agreement* for each authorized project. Each amendment shall include a payment schedule for the specific project.
- i. **Project Management Services Scope of Work (Attachment A):** For project management services provided by Energy Program, Client Agency shall pay Enterprise Services a Project Management Fee for services based on the total project value (including Washington state sales tax) per the Project Management Fee Schedule set forth in Attachment B.
 - ii. **Termination Fee:** If Client Agency, after authorizing an investment grade audit and energy services proposal, decides not to proceed with an energy/utility conservation project that meets Client Agency's cost effective criteria, then the Client Agency will be charged a termination fee as set forth in Project Management Fee Schedule. The termination fee shall be based on the estimated total project value outlined in the energy services proposal prepared by the ESCO as set forth in Attachment B.
 - iii. **Measurement & Verification Services ("M&V") Scope of Work (Attachment C):** If M&V are requested by Client Agency beyond the first three years following the notice of commencement of energy cost savings, Client Agency shall pay Enterprise Services \$2,000.00 annually for each year that such M&V are provided.
- B. **PAYMENT FOR ESCO SERVICES.** In the event that Client Agency enters into a contract with an Energy Program pre-qualified ESCO, pursuant to an *Enterprise Services Master Energy Services Agreement for ESCO Services*, Client Agency shall make payment for such contracted services directly to the ESCO, after Energy Program has reviewed and sent such invoices to Client Agency for payment.
- C. **FURTHER ASSURANCES.** Client Agency shall provide the ESCO with any additional necessary or desired contract language to comply with Client Agency's obligations pertaining to its use of federal, state, or other grants, funding restrictions, or unique contract/entity requirements. The ESCO and their subcontractors are required to comply with all applicable federal regulations and reporting procedures.
- D. **MANAGING COMPLIANCE WITH STATE AND FEDERAL LAW.** In all ESCO project agreements and contracts pertaining to this *Agreement*, Energy Program will require ESCO's compliance with applicable federal and state laws and state policies including, but not limited to, the following:
- 1. RCW Title 39 and 43
 - 2. ADA Requirements
 - 3. Buy America
 - 4. Davis-Bacon
 - 5. Prevailing Wage
 - 6. DBE Participation
 - 7. Apprentice Participation

Upon request by Client Agency, Energy Program will collect and provide the weekly-certified payroll to Client Agency. Client Agency, however, shall remain responsible for any documentation required by Client Agency's funding source. All federal verification, investigation, survey, reporting and enforcement requirements when there is a possible violation shall remain the responsibility of the federal grant recipient (Client Agency) unless negotiated by Energy Program and added by amendment to this *Agreement*. In the event that Energy Program becomes aware of a possible violation, it will notify Client Agency.

4. INVOICES AND BILLING.

- A. **BILLING PROCEDURE.** Enterprise Services shall submit invoices to Client Agency upon substantial completion and notice of commencement of energy cost savings of each authorized project, unless an amendment specifies special billing conditions and timeline. Substantial completion of the project will include the delivery and acceptance of the notice of commencement of energy cost savings issued by the energy services company. Each invoice will clearly indicate that it is for the services rendered in performance under this *Agreement* and shall reflect this *Agreement* and Amendment number. Energy Program will invoice for any provided services within sixty (60) days of the expiration or termination of this *Agreement*.
- B. **PAYMENT PROCEDURE.** Client Agency shall pay all invoices received from Enterprise Services within thirty (30) days of receipt of properly executed invoice vouchers.
- C. **BILLING DETAIL.** Each invoice submitted to Client Agency by Enterprise Services shall include information as is necessary for Client Agency to determine the exact nature of all expenditures. At a minimum, the invoice shall reference this *Agreement* and include the following:
 - The date(s) such services were provided
 - Brief description of the services provided
 - Total invoice amount
- D. **BILLING ADDRESS.** Invoices shall be delivered to Client Agency electronically to:

Email: ajoneswood@ci.tumwater.wa.us

- 5. **AGREEMENT MANAGEMENT.** The parties hereby designate the following *Agreement* administrators as the respective single points of contact for purposes of this *Agreement*, each of whom shall be the principal contact for business activities under this *Agreement*. The parties may change administrators by written notice as set forth below. Any notices required or desired shall be in writing and sent by U.S. mail, postage prepaid, or sent via email, and shall be sent to the respective addressee at the respective address or email address set forth below or to such other address or email address as the parties may specify in writing:

Enterprise Services

Attn: Bernard Jackson
 Energy Project Manager
 Energy Program
 Washington Dept. of Enterprise Services
 PO Box 41476
 Olympia, WA 98504-1476
 Tel: (360) 280-0654
 Email: Bernard.jackson@des.wa.gov

Client Agency

Attn: Alyssa Jones Wood
 Sustainability Coordinator
 City of Tumwater
 555 Israel Road SW
 Tumwater, WA 98501
 Tel: (360) 654-4140
 Email: ajoneswood@ci.tumwater.wa.us

Notices shall be deemed effective upon the earlier of receipt, if mailed, or, if emailed, upon transmission to the designated email address of said addressee.

The Client Agency representative shall be responsible for working with Energy Program, approving billings and expenses submitted by Energy Program, and accepting any reports from Energy Program or ESCO.

The Energy Program representative shall be the contact person for all communications regarding the conduct of work under this *Agreement*.

6. RECORDS.

- A. **AGREEMENT AVAILABILITY.** Prior to its entry into force, this *Agreement* shall be posted on the parties' websites or other electronically retrievable public source as required by RCW 39.34.040.
- B. **RECORDS RETENTION.** Each party shall maintain records and other evidence that sufficiently and properly reflect all direct and indirect costs expended by either party in the performance and payment of the services. These records shall be subject to inspection, review, or audit by personnel of both parties, other personnel duly authorized by either party, the Office of the State Auditor, and officials authorized by law. Such records shall be retained for a period of six (6) years following expiration or termination of this *Agreement* or final payment for any service placed against this *Agreement*, whichever is later; Provided, however, that if any litigation, claim, or audit is commenced prior to the expiration of this period, such period shall extend until all such litigation, claims, or audits have been resolved.
- C. **OWNERSHIP.** Records and other information, in any medium, furnished by one party to this *Agreement* to the other party, will remain the property of the furnishing party, unless otherwise agreed. The receiving party will not disclose or make available this material to any third party without first providing notice to the other party and allowing ten (10) business days in which to file, at its sole expense, a motion seeking a protective order, or other legal action. Each party will utilize reasonable security procedures and protections to assure that records and information provided by the other party are not erroneously disclosed to third parties.
- D. **PUBLIC RECORDS.** This *Agreement* and all related records are subject to public disclosure as required by RCW 42.56, the Public Records Act (PRA). Neither party shall release any record that would, in the judgment of the party, be subject to an exemption from disclosure under the PRA, without first providing notice to the other party and allowing ten (10) business days in which to file, at its sole expense, a motion seeking a protective order, or other legal action.

- 7. **RESPONSIBILITY OF THE PARTIES.** Each party to this *Agreement* assumes responsibility for claims and/or damages to persons and/or property resulting from any act or omission on the part of itself, its employees, or its agents. Neither party assumes any responsibility to the other party for any third party claims.
- 8. **DISPUTE RESOLUTION.** The parties shall use their best, good faith efforts cooperatively and collaboratively to resolve any dispute that may arise in connection with this *Agreement* as efficiently as practicable, and at the lowest possible level with authority to resolve such dispute. The parties shall make a good faith effort to continue without delay to carry out their respective responsibilities under this *Agreement* while attempting to resolve any such dispute. If, however, a dispute persists regarding this *Agreement* and cannot be resolved, it may be escalated within each organization. In such situation, upon notice by either party, each party, within five (5) business days shall produce its description of the dispute in writing and deliver it to the other party. The receiving party then shall have three (3) business days to review and respond in writing. In the event that the parties cannot

then agree on a resolution of the dispute, the parties shall schedule a conference between the respective senior managers of each organization to attempt to resolve the dispute. In the event the parties cannot agree on a mutual resolution within fifteen (15) business days, the parties shall abide by the Governor's dispute resolution process (RCW 43.17.330), if applicable, or collectively shall appoint a third party to evaluate and resolve the dispute and such dispute resolution shall be final and binding on the parties.

9. **TERMINATION FOR CONVENIENCE.** Except as otherwise provided in this *Agreement*, either party may terminate this *Agreement* upon thirty (30) calendar days prior written notification. Upon such termination, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this *Agreement* prior to the effective date of such termination.

10. **GENERAL PROVISIONS.**

- A. **COMPLIANCE WITH LAW.** The Parties shall comply with all applicable law.
- B. **INTEGRATED AGREEMENT.** This *Agreement* constitutes the entire agreement and understanding of the parties with respect to the subject matter and supersedes all prior negotiations, representations, and understandings between them. There are no representations or understandings of any kind not set forth herein.
- C. **AMENDMENT OR MODIFICATION.** Except as set forth herein, this *Agreement* may not be amended or modified except in writing and signed by a duly authorized representative of each party.
- D. **AUTHORITY.** Each party to this *Agreement*, and each individual signing on behalf of each party, hereby represents and warrants to the other that it has full power and authority to enter into this *Agreement* and that its execution, delivery, and performance of this *Agreement* has been fully authorized and approved, and that no further approvals or consents are required to bind such party.
- E. **NO AGENCY.** The parties agree that no agency, partnership, or joint venture of any kind shall be or is intended to be created by or under this *Agreement*. Neither party is an agent of the other party nor authorized to obligate it.
- F. **GOVERNING LAW.** The validity, construction, performance, and enforcement of this *Agreement* shall be governed by and construed in accordance with the laws of the State of Washington, without regard to its choice of law rules.
- G. **JURISDICTION & VENUE.** In the event that any action is brought to enforce any provision of this *Agreement*, the parties agree to exclusive jurisdiction in Thurston County Superior Court for the State of Washington and agree that in any such action venue shall lie exclusively at Olympia, Washington.
- H. **EXHIBITS.** All exhibits referred to herein are deemed to be incorporated in this *Agreement* in their entirety.
- I. **CAPTIONS & HEADINGS.** The captions and headings in this *Agreement* are for convenience only and are not intended to, and shall not be construed to, limit, enlarge, or affect the scope or intent of this *Agreement* nor the meaning of any provisions hereof.
- J. **ELECTRONIC SIGNATURES.** A signed copy of this *Agreement* or any other ancillary agreement transmitted by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this *Agreement* or such other ancillary agreement for all purposes.

- K. COUNTERPARTS. This *Agreement* may be executed in any number of counterparts, each of which shall be deemed an original and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this *Agreement* at different times and places by the parties shall not affect the validity thereof so long as all the parties hereto execute a counterpart of this *Agreement*.

EXECUTED AND EFFECTIVE as of the date of the last signature.

CITY OF TUMWATER

STATE OF WASHINGTON

DEPARTMENT OF ENTERPRISE SERVICES

By: _____

By: _____

Name: _____

Name: Kirsten G. Wilson, PE

Title: _____

Title: Energy Program Manager

Date: _____

Date: _____

ATTACHMENT A**PROJECT MANAGEMENT SERVICES SCOPE OF WORK**

Energy/Utility Conservation Projects

Statewide Energy Performance Contracting Program

Energy Program will provide the following project management services for each specific project for the Client Agency. Each individual project shall be authorized by an amendment to this *Agreement*.

1. Assist the Client Agency in the selection of an Energy Service Company (ESCO) consistent with the requirements of RCW 39.35A for local governments; or 39.35C for state agencies and school districts.
2. Assist in identifying potential energy/utility conservation measures and estimated cost savings.
3. Assist in negotiating scope of work and fee for an ESCO audit of the facility(s).
4. Assist in identifying appropriate project funding sources and assist with obtaining project funding.
5. Assist in negotiating the technical, financial and legal issues associated with ESCO's Energy Services Proposal.
6. Review and recommend approval of ESCO energy/utility audits and Energy Services Proposals.
7. Provide assistance during the design, construction and commissioning processes.
8. Review ESCO invoice voucher(s) received for reasonableness and forward to Client Agency for review and payment.
9. Assist with final project acceptance.
10. Assist in resolution of disputes with the ESCO that arise during this *Agreement*, not to include formal disputes.
11. Review up to the first three years of the ESCO's annual Measurement and Verification (M&V) reports for completeness and accuracy. Review any ESCO guarantee compared to reported results and resolve differences, if needed. Review and forward ESCO invoice vouchers for payment by the Client Agency.

ATTACHMENT B**PROJECT MANAGEMENT FEE SCHEDULE**

2021-23 Interagency Reimbursement Costs
for Project Management Fees to Administer Energy/Utility Conservation Projects

<u>TOTAL PROJECT VALUE</u>	<u>PROJECT MANAGEMENT FEE</u>	<u>TERMINATION FEE</u>
5,000,001..... 6,000,000.....	\$68,800.....	25,700
4,000,001... .. 5,000,000.....	67,700.....	25,400
3,000,001..... 4,000,000.....	66,700.....	25,000
2,000,001..... 3,000,000.....	62,500.....	23,400
1,500,001..... 2,000,000.....	58,300.....	21,800
1,000,001..... 1,500,000.....	51,600.....	19,300
900,001. 1,000,000.....	43,800.....	16,400
800,001..... .. 900,000.....	41,300.....	15,400
700,001..... .. 800,000.....	38,300.....	14,400
600,001..... .. 700,000.....	36,500.....	13,700
500,001..... .. 600,000.....	33,800.....	12,600
400,001..... .. 500,000.....	30,200.....	11,300
300,001..... .. 400,000.....	25,800.....	9,700
200,001..... .. 300,000.....	20,700.....	7,700
100,001..... .. 200,000.....	14,400.....	5,400
50,001..... .. 100,000.....	7,800.....	3,500
20,001..... .. 50,000.....	4,200.....	2,000

The project management fee on projects over \$6,000,000 is 1.15% of the project cost. The maximum Energy Program termination fee is \$25,700.

1. These fees cover project management services for energy/utility conservation projects managed by Enterprise Services' Energy Program.
2. Termination fees cover the selection and project management costs associated with managing an ESCO's investment grade audit and energy services proposal. No termination fee will be charged unless Client Agency decided not to proceed to construction based on an energy services proposal that identifies projects that met Client Agency's cost effectiveness criteria.
3. If the project meets Client Agency's cost effectiveness criteria and Client Agency decides not to move forward with a project, then Client Agency will be invoiced per the above listed Termination Fee or \$25,700 whichever is less. If Client Agency decides to proceed with the project then the *Agreement* will be amended to include the Project Management Fee listed above.
4. If the audit fails to produce a project that meets Client Agency's established cost effectiveness criteria, then there is no cost to Client Agency and no further obligation by Client Agency.

ATTACHMENT C**MEASUREMENT & VERIFICATION SERVICES SCOPE OF WORK**

Energy/Utility Conservation Projects

Statewide Energy Performance Contracting Program

If requested, Energy Program will provide the following measurement and verification services for each year beyond the first three years following the Notice of Commencement of Energy Cost Savings by the ESCO for the specific Client Agency project:

1. Review the ESCO's annual Measurement and Verification report for completeness and accuracy. Review any ESCO guarantee compared to reported results and resolve differences, if needed. Review and forward any ESCO invoice vouchers for payment by the Client Agency.
2. Where necessary, review Client Agency facility operations including any changes in operating hours, changes in square footage, additional energy consuming equipment and negotiate changes in baseline energy use with the ESCO and Client Agency that may impact achieved energy savings.
3. Attend a meeting or meetings with Client Agency and ESCO to review and discuss the annual Measurement and Verification report.