



CITY OF
TUMWATER

**PLANNING COMMISSION
MEETING AGENDA**

**Online via Zoom and In Person at
Tumwater Fire Department
Headquarters, Training Room, 311 Israel
Rd. SW, Tumwater, WA 98501**

**Tuesday, January 14, 2025
7:00 PM**

1. Call to Order
2. Roll Call
3. Changes to Agenda
4. Approval of Minutes
 - a. Planning Commission Draft Minutes December 10 2024
5. Commissioner's Reports
6. Deputy Director's Report
 - a. Attorney General's Advisory Memorandum
 - b. Draft 2025 Planning Commission Meeting Schedule
 - c. Comprehensive Plan Update Master Schedule
7. Public Comment
8. 2025 Comprehensive Plan Periodic Update – Climate Element
9. Next Meeting Date - 01/28/2025
10. Adjourn

Meeting Information

The public are welcome to attend in person, by telephone or online via Zoom.

Watch Online

https://us02web.zoom.us/webinar/register/WN_UgwJyNTFT6GuaXszef_5yq

Listen by Telephone

Call (253) 215-8782, listen for the prompts, and enter the Webinar ID 884 7018 4434 and Passcode 177669.

Public Comment

The public is invited to attend the meeting and offer comment. The public may register in advance for this webinar to provide comment:

https://us02web.zoom.us/webinar/register/WN_UgwJyNTFT6GuaXszef_5yg

After registering, you will receive a confirmation email containing information about joining the webinar.

The public may also submit comments prior to the meeting by sending an email to:

cdd@ci.tumwater.wa.us. Please send the comments by 1:00 p.m. on the date of the meeting.

Comments are submitted directly to the Commission Members and will not be read individually into the record of the meeting.

If you have any questions, please contact Planning Manager, Brad Medrud at (360) 754-4180 or

bmedrud@ci.tumwater.wa.us.

Post Meeting

Audio of the meeting will be recorded and later available by request, please email

CityClerk@ci.tumwater.wa.us.

Accommodations

The City of Tumwater takes pride in ensuring that people with disabilities are able to take part in, and benefit from, the range of public programs, services, and activities offered by the City. To request an 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.

What is the Planning Commission?

The Tumwater Planning Commission is a citizen advisory commission that is appointed by and advisory to the City Council on the preparation and amendment of land use plans and implementing ordinances such as zoning. Actions by the Planning Commission are not final decisions; they are Commission recommendations to the City Council who must ultimately make the final decision. If you have any questions or suggestions on ways the Commission can serve you better, please contact the Community Development Department at (360) 754-4180.

Decorum Statement

Welcome to the Planning Commission meeting. We thank you for attending.

The City Council encourages community engagement in local government and provides a variety of ways to participate.

The Chair of the Planning Commission will be responsible for conducting orderly and efficient meetings within the scheduled time. To accomplish that, the Chair will maintain order and decorum and can regulate inappropriate debate, repetitious discussion, and disruptive behavior when needed.

The Chair will recognize those that wish to speak and may limit the time allowed for individual comments. City staff will record questions and comments during the meeting. If an issue or question cannot be addressed during the meeting, City staff will address the issue or respond to the question by following up with the individual.

We respectfully request that attendees refrain from disruptions during the meeting and comply with decorum rules.

Thank you for participating.

**TUMWATER PLANNING COMMISSION
MINUTES OF HYBRID MEETING
DECEMBER 10, 2024 Page 1**

CONVENE: 7:28 p.m.

PRESENT: Chair Elizabeth Robbins and Commissioners Terry Kirkpatrick, Gina Kotek, and Brandon Staff.

Excused: Commissioners Grace Edwards and Anthony Varela.

Staff: Community Development Director Michael Matlock, Planning Manager Brad Medrud, Housing and Land Use Planner Erica Smith-Erickson, and Associate Planner Dana Bowers.

**COMMISSIONER ANTHONY VARELA
THANK YOU:** Chair Robbins advised of Commissioner Varela’s planned departure from the Commission at the end of the month. She acknowledged his service on the Commission. A reception for Commissioner Varela will follow at the end of the meeting.

CHANGES TO AGENDA: There were no changes.

**COMMISSIONER’S
REPORTS:** There were no reports.

MANAGER’S REPORT: Commissioners provided self-introduction for the benefit of Associate Planner Dana Bowers, who recently joined the City.

Manager Medrud updated the Commission on the status of various projects. A revamped schedule is in progress for the periodic update of the Comprehensive Plan.

PUBLIC COMMENT: Commissioner Kotek introduced Amanda Schuyler, a participant in the Thurston County Leadership program.

PUBLIC HEARING:

**ORDINANCE NO. O2024-008,
GENERAL COMMERCIAL
RESIDENTIAL MIXED USE
AMENDMENTS:** Chair Robbins reviewed the process for the public hearing and for receiving public testimony.

Chair Robbins opened the public hearing at 7:41 p.m.

Manager Medrud reported the scope of the ordinance is narrow with the intent to modify the General Commercial Chapter of the Tumwater Municipal Code to allow for high intensity mixed use residential uses within the General Commercial zone district. The City currently allows limited types of residential uses in the General Commercial zone district. General Commercial is intended for high intensity commercial uses. Residential uses are allowed only to a limited extent. The focus of the proposal is on multifamily residential

**TUMWATER PLANNING COMMISSION
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uses up to five stories, which is currently allowed as a conditional use within the district. An example is the new Kingswood development near the I-5 freeway. The City intends to expand that level of intense uses as well as adding a mixed use component to avoid attracting only residential uses. The proposal would allow multifamily residential structures of a minimum density of 40 dwelling units per acre as part of a mixed use development either as part of the same building (first floor commercial uses) or part of the development on the same site. Additional requirements are included for mixed use development to ensure a component of both non-residential and multifamily residential uses that meet particular conditions (minimum density) and that a specific percentage of the development is a commercial use.

The request is to forward a recommendation of approval to the City Council of Ordinance No. O2024-008 following the public hearing. The department issued a SEPA Determination of Non-Significance and no comments were received from the public.

PUBLIC TESTIMONY:

With being no public testimony, Chair Robbins closed the public hearing at 7:47 p.m.

MOTION:

Councilmember Staff moved, seconded by Commissioner Kirkpatrick, to recommend approval of Ordinance No. O2024-008 to the City Council. A voice vote approved the motion unanimously.

NEXT MEETING DATE:

The next meeting is scheduled on January 14, 2025. The next regular meeting on December 24, 2024 was cancelled.

ADJOURNMENT:

Commissioner Tobias moved, seconded by Commissioner Kirkpatrick, to adjourn the meeting at 7:49 p.m. A voice vote approved the motion unanimously.

Prepared by Valerie L. Gow, Recording Secretary/President
Puget Sound Meeting Services @ psmsoly@earthlink.net

MEMO



Date: January 2, 2025

To: Mayor Sullivan
Tumwater City Council Members
Tumwater Planning Commission Members

From: Karen Kirkpatrick, City Attorney

CC: Lisa Parks, City Administrator
Mike Matlock, Community Development Director
Brad Medrud, Planning Manager

Subject: Attorney General’s Advisory Memorandum and Recommended Process for Evaluating Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property

The Attorney General is directed under RCW 36.70A.370 to advise state agencies and local governments on an orderly, consistent process that better enables the government to evaluate proposed regulatory or administrative actions to assure that these actions do not result in unconstitutional takings of private property or raise substantive due process concerns. This process must be used by local governments that plan under the Growth Management Act (GMA). As a result of this direction, the *Advisory Memorandum and Recommended Process for Evaluating Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property* (Advisory Memorandum) was prepared. The Attorney General’s Office reviews the Advisory Memorandum annually and updates it as necessary.

The current version was issued October 2024 and is available at this link:
<http://www.atg.wa.gov/avoiding-unconstitutional-takings-private-property>.

The recommended process outlined in Part 1 of the four-part Advisory Memorandum includes the following:

1. Review and Distribute. In addition to review by the City Attorney, it is recommended that the Advisory Memorandum be distributed to all of the City’s decision makers and key staff.
2. Use Warning Signals. The Advisory Memorandum states that local governments should use the “Warning Signals” to evaluate proposed regulatory actions. Examples are listed in Part Three starting on Pg. 13.

3. Develop an Internal Process. Staff and legal counsel have developed an internal process based on the Advisory Memorandum for assessing constitutional issues that uses confidential attorney-client communications and legal memoranda. This process occurs whenever action is taken to implement the Growth Management Act, adopt development regulations or land use designations, establish policies or guidelines for conditions, exactions, or impact fees, condition or deny permits for land use development or other regulatory or administrative actions are taken impacting private property.
4. Incorporate Constitutional Assessments into the Agency Review Process. The nature and extent of the assessment will depend on the type of regulatory action and the specific impacts on private property. The City assesses constitutional issues through the City Attorney's office. This information is communicated to staff and decision makers via confidential attorney-client communications including confidential attorney-client memoranda and executive sessions.
5. Develop an Internal Process to Respond to Identified Constitutional Issues. The City Attorney prepares an analysis of potential constitutional issues and options based on the Advisory Memorandum, independent analysis, and advice of outside counsel. That analysis is then communicated to staff and decision makers through verbal communication, confidential attorney-client communications and legal memoranda, and executive sessions.

Please review the Attorney General's Advisory Memorandum and use it when considering amendments to the Comprehensive Plan and associated rezones and any other land use actions that come before you. If you have any questions, please contact me.

If you have a problem with the above link to the Advisory Memorandum, prefer a printed copy, or have any questions, please contact my assistant, Sharleen Johansen, by phone at 360-701-3748 or email sjohansen@ci.tumwater.wa.us.



**STATE OF WASHINGTON
OFFICE OF THE ATTORNEY GENERAL
BOB FERGUSON**



Advisory Memorandum and Recommended Process for Evaluating Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property

October 2024

STATE OF WASHINGTON OFFICE OF THE ATTORNEY GENERAL

Advisory Memorandum and Recommended Process for Evaluating Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property

October 2024

■ Introduction

The Office of the Attorney General is directed under RCW 36.70A.370 to advise state agencies and local governments on an orderly, consistent process that better enables government to evaluate proposed regulatory or administrative actions to assure that these actions do not result in unconstitutional takings of private property.

This process must be used by state agencies and local governments that plan under RCW 36.70A.040—Washington’s Growth Management Act. The recommended process may also be used for other state and local land use planning activities.¹ Ultimately, the statutory objective is that state agencies and local governments carefully consider the potential for land use activity to “take” private property, with a view toward avoiding that outcome.

RCW 36.70A.370 Protection of Private Property.

(1) The state attorney general shall establish ... an orderly, consistent process, including a checklist if appropriate, that better enables state agencies and local governments to evaluate proposed regulatory or administrative actions to assure that such actions do not result in an unconstitutional taking of private property...

(2) Local governments that are required or choose to plan under RCW 36.70A.040 and state agencies shall utilize the process established by subsection (1) of this section to assure that proposed regulatory or administrative actions do not result in an unconstitutional taking of private property.

...

Purpose of This Document

This *Advisory Memorandum* was developed to provide state agencies and local governments with a tool to assist them in the process of evaluating whether proposed regulatory or administrative actions may result in an unconstitutional taking of private property or raise substantive due process concerns. Where state agencies or local governments exercise regulatory authority affecting the use of private property, they must be sensitive to the constitutional limits on their authority to regulate private property rights. The failure to fully consider these

¹ The process used by state agencies and local governments to assess their activities is protected by attorney-client privilege. Further, a private party does not have a cause of action against a state agency or local government that does not use the recommended process. RCW 36.70A.370(4).

constitutional limits may result in regulatory activity that has the effect of appropriating private property even though that outcome may not have been intended. If a court concludes that private property has been “taken” by regulatory activity, it will order the payment of “just compensation” equal to the fair market value of the property that has been taken, together with costs and attorney’s fees. In other cases, a government regulation may be invalidated if it is found to violate constitutional substantive due process rights.

Where state agencies or local governments exercise regulatory authority affecting the use of private property, they must be sensitive to the constitutional limits on their authority to regulate private property rights.

This *Advisory Memorandum* is intended as an internal management tool for agency decision makers. It is not a formal Attorney General’s Opinion under RCW 43.10.030(7) and should not be construed as an opinion by the Attorney General on whether a specific action constitutes an unconstitutional taking or a violation of substantive due process. Legal counsel should be consulted for advice on whether any particular action may result in an unconstitutional taking of property requiring the payment of just compensation or may result in a due process violation requiring invalidation of the government action.

Prior editions of this document are superseded by this document.

Organization of This Document

This *Advisory Memorandum* contains four substantive parts. The first part outlines a *Recommended Process for Evaluating Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property* utilizing the other substantive portions of the *Advisory Memorandum*.

The second part, *General Constitutional Principles Governing Takings and Due Process*, presents an overview of the general constitutional principles that determine whether a government regulation may become so severe that it constitutes an unconstitutional taking of private property or violates substantive due process rights. This discussion is derived from cases that have interpreted these constitutional provisions in specific fact situations.

The third part is a list of *Warning Signals*. This section provides examples of situations that may raise constitutional issues. The warning signals are useful as a general checklist to evaluate planning actions, specific permitting decisions, and proposed regulatory actions. The warning signals do not establish the existence of a problem, but they highlight specific instances in which actions should be further assessed by staff and legal counsel.

The fourth part is an *Appendix*, which contains summaries of significant court cases addressing takings law.

Part One: Recommended Process for Evaluating Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property

1. Review and Distribute This *Advisory Memorandum*. Local governments and state agencies should review this *Advisory Memorandum* with their legal counsel and distribute it to all decision makers and key staff to ensure that agency decision makers at all levels of government have consistent, useful guidance on constitutional limitations relating to the regulation of private property. Legal counsel should supplement this document as appropriate to address specific circumstances and concerns of their client agency or governmental unit.

2. Use the “Warning Signals” to Evaluate Proposed Regulatory Actions. Local governments and state agencies may use the *Warning Signals* in part three of this *Advisory Memorandum* as a checklist to determine whether a proposed regulatory action may violate a constitutional requirement. The warning signals are phrased as questions. If there are affirmative answers to any of these questions, the proposed regulatory action should be reviewed by staff and legal counsel.

3. Develop an Internal Process for Assessing Constitutional Issues. State agency and local government actions implementing the Growth Management Act should be assessed by both staff and legal counsel. Examples of these actions include the adoption of development regulations and designations for natural resource lands and critical areas, and the adoption of development regulations that implement the comprehensive plan or establish policies or guidelines for conditions, exactions, or impact fees incident to permit approval. A similar assessment, by both staff and legal counsel, should be used for the conditioning or denial of permits for land use development. Other regulatory or administrative actions proposed by state agencies or directed by the Legislature should be assessed by staff and legal counsel if the actions impact private property.

4. Incorporate Constitutional Assessments into the Agency’s Review Process. A constitutional assessment should be incorporated into the local government’s or state agency’s process for reviewing proposed regulatory or administrative actions. The nature and extent of the assessment necessarily will depend on the type of regulatory action and the specific impacts on private property. Consequently, each agency should have some discretion to determine the extent and the form of the constitutional assessment. For some types of actions, the assessment might focus on a specific piece of property. For others, it may be useful to consider the potential impacts on types of property or geographic areas. It may be necessary to coordinate the assessment with another jurisdiction where private property is subject to regulation by multiple jurisdictions. It is strongly suggested, however, that any government regulatory actions which involve warning signals be carefully and thoroughly reviewed by legal counsel. The Legislature has specifically

Recommended process:

- 1. Review and distribute this *Advisory Memorandum* to legal counsel, decision makers, and key staff.*
- 2. Use the “Warning Signals” to evaluate proposed regulatory actions.*
- 3. Develop an internal process for assessing constitutional issues.*
- 4. Incorporate constitutional assessments into the agency’s review process.*
- 5. Develop an internal process for responding to constitutional issues identified during the review process.*

affirmed that this assessment process is protected by the normal attorney-client privilege. RCW 36.70A.370(4).

5. Develop an Internal Process for Responding to Constitutional Issues Identified During the Review Process. If the constitutional assessment indicates a proposed regulatory or administrative action could result in an unconstitutional taking of private property or a violation of substantive due process, the state agency or local government should have a process established through which it can evaluate options for less restrictive action or—if necessary, authorized, and appropriate—consider whether to initiate formal condemnation proceedings to appropriate the property and pay just compensation for the property acquired.

■ ***Part Two: General Constitutional Principles Governing Takings and Substantive Due Process***

A. Overview

“Police Power.” State governments have the authority and responsibility to protect the public health, safety, and welfare. This authority is an inherent attribute of state governmental sovereignty and is shared with local governments in Washington under the state constitution. Pursuant to that authority, which is called the “police power,” the government has the ability to regulate or limit the use of property.

Government has the authority and responsibility to protect the public health, safety, and welfare.

Police power actions undertaken by the government may involve the abatement of public nuisances, the termination of illegal activities, and the establishment of building codes, safety standards, and sanitary requirements. Government does not have to wait to act until a problem has actually manifested itself. It may anticipate problems and establish conditions or requirements limiting uses of property that may have adverse impacts on public health, safety, and welfare.

Sometimes the exercise of government police powers takes the form of limitations on the use of private property. Those limitations may be imposed through general land use planning mechanisms such as zoning ordinances, development regulations, setback requirements, environmental regulations, and other similar regulatory limitations. Regulatory activity may also involve the use of permit conditions that dedicate a portion of the property to mitigate identifiable impacts associated with some proposed use of private property.

Regulatory Takings. Government regulation of property is a necessary and accepted aspect of modern society and the constitutional principles discussed in this *Advisory Memorandum* do not require compensation for every decline in the value of a piece of private property. Nevertheless, courts have recognized that if government regulations go “too far,” they may constitute a taking of property. This does not necessarily mean that the regulatory activity is unlawful, but rather that the payment of just compensation may be required under the state or federal constitution. The rationale is based upon the notion that some regulations are so severe in their impact that they are the functional equivalent of an exercise of the government’s power of eminent domain (i.e., the formal condemnation of property for a public purpose that requires the payment of just compensation). Courts often refer to this as an instance where regulation goes so far as to acquire a public benefit (rather than preventing some harm) in circumstances where fairness and justice require the public as a whole to bear that cost rather than the individual property owner.

When evaluating whether government action has gone too far, resulting in a taking of specific private property, courts typically engage in a detailed factual inquiry to gauge whether the government regulation is such a burden on property that it is the functional equivalent of an appropriation of that property—a regulatory “taking” requiring the payment of just compensation. This examination usually considers the magnitude of the government action’s economic impact, the degree to which it interferes with legitimate property interests, the means the government used to accomplish that purpose and the financial impact on the property. Severe financial impacts, unclear government purposes, or less intrusive means for accomplishing the identified purpose are factors that can tip the scale in favor of a determination that the government has taken property. The mere presence of these factors does not necessarily establish a taking of property, but may support a taking claim if they are significant enough, either individually or collectively. They should be carefully considered and evaluated, along with the **Warning Signals** in part three of this *Advisory Memorandum*, to determine if another course of action would achieve the government’s purpose without raising the same concerns.

A government regulation that is so severe in its impact that it is the functional equivalent of condemnation requires the payment of just compensation.

In some limited cases, courts may find that a taking has occurred without engaging in the detailed factual inquiry discussed above. For example, where government regulation results in some permanent or recurring physical occupation of property, a taking probably exists, requiring the payment of just compensation. In addition, where government regulation permanently deprives an entire piece of property of all economic utility, and where there is no long-standing legal principle such as a nuisance law that supports the government regulation, then a taking probably has occurred, requiring the payment of just compensation.

Substantive Due Process. Washington courts have applied principles of substantive due process as an alternate inquiry where government action has an appreciable impact on property. A land use regulation that does not have the effect of taking private property may nonetheless be unconstitutional if it violates principles of substantive due process. Substantive due process is the constitutional doctrine that legislation must be fair and reasonable in content and designed so that it furthers a legitimate governmental objective. The doctrine of substantive due process is based on the recognition that the social compact upon which our government is founded provides protections beyond those that are expressly stated in the United States Constitution against the flagrant abuse of government power. *Calder v. Bull*, 3 U.S. 386 (1798).

In the context of government interference with an individual’s right to use property as they wish, courts have determined that substantive due process is violated when a government action lacks any reasonable justification or fails to advance a legitimate governmental objective. To withstand a claim that principles of substantive due process have been violated, a government action must not be clearly arbitrary and unreasonable. It must serve a legitimate governmental objective and use means that are reasonably necessary to achieve that objective. Violation of substantive due process requires invalidation of the violating government action rather than the payment of just compensation. The United States Supreme Court has clarified that substantive due process is a separate constitutional inquiry into the validity of governmental action and is not part of the Fifth Amendment takings analysis.

B. Constitutional Principles Relating to the Regulation of Private Property

Courts have used a number of constitutional principles to determine whether a given government regulation effects a “taking” under the federal or state constitutions and whether it violates principles of substantive due process. The following paragraphs summarize the key legal and procedural principles.

1. Constitutional Provisions

United States Constitution — Takings Clause and Due Process Clauses. The Fifth Amendment to the United States Constitution provides that private property shall not be taken for public use without the payment of just compensation. Accordingly, the government may not take property except for public purposes within its constitutional authority and must provide just compensation for the property that has been taken. The Fifth and Fourteenth Amendments also provide that no person shall be deprived of property without due process of law.

Washington State Constitution, Article I, Section 16. Article I, section 16 of the Washington State Constitution provides, in part, that “[n]o private property shall be taken or damaged for public or private use without just compensation.” In other words, the government may take private property, but must pay just compensation for the private property that is taken. Article 1, section 16 also expressly prohibits state and local governments from taking private property for a private use with a few limited exceptions: private ways of necessity and drainage for agricultural, domestic or sanitary purposes. This provision goes beyond the United States Constitution, which does not have a separate provision expressly prohibiting the taking of private property for private use. *See Manufactured Housing Communities of Washington v. State*, 142 Wn.2d 347, 13 P.3d 183 (2000); *see also Yim v. City of Seattle*, 194 Wn.2d 651, 667, 451 P.3d 675 (2019) (*Yim I*) overruling *Manufactured Housing* on other grounds but confirming that article I, section 16 of the Washington State Constitution is more restrictive than the federal constitution in its near prohibition on takings of private property for private use. As discussed below, this clause has been interpreted to prevent the condemnation of property as part of a government redevelopment plan where the property is to be transferred to a private entity.

The Washington State Constitution provides that “[n]o private property shall be taken or damaged for public or private use without just compensation.”

Washington State Constitution, Article I, Section 3. Like its federal counterpart, article I, section 3 of the Washington State Constitution also provides that no person shall be deprived of property without due process of law.

2. The Exercise of Eminent Domain - Condemnation Proceedings.

Through the exercise of eminent domain, government has the power to condemn private property for public use, as long as it pays just compensation for the property it acquires. Taking land to build a public road is a classic example of when the government must provide just compensation to a private property owner for its exercise of the power of eminent domain.

Government historically acquires property and compensates landowners through a condemnation proceeding in which the appropriate amount of compensation is determined and paid before the land is taken and used by government. The property generally may be condemned only for a public use. Washington courts narrowly interpret what is a public use and prohibit condemnation actions that are part of a plan to transfer property to private developers for redevelopment projects that involve private ownership of the developed property. The only exception to the public use requirement is that private property may be taken for private ways of necessity, and for drains, flumes, or ditches on or across the lands of others for agricultural, domestic, or sanitary purposes.

In Washington, property generally may be condemned only for a public use.

The Legislature has enacted a number of statutes specifying which state and local government agencies possess authority to acquire property through condemnation and setting forth the procedures that must be followed during condemnation. *See* Title 8 RCW. Washington law provides that, in some cases, property may be taken immediately with compensation being determined and paid in a subsequent judicial proceeding or by agreement between the government and landowner. *See* RCW 8.04.090.

3. Inverse Condemnation.

There may be times where the government does not intend to acquire property through condemnation, but the government action nonetheless has a significant impact on the value of property. In some cases, the government may argue that its action has not taken or damaged private property, while the property owner argues that a taking has effectively occurred despite the fact that a formal condemnation process has not been instituted. This dispute may lead to an “inverse condemnation” claim, and the filing of a lawsuit against the government, in which the court will determine whether the government’s actions have damaged or taken property. If a court determines that the government’s actions have effectively taken private property for some public purpose, it will award the payment of just compensation, together with the costs and attorney’s fees associated with litigating that inverse condemnation claim. Inverse condemnation cases generally fall into two categories: those involving physical occupation or damage to property, and those involving the impacts of regulation on property.

a. Physical Occupation or Damage. The government may be required to pay just compensation to private property owners whose land has been physically occupied or damaged by the government on a permanent or ongoing basis. For example, if the construction of a public road blocks access to an adjacent business resulting in a significant loss of business, the owner may be entitled to just compensation for “damage” to the property.

b. *Regulatory Takings.* In general, zoning laws and related regulation of land use activities are lawful exercises of police powers that serve the general public good. However, courts have interpreted the state and federal constitutions to recognize that regulations purporting to be a valid exercise of police power still must be examined to determine whether they unlawfully take private property for public use without providing just compensation. This relationship between takings law and regulation is sometimes explained as looking at whether a regulation has the effect of forcing certain landowners to provide an affirmative benefit for the public, when the burden of providing that benefit is one that actually should be carried by society as a whole.

In general, zoning laws and related regulation of land use activities are lawful exercises of police powers that serve the general public good. However, courts have interpreted the state and federal constitutions to recognize that regulations purporting to be a valid exercise of police power must still be examined to determine whether they unlawfully take private property for public use without providing just compensation.

The issue is how to identify just when a specific regulation may exceed constitutional limits. When there is a question of regulatory taking, the inquiry often focuses on the nature and purpose of the government regulation, the means used to achieve it, and the effect of the regulation on legitimate and established expectations for the use of private property.

To better explain when a regulation unlawfully takes property, this section briefly describes three major types of regulatory takings challenges: (1) challenges alleging a categorical taking, (2) challenges that require a court to examine the government’s regulatory action and the degree to which it affects investment backed expectations for the use of private property, and (3) challenges to permit conditions that exact some interest in private property.

(1) Challenges Alleging a Categorical Taking. Certain forms of government action are characterized as “categorical” or “per se” takings. In these circumstances the government action is presumptively classified as a taking of private property for public use for which the payment of just compensation is required. The court does not engage in the typical takings analysis involving a detailed factual inquiry that weighs the utility of the government’s purpose and the impact experienced by the landowner.

Physical occupations of property are the most well-understood type of categorical taking. When the government permanently or repeatedly physically occupies property, or authorizes another person to do the same, this occupation has been characterized as such a substantial interference with property that it always constitutes a taking requiring the payment of just compensation, even if the amount of compensation is small.

A second form of categorical taking that requires the payment of just compensation without further takings analysis is a regulation that deprives a landowner of all economic or beneficial use of property. However, a regulation that prohibits all economically viable or beneficial use of property is not a taking if the government can demonstrate that the proposed use of the property being denied is prohibited by laws of nuisance or other long-standing and pre-existing limitations on the use of property.

Courts have emphasized that these “categorical” forms of taking arise in exceptional circumstances and that the tests are narrowly tailored to deal with these exceptional cases.

(2) Evaluating the Government's Regulatory Action and Its Effect on Particular Private Property. If the government regulation does not fall within one of the narrow categories of “per se” takings, ascertaining whether that regulation goes so far as to take private property usually requires a detailed factual investigation into the regulation’s economic impact on the claimant, the extent to which it interferes with distinct investment-backed expectations, and the character of the government action. This analysis was set forth in *Penn Central Transportation Co. v. New York City*, 438 U.S. 104 (1978). The majority of regulatory takings cases will be evaluated using this traditional multi-factor analysis—weighing the impact of government regulation, the government’s objectives, and the means by which they are achieved.

If government has authority to deny a land use, it also has authority to condition a permit to engage in that use. For example, a local government may condition a development permit by requiring measures that mitigate identifiable adverse impacts of the development. However, a permit condition that imposes substantial costs or limitations on the use of property, unrelated or out of scale to an identifiable impact, could amount to a taking.

In assessing whether a regulation or permit condition constitutes a taking in a particular circumstance, courts weigh the public purpose of the regulatory action in relation to the impact on the landowner’s vested development rights. Courts also consider whether the government could have achieved the stated public purpose by less intrusive means. One factor used to assess the economic impact of a permit condition is the extent to which the condition interferes with a landowner’s reasonable investment-backed development expectations.

The federal and state constitutions do not require the government to compensate landowners for every decline in property value associated with regulatory activity.

Most courts apply this analysis using a case-by-case factual inquiry into the fairness of the government’s actions. Economic impacts from regulation are usually fair and acceptable burdens associated with living in an ordered society. The federal and state constitutions do not require the government to compensate landowners for every decline in property value associated with regulatory activity. However, government action that tends to secure some affirmative public benefit rather than preventing some harm, or that is extremely burdensome to an individual’s legitimate expectations regarding the use of property, or that employs a highly burdensome strategy when other less burdensome options might achieve the same public objective raises the possibility that the action may be a taking of private property. A useful way to approach this principle is to consider whether there is any substantial similarity between a proposed regulatory action and the traditional exercise of the power to condemn property. When government regulation has the effect of appropriating private property for a public benefit rather than to prevent some harm, it may be the functional equivalent of the exercise of eminent domain. In those cases the payment of just compensation will probably be required.

When government regulation has the effect of appropriating private property for a public benefit rather than to prevent some harm, it may be the functional equivalent of the exercise of eminent domain. In those cases the payment of just compensation will probably be required.

In 2019, in *Yim v. City of Seattle*, 194 Wn.2d 651, 451 P.3d 675 (2019) (*Yim I*), the Washington Supreme Court made clear that there was no Washington-specific definition or test for a regulatory taking. Instead, the

Court adopted the definition set forth in federal law, specifically, the definition laid out in *Lingle v. Chevron*, 544 U.S. 528 (2005). In *Lingle v. Chevron*, the United States Supreme Court recognized the two categories of *per se* takings: a regulation that results in a physical invasion of property and a regulation that deprives an owner of all economically beneficial uses. In addition, the Supreme Court clarified that regulatory takings claims outside these two *per se* categories should be analyzed under the factors set forth in *Penn Central Transportation Co. v. New York City*, 438 U.S. 104 (1978). In adopting the federal analysis in *Lingle v. Chevron*, the Washington Supreme Court explicitly disavowed seven of its prior cases and implicitly disavowed any other state case that purported to adopt a test for a regulatory taking under Washington law that would diverge from federal law. In light of the Court's decision in *Yim I*, it is advisable that local governments and state agencies carefully analyze any court decisions made prior to this case to determine if the holdings and rationale in those decisions are consistent with *Yim I* and are still good law.

Note that in *Lingle v. Chevron*, the United States Supreme Court also explained that the question of whether government regulation advances a legitimate state interest is not relevant to a claim of taking by regulation. Instead, the issue of whether a regulation substantially advances a legitimate government purpose is evaluated under principles of substantive due process (discussed below).

(3) Challenges to Permit Conditions That Exact Some Interest in Property. Sometimes a permit condition will attempt to extract an interest in property as mitigation for the adverse public impact of the proposed development. Courts have referred to these types of conditions as *exactions*. One example could be a permit requirement to grant an access easement. While such exactions are permissible, government must identify a real adverse impact of the proposed development and be prepared to demonstrate that the proposed exaction is reasonably related to that impact. The government also must be prepared to demonstrate that the burden on the property owner is roughly proportional to the impact being mitigated. These principles also apply to so-called “monetary exactions”—permit conditions that require the applicant to spend money as a condition of permitted land use activity. Taxes and permit fees levied under a government's authority to levy such fees and taxes are not at issue here. Rather, the nexus and proportionality principles associated with exactions apply where a monetary obligation is established as a condition of a development permit (e.g., requiring the permit applicant to purchase additional property to create a buffer or to undertake an offsite mitigation project as a condition of development).

The limitations that are placed upon property exactions are further discussed in the *Appendix*, in the case notes relating to the United States Supreme Court decisions in *Dolan v. City of Tigard*, 512 U.S. 374 (1994); *Koontz v. St. Johns River Water Management District*, 570 U.S. 595 (2013), and in the case notes discussing Washington cases following *Dolan*. See, e.g., *Sparks v. Douglas County*, 127 Wn.2d 901, 904 P.2d 738 (1995); *Burton v. Clark County*, 91 Wn. App. 505, 958 P.2d 343 (1998), *review denied*, 137 Wn.2d 1015 (1999).

4. Substantive Due Process.

Under Washington law, even if a government action does not effect a taking, it may be unconstitutional if it violates principles of substantive due process. Substantive due process invokes the due process provisions of the Fifth and Fourteenth Amendments to the United States Constitution to invalidate flagrant abuses of government power—actions that authorize some manifest injustice or that take away the security for

Under Washington law, even if a regulation does not effect a taking, it is subject to substantive due process requirements.

personal liberty or private property that our government was formed to protect. *Calder v. Bull*, 3 U.S. 386 (1798). While the remedy for a government action that works a taking is just compensation, the remedy for a government action that violates substantive due process is invalidation of the violating government action.

a. *Substantive Due Process in Land Use Cases.*

In 2019, in *Yim v. City of Seattle*, 194 Wn.2d 682, 686, 451 P.3d 694 (2019) as amended January 9, 2020 (*Yim II*), the Washington Supreme Court declined to adopt a heightened standard of scrutiny for substantive due process challenges to laws regulating the use of property as a matter of independent state law. The Court held that “state substantive due process claims are subject to the same standards as federal substantive due process claims” and clarified that rational basis review applied. Higher scrutiny is not required by article I, section 3 of the Washington State Constitution for laws regulating the use of property. The Court rejected past precedent which adopted an “unduly oppressive” test, which appeared to provide for an intermediate level of scrutiny. The court included a lengthy and non-exhaustive list of cases that it was overruling in an appendix to the decision. Counsel are advised to exercise caution when citing any decisions addressing takings and substantive due process issued prior to *Yim I* and *Yim II* to determine if those decisions are consistent with the holdings of those cases.

b. *Substantive Due Process and Retroactive Legislation.* A statute or regulation may attempt to impose new standards for previously authorized conduct or may attempt to remedy newly discovered impacts from conduct that was previously legal. The requirements of substantive due process do not automatically prohibit such retroactive legislative action so long as it serves a rational purpose. However, retroactive legislation is generally not favored because “elementary considerations of fairness dictate that individuals should have an opportunity to know what the law is and to conform their conduct accordingly; settled expectations should not be lightly disrupted.” *Landgraf v. USI Film Products*, 511 U.S. 244, 265 (1994).

Washington courts tend to apply a stricter standard of rationality to retroactive legislation than to prospective legislation. The fact that legislation may be rational when applied prospectively does not mean it will necessarily be rational when applied retroactively. There must be some independent rational basis for the retroactivity itself. Some of the additional factors to consider when evaluating the retroactivity of legislation include the following:

Whether there is a direct relationship between the conduct of the landowner and the “harm” that is being remedied.

Whether the imposed “cure” is proportional to the harm being caused.

Whether the landowner could have generally anticipated that some form of retroactive regulation might occur. It appears this factor is of greater importance where there is a weak link between the landowner’s conduct and the “cure” being imposed by the government.

These standards are not individually determinative; they operate together to paint a picture that speaks to the “fairness” of retroactive regulation. *See Rhod-A-Zalea & 35th Inc. v. Snohomish County*, 136 Wn.2d 1, 959 P.2d 1024 (1998).

5. Remedies.

In the usual condemnation case, the government must pay just compensation to a property owner before the property may be taken and used for a public purpose. Compensation usually is based on the fair market value of the property at the time of the taking.

In an inverse condemnation case, the payment of just compensation is due the property owner if a taking has occurred without compensation first having been paid. Compensation usually is based on the fair market value of the property actually taken, at the time of the taking. The government may also be liable for the payment of interest and the property owner's legal expenses incurred in obtaining just compensation.

If a court determines there has been a regulatory taking, the government generally has the option of either paying just compensation or withdrawing the regulatory limitation. However, even if the regulation is withdrawn, the government might be obligated to compensate the property owner for a temporary taking of the property during the period in which the regulation was effective.

If a court determines a regulation has taken private property for private use, the court probably will invalidate the regulation rather than ordering compensation. *See Yim v. City of Seattle*, 194 Wn.2d 651, 660, 451 P.3d 675 (2019) (*Yim I*). If a court determines there has been a substantive due process violation, the appropriate remedy is invalidation of the regulation. *Robinson v. City of Seattle*, 119 Wn.2d 34, 49, 830 P.2d 318 (1992) (overruled on other grounds by *Yim I*). A prevailing landowner who also proves that the government's actions were irrational or invidious may recover damages and reasonable attorney's fees under the Federal Civil Rights Act, 42 U.S.C. § 1983.

If a court determines there has been a regulatory taking, the government generally has the option of either paying just compensation or withdrawing the regulatory limitation.

If a court determines a regulation has taken private property for private use, the court probably will invalidate the regulation rather than ordering compensation.

If a court determines there has been a substantive due process violation, the appropriate remedy is invalidation of the regulation.

In addition to the causes of action and remedies discussed above, under Washington law, a property owner who has filed an application for a permit may also have a cause of action for damages to obtain relief from government actions that were arbitrary, capricious, or made with the knowledge that the actions were in excess of lawful authority. *See* RCW 64.40. This statute also provides relief for failure to act within the time limits established by law.

6. Burdens of Proof and Prerequisites to the Filing of a Claim.

A person challenging an action or ordinance generally has the burden of proving that the action or ordinance is unconstitutional. However, in a challenge to a government exaction of land to mitigate for adverse impacts from a proposed land use activity, the burden is on the government to identify a specific impact that needs to be mitigated and demonstrate that the exaction is roughly proportional to the identifiable impact.

A claim that property has been taken may not be brought in state court until the landowner has exhausted all administrative remedies and explored all regulatory alternatives. The landowner generally must submit an application and pursue available administrative appeals of any action that the landowner contends is erroneous and must allow the planning or regulatory agency to explore the full breadth of the agency's discretion to allow some productive use of property. A landowner may need to seek a variance or submit multiple applications to determine the full extent to which the regulatory laws may allow or limit development. However, the landowner should not be made to explore futile options that have no practical chance of providing some meaningful use of the land. Once the government comes forward with evidence that there are regulatory options which might provide for some use of the land, the landowner has a heavy burden to show that pursuing these options would be futile. *See Estate of Friedman v. Pierce County*, 112 Wn.2d 68, 768 P.2d 462 (1989).

A claim that property has been taken may not be brought until the landowner has exhausted all administrative remedies and regulatory alternatives.

In some cases, a landowner may pursue a “facial challenge” to a law, claiming that the mere enactment of legislation results in a taking or violates due process. These are difficult cases to make because legislation is presumed constitutional and the landowner must demonstrate that under every conceivable set of facts the challenged legislation is constitutionally defective. *See Yim v. City of Seattle*, 194 Wn.2d 651, 451 P.3d 675 (2019) (*Yim I*).

■ **Part Three: Warning Signals**

The following warning signals are examples of situations that may raise constitutional issues. The warning signals are phrased as questions that state agency or local government staff can use to evaluate the potential impact of a regulatory action on private property.

State agencies and local governments should use these warning signals as a checklist to determine whether a regulatory action may raise constitutional questions and require further review.

The presence of a warning signal means there could be a constitutional issue that government staff should review with legal counsel.

The fact that a warning signal may be present does not mean there has been a taking or substantive due process violation. It means only that there *could* be a constitutional issue and that staff should carefully review the proposed action with legal counsel. If property is subject to the regulatory jurisdiction of multiple government agencies, each agency should be sensitive to the cumulative impacts of the various regulatory restrictions.

1. Does the Regulation or Action Result in a Permanent or Temporary Physical Occupation of Private Property? Government regulation or action resulting in a permanent physical occupation of all or a portion of private property generally will constitute a taking. For example, a regulation requiring landlords to allow the installation of cable television boxes in their apartments was found to constitute a taking, even though the landlords suffered no economic loss. *See Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419 (1982).

This is one of two “categorical” forms of property takings. It does not require any investigation into the character of or justification for the government’s actions. Its premise is that

a permanent physical occupation is such an unusual and severe impact on property that it will always be treated as an action that requires the payment of just compensation. However, because this is such a strict and narrow test, it applies only when the government physically occupies the property or provides another person the right to do so.

2. Does the Regulation or Action Deprive the Owner of All Economically Viable Uses of the Property? If a regulation or action permanently eliminates all economically viable or beneficial uses of the property, it will likely constitute a taking. In this situation, the government can avoid liability for just compensation only if it can demonstrate that the proposed uses are prohibited by the laws of nuisance or other pre-existing limitations on the use of the property. See *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992).

This is the other narrow categorical form of taking that does not require the balancing of the government's interests in regulation against the impact of regulation. However, in this circumstance, unlike the permanent physical occupation analysis, it is necessary to evaluate the regulation's economic impact on the property as a whole, and not just on the portion of the property being regulated. Accordingly, it is necessary to assess whether there is any profitable use of the remaining property available. See, e.g., *Florida Rock Industries, Inc. v. United States*, 791 F.2d 893 (Fed Cir. 1986). The existence of some economically viable use of the property will preclude the use of this categorical test. Furthermore, the remaining use does not necessarily have to be the owner's planned use, a prior use, or the highest and best use of the property. However, the fact that some value remains does not preclude the possibility that the regulatory action might still be a taking of property under other takings tests that balance economic impact against other factors.

A regulation must be analyzed for its economic impact on the property as a whole, not just the portion being regulated.

To ascertain the "whole" parcel being regulated in assessing the impact of regulation, the United States Supreme Court established a three-part test in *Murr v. Wisconsin*, 582 U.S. 383 (2017). This "objective" test evaluates whether a landowner would reasonably be expected to anticipate that their landholdings would be treated as a unitary whole rather than as separate parcels. The test considers "[1] the treatment of the land under state and local law; [2] the physical characteristics of the land; and [3] the prospective value of the regulated land." With regard to the third factor, the analysis should give "special attention to the effect of burdened land on the value of other holdings." See the **Appendix** for more discussion of this case.

Regulations or actions that require all of a particular parcel of land be left substantially in its natural state should be reviewed carefully.

In some situations, pre-existing limitations on the use of property could insulate the government from takings liability even though the regulatory action leaves the property with no value. For example, limitations on the use of tidelands under the public trust doctrine probably constitute a pre-existing limitation on the use of property that could insulate the government from takings liability for prohibiting development on tidelands. See *Esplanade Properties, LLC v. City of Seattle*, 307 F.3d 978, 983 (9th Cir. 2002). A proposed land use that is precluded by principles of nuisance law is another example. However, the United States Supreme Court has made it clear that this principle does not apply simply because the property was acquired after a regulation prohibiting some land use was enacted. See *Palazzolo v. Rhode Island*, 533 U.S. 606 (2001). A pre-existing limitation on the use of property must be a long-standing property or land use principle before it will effectively insulate the government from takings liability in those rare cases where

the property is left with no value. The pre-existing nature of any regulation that limits the use of property may be an important consideration for other takings tests, however, because it may demonstrate whether the landowner had a reasonable expectation of using the property in some manner. This issue should be carefully evaluated with legal counsel.

3. Does the Regulation or Action Require a Property Owner to Dedicate a Portion of Property, to Grant an Easement, or to Undertake Some Independent Financial Obligation?

Regulation that requires a private property owner to formally dedicate land to some public use, that extracts an easement, or that imposes some independent financial obligation as a condition of development should be carefully reviewed. The dedication, easement, or financial obligation that is required from the landowner must be reasonable and proportional—i.e., specifically designed to mitigate adverse impacts of a proposed development. A distinction is made here between normal taxes and permit application fees (which may be levied under normal tax and fee authorities) and project mitigation obligations that may impose a financial expense (e.g., requiring the permit applicant to purchase additional land to establish a buffer, or expend money constructing off-site mitigation projects) as a condition of the development permit. For local governments, this duty is mirrored in RCW 82.02.020. Ultimately, the government must demonstrate that it acted reasonably, and that its actions are proportionate to an identifiable problem. Usually, the burden is on the government to identify the problem and demonstrate the reasonableness and proportionality of its regulation in relation to the specific project being conditioned. Where standardized formulas or tables are utilized, they should be based upon a careful analysis of the range of impacts being regulated, and their application to a specific project should be analyzed and documented in relation to the nexus and rough proportionality required for government-imposed exactions.

4. Does the Regulatory Action Have a Severe Impact on the Landowner's Economic Interest? Courts have acknowledged that regulations are a necessary part of an ordered society and that they may limit the use of property, thereby impacting its value. Such reductions in value do not necessarily require the payment of compensation under either the federal or state constitutions. Nor do they necessarily violate substantive due process. However, if a regulation or regulatory action is likely to result in a substantial reduction in property value, the agency should consider the possibility that a taking or a violation of substantive due process may occur. If the regulation or regulatory action acts more to provide a public benefit than to prevent a public harm, it should be evaluated using the takings analysis discussed below. If it acts more to prevent a public harm, it is probably not a taking, but should nonetheless be evaluated using the substantive due process analysis discussed below. Because government actions often are characterized in terms of overall fairness, a taking or violation of substantive due process is more likely to be found when it appears that a single property owner is being forced to bear the burden of addressing some societal concern when in all fairness the cost ought to be shared across society.

a. Factors to Consider in a Regulatory Takings Analysis. Regulatory action that deprives property of all value constitutes a taking of that property. Where there is less than a complete deprivation of all value, a court will evaluate whether a taking has occurred by considering the economic impact in relation to at least two other factors: (1) the extent to which the government's action impacts legitimate and long-standing expectations about the use of the property; and (2) the character of the government's actions — for instance whether it amounts to a physical invasion or merely affects property interests through a public program adjusting the economic benefits and burdens of the property to promote the common good. Following the decision in *Lingle v. Chevron*, this inquiry is likely better understood as an evaluation of the burden of the regulation on the affected private property in relation to the regulatory objective rather than an inquiry into whether the regulation is the best way to accomplish the regulatory objective. Recall that the takings analysis is

ultimately geared to ascertain whether the regulation is such a burden on property that it is the functional equivalent of an appropriation of the property, such that compensation should be paid.

Other factors to consider include the presence or absence of reciprocal benefits and the manner in which the costs and benefits of regulations are shared. For example, zoning regulations may eliminate some profitable uses of property while simultaneously preserving or enhancing property value by limiting development activities (e.g., preventing industrial operations in residential neighborhoods).

As with other analyses of economic impact where a taking is alleged, this evaluation of economic impacts and weighing of other factors is normally applied to the property as a whole, not just the portion subject to regulation.

b. *Factors to Consider in a Substantive Due Process Analysis.* Substantive due process principles require the government to ensure that its actions are reasonably designed to advance a legitimate state interest. To determine whether the government action is reasonable, a court will consider the relation between the government's purpose and the burden on the landowner. To what extent does the landowner's land contribute to the problem the government is attempting to solve? How far will the proposed regulation or action go toward solving the problem? A court will also want to know if less intrusive solutions are feasible.

The people of Washington are best served when governments aspire to adopt the fairest possible approaches for accomplishing important public policy purposes.

Often a key question is the amount by which the value of the owner's property will be decreased by the government's action. In evaluating this loss in property value, a court will look at both the absolute decrease in value of the property and the percentage this decrease comprises of the total value of the property.

Another factor to consider is how the owner's plans for the property are affected by the proposed government action. What uses remain after the proposed action? Is the regulation temporary or permanent? Should the owner have been able to anticipate the regulation? How feasible is it for the owner to alter present or planned uses?

Conclusion

Ultimately, the people of Washington State are best served when state and local governments aspire to adopt the fairest possible approaches for accomplishing important public purposes. We therefore encourage government decision-makers to seek effective regulatory approaches that fairly consider both the public interests and the interests of private property owners, while using these guidelines to avoid unconstitutional regulation.

Part Four: Appendix

This *Appendix* includes lists of *some* of the principal cases dealing with takings and/or related due process issues and a short summary of the result in each case. These cases provide examples of how federal courts and Washington courts have resolved specific questions and may be helpful for assessing how courts might resolve analogous situations. Decisions that were specifically abrogated in *Yim I* and *Yim II* are not included in this *Appendix* or are included with specific notation on what elements of the case remain good law. Caution should be taken when interpreting any of the Washington State cases listed below to determine if the specific holdings or rationale in those decisions are consistent with *Yim I* and *Yim II* and are still good law. There are many takings cases not discussed here, as well as several excellent law review articles on the subject. Cross-referenced decisions that are summarized in this *Appendix* are underlined where cited.

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196 Wn. App. 528, 384 P.3d 600 (2016), *review denied*, 187 Wn.2d 1024 (2017)..... A-34

Yim v. City of Seattle,
194 Wn.2d 651, 451 P.3d 675 (2019) (*Yim I*)..... A-34

Yim v. City of Seattle,
194 Wn.2d 684, 451 P.3d 694 (2019), as amended January 9, 2020 (*Yim II*) A-35

1. Summaries of Significant Takings Cases in the United States Supreme Court (Chronological Order)

Before 1970

Pennsylvania Coal Co. v. Mahon,
260 U.S. 393, 43 S. Ct. 158, 67 L. Ed. 322 (1922)

Regulations can “go too far” and may become the functional equivalent of an exercise of eminent domain that requires the payment of just compensation.

This case begins the United States Supreme Court’s development of the concept of regulatory takings. Pennsylvania’s laws had prohibited coal mining that produced severe ground subsidence, which made it commercially impossible to mine coal in certain areas of the state. The Court rejected the notion that the constitutional requirement of just compensation was limited to traditional exercises of eminent domain (formal condemnation proceedings). Instead, the Court noted that regulatory activity can “go too far,” having such an impact on property that it is the functional equivalent of an exercise of eminent domain. The Court did not lay out clear standards as to when a regulatory action “goes too far.”

1970 – 1979

Penn Central Transportation Co. v. New York City,
438 U.S. 104, 98 S. Ct. 2646, 57 L. Ed. 2d 631 (1978)

Takings claims are evaluated by examining and weighing three factors: (1) the economic impact of the regulatory action on the property; (2) the extent to which legitimate property use expectations exist and have been interfered with; and (3) the extent to which the government has used reasonable means to achieve an important public objective. When undertaking this evaluation the court must consider the impact on the entire property owner’s interest at stake, not just the portion subjected to regulation.

Grand Central Station was declared a landmark under New York City’s historic preservation ordinance. Penn Central, the owner, proposed to “preserve” the original station while building a 55-story building over it. The city denied the construction permit. The Court rejected Penn Central’s takings claim, explaining that the city ordinance served a valid public purpose and, so far as the Court could ascertain, Penn Central could still make a reasonable return on its investment by retaining the station as it was. Responding to Penn Central’s argument that the ordinance would deny it the value of its “pre-existing air rights” to build above the terminal, the Court held that it must consider the impact of the ordinance upon the property as a whole, not just upon “air rights.” The Court also applied a multi-factor test for evaluating a claim that specific government action has “taken” property. Courts must consider and weigh three factors: (1) the economic impact of the regulation on the property; (2) the extent to which the regulation interferes with investment-backed expectations; and (3) the character of the governmental action (whether it furthers an important interest and could have been accomplished by less intrusive means).

1980 – 1989

Agins v. City of Tiburon,
447 U.S. 255, 100 S. Ct. 2138, 65 L. Ed. 2d 106 (1980)

Regulatory actions may be a taking where they fail to advance a legitimate state interest or where they deprive property of all its value.

[In Lingle, the Court abandoned the “substantially advance” test as part of takings analysis, recognizing it instead as an element of substantive due process.]

The city adopted a zoning ordinance that limited property development to no more than five homes per parcel of land. Agins brought a takings claim alleging that the ordinance “completely destroyed the value of the property.” The Court appears to have identified an alternative test for evaluating whether a regulation results in a taking. The Court held that a taking occurs only where the regulation (1) fails to substantially advance a legitimate state interest; or (2) denies an owner all economically viable uses of the land. The Court upheld the ordinance because it advanced a legitimate interest and did not deprive the landowner of all economic value.

Loretto v. Teleprompter Manhattan CATV Corp.,
458 U.S. 419, 102 S. Ct. 3164, 73 L. Ed. 2d 868 (1982)

A physical invasion of property, no matter how slight, will categorically constitute a taking of that portion of the property occupied for the period of time that it is occupied.

A state statute required landlords to allow the installation of cable television on their property. The owner of an apartment building challenged the statute, claiming a taking of private property. The installation in question required only a small amount of space to attach equipment and wires on the roof and outside walls of the building. The Court held the statute was unconstitutional, concluding that “a permanent physical occupation authorized by government is a taking without regard to the public interests that it may serve.” The Court reasoned that an owner suffers a special kind of injury when a “stranger” invades and occupies property and that such an occupation is “qualitatively more severe” than a regulation on the use of property.

First English Evangelical Lutheran Church of Glendale v. Los Angeles County,
California,
482 U.S. 304, 107 S. Ct. 2378, 96 L. Ed. 2d 250 (1987)

The remedy for a regulatory taking of property is the payment of just compensation rather than simple invalidation of the regulation. If a regulation found to have “taken” property subsequently is repealed by the government, the property owner may be entitled to compensation for a “temporary taking”—the loss of value during the time the taking existed.

When a flood destroyed a church campground, California responded with a moratorium prohibiting development in the flood plain area. The church sought damages, claiming its property had been taken. California argued that the only remedy available was to challenge the validity of the regulation and seek to have it overturned, but the Court held that just compensation is the appropriate remedy if property was “taken.” The Court also explained that if a statute effected a taking,

the state could not avoid paying compensation by repealing the statute; compensation might be required for any loss of value during the time that the taking existed, that is for the “temporary taking.” The Court did not conclude there was a “temporary taking” in this case, only that the Just Compensation Clause allows compensation for a “temporary taking.”

Hodel v. Irving,
481 U.S. 704, 107 S. Ct. 2076, 95 L. Ed. 2d 668 (1987)

The total abrogation of the right to pass property to heirs (or similar “essential sticks in the bundle of rights” such as the right to own, exclude others, dispose of property, or make at least some economic use of the property) will result in a taking.

Portions of the Sioux Indian reservation that had been “allotted” to individual tribal members had become fractionated, sometimes into very small parcels. Good land often lay fallow, amidst great poverty, because of the difficulties in managing the property. In 1983, Congress passed legislation which provided that any undivided fractional interest constituting less than two percent of a given tract’s acreage and earning less than \$100 in the preceding year would revert to the tribe. No compensation was to be provided to tribal members whose property was lost under the statute. Tribal members challenged the statute. The Court noted that, under the balancing test traditionally applied to takings challenges, the statute might be constitutional. In this case, however, the character of the government action was “extraordinary” in that it destroyed “one of the most essential” rights of ownership: the right to transfer property, especially to one’s family. The Court held that such an action was a taking, regardless of the public interest that might favor the legislation.

Keystone Bituminous Coal Association v. DeBenedictis,
480 U.S. 470, 107 S. Ct. 1232, 94 L. Ed. 2d 472 (1987)

Takings claims must be evaluated with respect to the entire parcel of land owned by the claimant, not just the portion affected by the regulation. Property may not be segmented into separate legal interests for purposes of evaluating a takings claim.

Pennsylvania enacted a law requiring coal companies to leave certain amounts of coal in place to prevent subsidence of surface property. Keystone claimed a taking, alleging the law would require it leave up to 27 million tons of its coal un-mined, thereby effectively appropriating its coal for a public purpose. Keystone challenged the law on its face, rather than challenging its application in a particular set of facts. The Court held Keystone had a difficult burden of proof because legislation is presumed to be constitutional. The Court explained that legislation properly may regulate an activity to prevent severe impacts to the public, even if the activity has not traditionally been classified as a nuisance. Absent a showing that the legislation had a severe impact on Keystone’s entire property (the 27 million tons of coal was about two percent of Keystone’s holdings) the Court declined to invalidate the legislation. In response to Keystone’s arguments that its coal had been appropriated for a public purpose, the Court reaffirmed that takings law does not compensate a landowner for every loss in value. The Court refused to consider the coal left behind as a separate piece of property and affirmed that takings law evaluates the impact of regulation on the entire property held by the landowner, not just the portion being regulated.

Nollan v. California Coastal Commission,
483 U.S. 825, 107 S. Ct. 3141, 97 L. Ed. 2d 677 (1987)

Permit conditions that extract something from a landowner must have some reasonable relationship (some “nexus”) to an identifiable impact that the conditions seek to mitigate.

The Nollans sought a permit to replace a bungalow with a larger house on their California oceanfront property. The property lay between two public beaches. The Nollans were granted a permit, subject to the condition that they allow the public an easement to pass along their beach. The Court found this requirement to be a taking. The Court reasoned that it would have been a taking if the government had simply ordered the Nollans to give the public an easement outside of any permit process; the existence of a permit process and the extraction of an easement as a permit condition changes nothing unless the condition is related to some impact associated with the permit application. Even then, the permit condition is only valid if it substantially advances a legitimate state interest. The Court observed that if the Nollans’ proposed house had blocked the public’s view of the ocean from the street, a view easement perhaps would have been appropriate. But there was no indication that the Nollans’ house plans interfered in any way with the public’s ability to walk up and down the beach. Accordingly, the Court held there was no reasonable relationship, or “nexus,” between the permit condition and any public interest that might be harmed by the construction of the house. Lacking this nexus, the required easement was a taking of property.

1990 – 1999

Lucas v. South Carolina Coastal Council,
505 U.S. 1003, 112 S. Ct. 2886, 120 L. Ed. 2d 798 (1992)

A regulation that permanently deprives property of all economic value is a categorical form of taking that does not need to be evaluated using the Penn Central test. If, however, the government can show that the regulated use of property would be barred under fundamental principles of property law or nuisance, there is no categorical taking even if the property is left without economic value.

Lucas bought two South Carolina beachfront lots intending to develop them. Before he initiated any development of the lots, the state enacted legislation to protect its beaches, which prevented development of the lots. The parties stipulated that the parcels had no remaining economic value. The Court held that a regulation which “denies all economically beneficial or productive use of land” is categorically a taking unless the government can show that the proposed uses of the property are prohibited by nuisance laws or other preexisting limitations on the use of property. The Court explained, however, that such categorical takings will be “relatively rare” and the usual approach for determining takings, from *Penn Central*, will apply in most cases.

Yee v. City of Escondido, California,
503 U.S. 519, 112 S. Ct. 1522, 118 L. Ed. 2d 153 (1992)

Government regulation that affects the use of property, but that does not compel a landowner to involuntarily suffer the presence of the government or a third party, is not a categorical taking under Loretto.

Yee challenged a rent control ordinance for mobile home parks that scaled rents back to 1988 levels and prohibited increases without city approval. Yee argued that the rent control provision, in combination with the state laws limiting the termination of rental agreements, forced the property to be used as a mobile home park with artificially low rents. He contended the result was a categorical taking similar to the physical invasion identified in the *Loretto* case. Observing that Yee voluntarily rented space to mobile homes and could get out of the business and convert the property to another use at any time, the Court held the ordinance was a regulation of property, not a physical invasion. The Court noted that a conventional regulatory taking analysis under *Penn Central* might be possible in this circumstance but refused to apply that analysis because Yee's suit had only been litigated as a physical occupation claim.

Dolan v. City of Tigard,
512 U.S. 374, 114 S. Ct. 2309, 129 L. Ed. 2d 104 (1994)

Under Nollan, a permit condition that extracts something from a landowner must have some nexus to an identifiable impact. In addition, the scope of the condition must be “roughly proportional” to the impact being mitigated.

The city approved a permit to expand a store and pave a parking lot, on condition that the business owner (1) dedicate a portion of her property for a public greenway along an adjacent stream to minimize flooding that would be exacerbated by the increased impervious surface, and (2) provide for a bicycle path intended to relieve traffic congestion. When the city denied her variance request, she alleged a taking. The Court distinguished most of its prior regulatory takings cases for two reasons: (1) they involved challenges to legislative comprehensive land use regulations, whereas this case involved an adjudicative decision to condition an application for a building permit on an individual parcel; and (2) the conditions imposed here did not simply limit use, but also required that the landowner deed portions of her property to the city. The Court found a sufficient nexus between the permit conditions and the impacts they targeted, under *Nollan*, then proceeded to consider whether the required dedication was “roughly proportional” to the impacts being mitigated. The Court held no precise mathematical calculation is required, but the city must make some sort of individualized determination that the required dedication is related both in nature and extent to the impact of the proposed development. Finding that the city had not demonstrated why the floodplain could not be protected without depriving the landowner of her property, the Court held there was no evidence of a reasonable relationship between the business expansion and the required dedication for a public greenway. The Court also found that the bike path could be a reasonable requirement to mitigate the impact of increased traffic caused by the expanded business, but it was troubled by the lack of evidence concerning the magnitude of any traffic impact. The Court remanded for further proceedings.

City of Monterey v. Del Monte Dunes at Monterey, Ltd.,
512 U.S. 687, 119 S. Ct. 1624, 143 L. Ed. 2d 882 (1999)

(1) If a takings claim can be brought in federal court and is raised as a 42 U.S.C. §1983 civil rights claim, a jury may be used to evaluate the government's regulatory activity.

(2) The “rough proportionality” analysis set forth in Dolan is used only to evaluate regulatory exactions of some interest in property.

After the city repeatedly failed to approve the development of a 37.6-acre parcel of land, based on the need to protect the habitat of an endangered butterfly, the plaintiffs sought compensation in federal court. The takings claim was lodged as a civil rights violation under 42 U.S.C. § 1983. At trial, a jury was used to consider two different takings theories—a categorical *Lucas*-type taking based upon a complete deprivation of all economically viable uses, and a takings theory based upon the Court’s *Agins* analysis examining the nature of the government’s actions. (Note: After *Lingle*, decided in 2005, this second form of takings analysis is no longer used in federal courts). On appeal from a successful verdict, the city argued that it was improper to submit the takings question to a jury. The Court disagreed, noting that the jury was not being asked to scrutinize the question of whether the government’s regulatory decisions were appropriate. The case had been raised as a civil rights claim and was litigated on the premise that the city’s regulations were valid but had been applied inconsistently. The Court specifically refused to decide whether a jury might be used to determine takings claims brought outside of this context. In addition, the Court clarified that the rough proportionality test laid out in *Dolan* applies only when evaluating whether a property exaction amounts to a taking; it does not apply to regulatory actions that do not exact some property interest from the landowner.

2000 – 2009

***Palazzolo v. Rhode Island*, 533 U.S. 606, 121 S. Ct. 2448, 150 L. Ed. 2d 592 (2001)**

(1) The mere fact that a government regulation was enacted before a regulated property was acquired does not mean the regulation will be treated as a background limitation on the use of the property that cuts off a taking claim, although the regulation may be considered in any Penn Central analysis that is performed. Only background limitations that traditionally have limited the use of property will cut off a regulatory takings claim.

A landowner was denied a permit to fill wetlands as part of a plan to build several waterfront homes. The landowner sued, alleging that the property had no remaining value and had been taken under the “total deprivation of all value” test laid out in *Lucas*. The planning agency responded (1) that the claim was not ripe because the landowner had not sought a variance; (2) that, because the landowner had acquired the property after the effective date of the regulation, the regulation constituted a preexisting limitation on the use of property, thereby cutting off any taking claim; and (3) that no *Lucas* claim existed because the evidence showed at least one home could be built on the unfilled portion of the property.

Agreeing that pre-existing property limitations may cut off a taking where the background limitation on property uses has always existed as a part of the law of property, the Court held this principle should not be used to treat newly enacted regulations as some bright line cut-off of any subsequent claim that the newly enacted regulations amount to a taking. Instead, the fact that a property owner may have acquired property with the knowledge that a previous regulation might preclude certain land uses could be weighed as part of the *Penn Central* test when evaluating a landowner’s legitimate investment expectations. Finding that the entire property retained some value, the Court rejected the *Lucas*-based takings claim and remanded the case for a determination whether a taking had occurred, using the *Penn Central* test.

Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency,
535 U.S. 302, 122 S. Ct. 1465, 152 L. Ed. 2d 517 (2002)

This opinion summarizes much of the Court’s prior takings analysis, including the principle that property is not segmented into components for purposes of a takings analysis (the “whole parcel rule”), and confirms that the Penn Central test is the usual test for evaluating takings claims. Categorical takings claims are limited to the narrowly tailored exceptions set forth in Loretto (physical occupation) and Lucas (total deprivation of all economic value).

The Tahoe Regional Planning Agency imposed two moratoria, totaling 32 months, on development in the Lake Tahoe Basin while formulating a comprehensive land use plan for the area. Landowners affected by the moratoria filed suit claiming a taking of their property without just compensation, alleging that their properties had been deprived of all value during the moratoria. The Court refused to apply the categorical taking test of *Lucas*, explaining that a temporary deprivation of all value does not qualify as a taking under *Lucas*. For example, the normal delay associated with getting a permit does not give rise to a claim for any lost value. The Court held moratoria should be evaluated instead using the *Penn Central* test, under which a moratorium could be treated as a taking if imposed for a long enough time or in a manner that was disproportionate to the legitimate planning needs of the agency.

The Court affirmed that takings claims normally are evaluated using the *Penn Central* test. Categorical takings, such as the total deprivation of all value principle laid out in *Lucas* or the physical invasion principle laid out in *Loretto*, are rare and narrowly tailored exceptions to normal takings analysis. The Court also affirmed that takings analysis must not segregate the regulated property into partial interests when evaluating the regulatory impact (e.g., a portion of time when the property may be used, a partial legal interest in the use of the property, or a physical segment of the property being regulated). The property must be considered as a whole when evaluating the impact of regulation.

Lingle v. Chevron U.S.A. Inc.,
544 U.S. 528, 125 S. Ct 2074, 161 L. Ed. 2d 876 (2005)

The “substantially advances” formula articulated in Agins is not an appropriate test for determining whether a regulation effects a taking of property requiring just compensation but is instead a principle associated with a substantive due process analysis.

Concerned about the effects of market concentration on retail gasoline prices, the Hawaii Legislature passed a law limiting the rent that oil companies could charge dealers leasing company-owned service stations. Chevron sued, seeking a declaration that the rent cap was a taking of its property. Applying *Agins*, the district court held that the rent cap effected a taking in violation of the Fifth and Fourteenth Amendments because it did not substantially advance Hawaii’s asserted interest in controlling retail gas prices. The Court reversed, concluding the “substantially advances” formula is not a valid method of identifying compensable regulatory takings. Rather, it prescribes an inquiry in the nature of a due process test, which has no proper place in takings jurisprudence. A plaintiff seeking to challenge a government regulation as a taking of private property may proceed by alleging (1) a *Loretto*-based physical taking, (2) a *Lucas*-type total regulatory taking, (3) a *Penn Central* taking using the traditional inquiry into the nature and effect of the

government regulation, or (4) a land-use exaction violating the *Nollan* and *Dolan* reasonable relationship and proportionality standards.

Kelo v. City of New London,
545 U.S. 469, 125 S. Ct. 2655, 162 L. Ed. 2d 439 (2005)

Under the Fifth Amendment to the United States Constitution, the condemnation of private property and its transfer to private developers under a government-approved program for economic rejuvenation is evaluated using a broad definition of “public use” that defers in part to a legislative determination that the program is of public benefit.

The city approved an integrated development plan designed to revitalize its ailing economy. The city purchased most of the property earmarked for the project from willing sellers, but it initiated condemnation proceedings against those owners who refused to sell. These property owners sued in state court, claiming the condemnation of their property as part of a plan to transfer the property to private developers did not constitute a “public use” of their property, as required in the federal Takings Clause. The Connecticut Supreme Court held the condemnation action was valid, and the United States Supreme Court affirmed. The Court held a government action serves a government use as long as it advances a public purpose. Relying on precedents extending back to the 19th century, the Court rejected the argument that “public use” literally means “use by the general public.” The Court looked instead to the state legislative determination as to whether the proposed use was a public use and held that in some circumstances economic development is a valid public use that can justify the condemnation of private property through eminent domain.

2010 – 2024

Stop the Beach Renourishment, Inc. v. Florida Department of Environmental Protection,
560 U.S. 702, 130 S. Ct. 2592, 177 L. Ed. 2d 184 (2010)

The concept of “judicial takings”—the notion that court decisions affecting the contours of property rights might be viewed as a taking of property if long-held property expectations are upset—remains unresolved.

To protect coastal property owners and the community as a whole from vulnerabilities caused by beach erosion, Florida established a beach renourishment program that placed sand on publicly-owned submerged land to help restore damaged beaches. Several Florida beachfront homeowners alleged the program resulted in a taking of their rights of exclusive access, unobstructed view, and future accretion. When the state supreme court upheld the program, the homeowners petitioned the United States Supreme Court, alleging the state court decision constituted a “judicial taking” of their property. The Court held unanimously that there was no taking in this case, but it deadlocked 4-4 (one Justice recused) on whether to recognize, for the first time in American history, a “judicial taking” doctrine. Because the Court deadlocked, the doctrine was not recognized.

Arkansas Game and Fish Commission v. United States,
568 U.S. 23, 133 S. Ct. 511, 184 L. Ed. 2d 417 (2012)

When the government makes a decision to release water from a retaining dam, it can be sued under the federal Takings Clause for damage to downstream property

arising from the “invasion” of water (even if the downstream flooding is temporary in duration), provided the released water causes sufficient damage that is traceable to the decision to release.

From 1993 through 2000, the United States Army Corps of Engineers created a temporary but periodic flood regime for management of a federal wildlife management area in Arkansas. The flood regime caused flooding across the region, which restricted access to and destroyed or degraded thousands of timber trees on land owned by the state. The state sued, alleging that the federal government’s periodic flooding had damaged its property and was subject to the payment of just compensation.

The Court rejected the federal government’s claim that temporary flood waters are categorically exempt from a takings claim. The length and severity of the property interference caused by the flooding is just one factor among many a court must consider when determining whether a specific government action produces a taking. Other factors include the intent behind the action and the degree to which the interference was a foreseeable result of an authorized government action. The case was remanded to the trial court for a full takings analysis consistent with these principles.

Koontz v. St. Johns River Water Management District,
570 U.S. 595, 133 S. Ct. 2586, 186 L. Ed. 2d 697 (2013)

(1) The Nollan and Dolan requirements—that governments show both a nexus and rough proportionality between its demand on the landowner and the effects of the proposed land use—are not avoided simply because a permit is denied after the landowner refuses to meet the demand. (Unanimous decision.) The merits of imposing the proposed exaction can still be reviewed.

(2) The Nollan and Dolan requirements apply to both property exactions (demanding some interest in the regulated property as a condition of development) as well as monetary exactions (where the demand on the landowner is the expenditure of money on mitigation projects). (5-4 decision.)

Koontz wanted to develop wetland property he owned in Florida. During the permitting process, he offered to grant a substantial conservation easement to the District, but the District rejected his proposal, informing him that his permit would be denied unless he agreed to do one of two things: (1) scale back his planned development and give the District a larger conservation easement; or (2) maintain the proposal, but also hire contractors to make improvements to separate land owned by the District.

The Court held that when a government conditions or denies a land use permit based upon a demand for valuable services or an interest in the land, there is an “exaction” and the government must show that there is some nexus and rough proportionality between its demand on the landowner and the effects of the proposed land use. Monetary exactions requiring the expenditure of money to create or acquire mitigation measures were distinguished from normal taxes and permitting fees that the government is authorized to impose in order to fund government operations and which are not subject to an exaction analysis.

***Horne v. Department of Agriculture*,
569 U.S. 513, 133 S. Ct. 2053, 186 L. Ed. 2d 69 (2013)
576 U.S. 350, 135 S. Ct. 2419, 192 L. Ed. 2d 388 (2015)**

(1) *Physical appropriations of property by the government—whether of real property or personal property—always require the payment of just compensation, even if the government provides for retention of some continuing or future economic interest in the appropriated property.*

(2) *As a factual matter, requiring a raisin grower to turn over a portion of its raisin crop in order to participate in interstate commerce cannot be characterized as a voluntary exchange for a valuable government benefit (in contrast, e.g., to requiring a government license to produce and sell potentially dangerous chemicals).*

The U.S. Department of Agriculture determined that a farmer violated an agricultural marketing order designed to stabilize the raisin market. The order was based upon a regulatory plan establishing a “reserve requirement” that precludes raisin growers from selling all of their raisins, thereby restricting supply and maintaining prices at higher levels. The raisins that cannot be sold are to be turned over to the government for later sale or disposal by the government, with any profits returned to the grower. In this case the grower refused to comply, was assessed a substantial penalty, and sued the Department, arguing that the fine was an unconstitutional “taking.”

In its 2013 decision (133 S. Ct. 2053), the Court held that the grower was not required to bring that claim in the Court of Federal Claims, and could bring his “takings” claim in a regular federal district court without first paying the fine. It remanded to the Ninth Circuit to decide the takings claim. The Ninth Circuit observed that the grower had not alleged a standard regulatory taking claim under the *Penn Central* theory. Applying an analysis like that in *Koontz*, the Ninth Circuit concluded that the marketing order was directly related to the need to stabilize markets for raisins, and the reserve amount (adjusted annually) was proportionate to the objective of avoiding an unstable market.

In its 2015 decision (135 S. Ct. 2419), the Supreme Court reversed, holding that the government’s actions constituted a physical taking of personal property because the reserve raisins had to be turned over to the government. A physical taking always requires the payment of just compensation. The fact that the regulatory format provided some possibility of economic return from the reserved raisins did not change the takings analysis but was relevant only to the amount of just compensation that is due.

The Court also held that the taking cannot be characterized a voluntary exchange for a valuable government benefit. *See Ruckelshaus v. Monsanto Co.*, 467 U.S. 986 (1984) (disclosure of valuable trade secrets as a condition for licensing sales of potentially dangerous chemicals is not a taking because the impact on the property interest in trade secrets was a reasonable condition for allowing the licensing of dangerous products). In this respect, the Court appears to have drawn a distinction between regulations that appropriate an interest in property whose use is inherently dangerous and not typically allowed and regulations that appropriate other types of property. Government may impose conditions on dangerous uses of property, consistent with regulatory takings or exaction principles, in exchange for approval to conduct the dangerous use. But the government could not require the grower to

turn over a portion of its raisin crop without just compensation as a regulatory condition of participating in interstate commerce.

Murr v. Wisconsin,
582 U.S. 383, 137 S. Ct. 1933, 198 L. Ed. 2d 497 (2017)

The “whole parcel” is considered when evaluating the impact and economic effect of land use regulation and is determined based upon an objective test of whether a landowner would reasonably expect their land holdings to be aggregated or treated separately.

The Murr family owned two adjacent riverfront lots. They decided to sell one lot and retain the other. However, state property regulations precluded sale or development of adjacent riverfront parcels of land held by a common landowner unless each parcel has at least one acre of land suitable for development. Because each lot had less than the required room for development, the separate sale of one parcel was not permitted. Murr sued, alleging all or most of the value of the parcel they wanted to sell had been taken. The Supreme Court affirmed lower court determinations that both the Murr parcels should be evaluated as a whole parcel and that no taking had occurred because the whole parcel retained substantial value.

The Court rejected Murr’s argument that an affected parcel is defined simply by the two parcels’ lot lines. The Court also rejected the State’s proposed test—whether any state law treats the parcels as a unitary whole. (The state law here treated adjacent riverfront parcels that came to be held in common ownership as having been effectively “merged” into one parcel.) Instead, the court adopted an “objective” three-part test of whether a reasonable landowner would consider the parcels as separate or unitary. The test evaluates three factors: “[1] the treatment of the land under state and local law; [2] the physical characteristics of the land; and [3] the prospective value of the regulated land.” With regard to the third factor, the analysis should give “special attention to the effect of burdened land on the value of other holdings.” Applying these factors, the Court concluded that Murr’s two lots should be treated as one for takings analysis. First, Wisconsin property law—specifically, the merger provision—treats the two parcels as one. Second, the landowners reasonably should have anticipated regulation of their contiguous lots because of their “rough terrain,” “narrow shape,” riverfront location, and preexisting federal, state, and local regulations along the river. Third, the lots are more valuable when combined.

Knick v. Township of Scott, Pennsylvania
588 U.S. 180, 139 S. Ct. 2162, 204 L. Ed. 2d 558 (2019)

A property owner has an actionable Fifth Amendment takings claim in federal court at the time that a local government takes the property and can bring a claim in federal court in a §1983 action.

Prior to *Knick*, a property owner could not bring a takings claim against a local government in federal court until a state court had denied a claim for compensation under state law. Here the Court overruled *Williamson County Regional Planning Commission v. Hamilton Bank of Johnson City*, 473 U.S. 172, 105 S. Ct. 3108, 87 L. Ed. 2d 126 (1985) and restricted the holdings of *San Remo Hotel v. City and County of San Francisco*, 545 U.S. 323, 125 S. Ct. 2491, 162 L. Ed. 2d 315 (2005) and *MacDonald, Sommer & Frates v. Yolo County*, 477 U.S. 340, 106 S. Ct. 2561,

91 L. Ed. 2d 285 (1986). *Williamson County* held that a takings claim was not ripe in federal court until the property owner had been denied compensation in state court. *San Remo Hotel* held that a state court’s resolution of a takings claim would generally have a preclusive effect in a subsequent federal proceeding. The *Knick* Court recognized that these decisions created a “trap” for property owners that would prevent a federal takings claim from being heard if compensation were denied on state law grounds. The Court concluded that a state court litigation requirement was “an unjustifiable burden on takings plaintiffs” and held that the property owner could bring a takings claim under §1983 at the time the government takes the property. *Knick* at 2168.

Cedar Point Nursery v. Hassid,
594 U.S. 139, 141 S. Ct. 2063, 210 L. Ed. 2d 369 (2021)

A California regulation granting labor organizations a “right to take access” to an agricultural employer’s property in order to organize employees is a per se physical taking of property and was held to be unconstitutional.

California state law guarantees agricultural workers the right to self-organize and makes it an unfair labor practice for employers to interfere with that right. The California Agricultural Labor Relations Board adopted a regulation under that statute that provided that agricultural workers’ right to self-organization included a right of access by unions to the employers’ property for the purpose of meeting with and talking to employees about labor issues and union organization. The Supreme Court found that the regulation which provided for union access to the employer’s land for three hours per day for 120 days a year, “appropriates for the enjoyment of third parties the owners’ right to exclude.” *Cedar Point Nursery* at 2072. Citing *Loretto*, the Court found this right of the union to physically enter and occupy the employer’s property was a per se physical taking.

Tyler v. Hennepin County, Minnesota, et al.,
598 U.S. 631, 143 S. Ct. 1369, 215 L. Ed. 2d 564 (2023)

Governments may impose property taxes and may foreclose on property to enforce and recover due taxes along with interest and penalties. However, governments may not take more than is due and must refund excess recoveries to the taxpayer.

Washington, like most states and the federal government, provides that excess recovery after a tax foreclosure sale to recover unpaid taxes, interest and penalties must be refunded to the taxpayer. However, Minnesota’s statutory scheme provided that the taxpayer had no property interest in surplus proceeds from a tax foreclosure sale. In this case, Ms. Tyler owed Hennepin County approximately \$15,000 in unpaid real estate taxes, interest and penalties. Hennepin County foreclosed on and sold her property for approximately \$40,000, keeping the excess \$25,000 as provided by Minnesota statute. The Eighth Circuit Court of Appeals upheld the constitutionality of the Minnesota statute and affirmed the District Court’s dismissal of Tyler’s takings claim deciding that, as she had interest in her property under Minnesota law, she had sustained no injury and thus had no standing to bring her takings claim. The Supreme Court reversed and found that Tyler had suffered financial harm sufficient for standing and had stated a claim under the Takings Clause of the Fifth Amendment. The Court stated that taxpayers are entitled to the

surplus in excess of debt owed and to withhold such surplus is a violation of the Fifth Amendment.

Sheetz v. County of El Dorado, California
601 U.S. 267, 144 S. Ct. 893, 218 L. Ed. 2d 224 (2024)

The Supreme Court held that permit conditions imposed by legislative action are subject to the same takings analysis under Nollan and Dolan as permit conditions imposed on an individual permit applicant by administrators (i.e. executive branch officials administering the permitting process). The Court held that the Takings Clause does not distinguish between legislative and administrative permit conditions.

El Dorado County’s Board of Supervisors adopted land use planning regulations requiring developers to pay a traffic impact fee as a condition of receiving a building permit. The traffic impact fee amount was not based on costs specifically attributable to the impacts of the particular project. George Sheetz challenged the substantial traffic fee he was assessed (\$23,420) when he sought a permit to build a modest prefabricated house on his property. Sheetz contended in state court that the traffic impact fee was an unlawful “extraction” of money in violation of the principles laid out in *Nollan* and *Dolan*. After the California Supreme Court denied review, Sheetz sought review by the United States Supreme Court which granted certiorari.

The Supreme Court’s decisions in *Nollan* and *Dolan* address the potential abuse of the permitting process by setting out a two-part test. First, permit conditions must have an “essential nexus” to the government’s land-use interest, ensuring that the permit condition is related to some impact associated with the property owner’s intended action. Second, permit conditions must have “rough proportionality” to the development’s impact on the land-use interest. A permit condition may not require a landowner to give up more than is necessary to mitigate harms resulting from new development.

The California Courts upheld the County’s traffic impact fee with the rationale that the *Nollan/Dolan* test does not apply to monetary fees imposed by a legislature. The Supreme Court disagreed finding that nothing in constitutional text, history, or precedent supported exempting legislatures from ordinary takings rules. The Court held that conditions on building permits are not exempt from scrutiny under *Nollan* and *Dolan* just because a legislative body imposed them.

DeVillier, et al. v. Texas,
601 U.S. 285, 144 S. Ct. 938, 215, ___ L. Ed. 2d ___ (2024)

Richard DeVillier and more than 120 other petitioners owned property on the north side of Interstate Highway 10 (I-10) between Houston and Beaumont, Texas. The State of Texas had built a flood barrier along the median of I-10 which acted to impound water on the north side of the highway while keeping the south side of I-10 open as an emergency excavation route. Petitioners brought suit in Texas state court asserting an inverse condemnation claim that their properties on the north side of I-10 were flooded and destroyed by the impoundment of water during hurricanes and tropical storms and that they bore the burden of the benefit to the public of an open evacuation route during such storms. The complaint alleged violations of the

Texas State Constitution and the Takings Clause of the federal constitution. The State of Texas removed the suit to federal court and then moved for dismissal of the Takings Clause claims contending that the federal takings claim must be brought under 42 U.S.C. § 1983 and further that the § 1983 claims fail as they cannot be brought against a state but instead must be brought against a state official. Petitioners contended that their federal takings claim could be directly brought against the state under the Fifth Amendment. The Fifth Circuit Court of Appeals agreed with the State of Texas and held, per curiam, that the Fifth Amendment Takings Clause as applied to the State of Texas through the Fourteenth Amendment does not provide a right of action for a takings claim against the State.

The Supreme Court granted certiorari to decide whether a property owner may sue for just compensation directly under the Takings Clause. The Court examined prior precedent and while the Takings Clause provided the substantive rule of decision for the equitable claims in prior cases, the Court found that no prior case had held that the clause creates a cause of action for damages, a legal and not equitable remedy. However, the Court went on to hold that it was premature to decide the question of whether the Takings Clause was self-executing in providing that legal remedy as the Petitioners had a viable state law inverse condemnation cause of action based on both the Texas and federal constitutions. The Court vacated the decision of the Court of Appeals and remanded to the district court to allow the Petitioners to amend their complaint and proceed with the state law cause of action.

2. Summaries of Significant Washington State Takings Cases (Chronological Order)

1970 – 1979

Maple Leaf Investors, Inc. v. Department of Ecology,
88 Wn.2d 726, 565 P.2d 1162 (1977)

A prohibition on construction for human habitation within a floodway is a valid exercise of the state police power, not a taking or damaging of private property.

Maple Leaf Investors owned property along the Cedar River in an area subject to flood control regulations, which prohibited construction for human habitation within the floodway channel. Seventy percent of the property lay within the floodway channel. Considering a claim that the flood control regulations effected a taking, the Washington Supreme Court examined the balance between the public interest in the regulations and the private interest in using the property without restriction. The court found the primary purpose of the regulations was not to put the property to public use, but to protect the public health and safety. The regulations prevented harm to persons who might otherwise live in the floodway, and barred the construction of structures that might break loose during a flood and endanger life and property downstream. Further, since 30 percent of the property was still usable, there was no indication that the regulations prevented profitable use of the property. Finally, the Court noted that it was nature, not the government, that placed Maple Leaf's property in the path of floods. The Court rejected the taking claim.

***Department of Natural Resources v. Thurston County,*
92 Wn.2d 656, 601 P.2d 494 (1979), cert. denied, 449 U.S. 830 (1980)**

Restricting development density to protect bald eagle habitat is not a taking, so long as the county allows sufficient density for the owner to make a profitable use of its property.

A developer leasing property from the state sought plat approval from the county for a proposed residential development. The county denied preliminary plat approval, finding the proposed development would interfere with eagle perching and feeding areas. The developer claimed a taking of private property. The Washington Supreme Court held it was not a taking, primarily because the county had indicated it would approve a less intensive development. (The county commission had found no adverse impact from the development of 11 of the 22 lots proposed by the developer.) The Court held there was a strong public interest in protecting the eagles, and there had been no showing that all reasonably profitable uses of the property were foreclosed.

1980 – 1989

***Granat v. Keasler,*
99 Wn.2d 564, 663 P.2d 830, cert. denied, 464 U.S. 1018 (1983)**

A city ordinance that conveyed perpetual occupancy rights to paying tenants effected a taking of property from houseboat moorage owners.

Under a Seattle houseboat ordinance, the only reason a houseboat moorage owner could evict a paying tenant would be to use the moorage site for the owner's own non-commercial residence. A moorage owner appealed the ordinance. The Washington Supreme Court held the ordinance was a taking of private property without just compensation. The Court's reasoning followed that of its earlier decision in *Kennedy v. Seattle*, 94 Wn.2d 376, 617 P.2d 713 (1980), where a similar ordinance was invalidated because it effectively conveyed perpetual occupancy rights of a landowner's property to another person.

***Buttnick v. City of Seattle,*
105 Wn.2d 857, 719 P.2d 93 (1986)**

A historical preservation requirement in a city ordinance does not effect a taking if, considering the market value and income producing potential of the subject property, the requirement imposes no unnecessary or undue hardship on the plaintiff.

A Seattle historic preservation ordinance required a building owner conducting repairs to replace a parapet in a manner approximating the original design. The building owner claimed its property was taken without compensation. Following the United States Supreme Court's analysis in *Penn Central*, the Washington Supreme Court held the estimated cost of replacing the parapet would not be an undue hardship on the building owner, considering the market value and income-producing potential of the building. The Court rejected the taking challenge to the historic preservation ordinance.

Unlimited v. Kitsap County,
50 Wn. App. 723, 750 P.2d 651, review denied, 111 Wn.2d 1008 (1988)

To avoid a taking, an exaction placed on a proposed development must serve a legitimate public purpose, must be reasonable, and must address a problem that arises from the proposed development.

Unlimited sought a planned unit development approval to construct a convenience store on part of its property. The county approved the application subject to two conditions which required Unlimited to (1) dedicate a 50-foot right of way to provide commercial access to the next-door property, and (2) dedicate a strip of its property sufficient to extend a county arterial along the front of its property. Unlimited appealed these conditions. The Washington Court of Appeals, relying upon the United States Supreme Court's decision in *Nollan*, stated that a private property interest can be exacted without compensation only where "the problem to be remedied by the exaction arises from the development under consideration, and the exaction is reasonable and for a legitimate public purpose." The court ruled that providing commercial access to the adjacent private property benefited a private person, rather than mitigating a public problem, and it found nothing in the proposed development that created a need to extend the arterial. The court held the conditions imposed by the county effected a taking.

Estate of Friedman v. Pierce County,
112 Wn.2d 68, 768 P.2d 462 (1989)

A taking claim is not ripe for judicial review where the government retains some discretion to allow profitable uses of land.

After the county denied a master application for a proposed development, the developer challenged the denial and alleged a taking. The superior court rejected both claims, dismissing the taking claim as not ripe for review because no specific project had been proposed. The Washington Supreme Court affirmed, holding that a taking claim is not ripe for adjudication where a regulatory agency retains some discretion to allow profitable uses of land. While several of the federal cases cited in this opinion have been overruled or limited by the United States Supreme Court in *Knick v. Township of Scott, Pennsylvania*, the holding in this case appears sound under a state law analysis. Without a final regulatory disposition that clearly shows the economic impact of the regulatory program, it is not possible for the court to assess the extent to which the regulation interferes with reasonable investment-backed expectations. Ripeness is a question for the judge, not the jury. If the regulatory agency raises as a defense the landowner's failure to exhaust administrative remedies, the burden is on the landowner to persuade the court that futility excuses exhaustion. The burden is on the landowner to demonstrate it would be futile to pursue available development alternatives, and this is a substantial burden.

1990 – 1999

Luxembourg Group, Inc. v. Snohomish County,
76 Wn. App. 502, 887 P.2 446, review denied, 127 Wn.2d 1005 (1995)

To meet Nollan's "essential nexus" requirement, an exaction of property must address some problem arising from the development under consideration.

As a condition for approving a subdivision, the county required the developer to grant an easement to a neighboring landlocked property owner. The Washington Court of Appeals held the condition was a taking, because there was no essential nexus between the easement requirement and any adverse impact of the development (*see Nollan*). The court reasoned that the interior parcel would be landlocked regardless of whether the developer's property was subdivided or not.

Sparks v. Douglas County,
127 Wn.2d 901, 904 P.2d 738 (1995)

The government must demonstrate that the exaction it imposes to mitigate development is “roughly proportional” to the impact of the development.

As a condition for approval of a development plat, the county required the developer to dedicate several rights of way for future street improvements. The developer conceded there was a “nexus” between the condition and the identified impact of the proposed development, but challenged the amount of the dedication as a taking, claiming it was not specifically proportional to the identified impact. Applying the “rough proportionality” test of *Dolan*, the Washington Supreme Court concluded the county did not need to show exactly proportional mitigation requirements, just a roughly proportional calculation of impact and mitigation. So long as the county had some valid reasoning and did not rely upon merely conclusory findings, the mitigation condition could be upheld.

Ventures Northwest Ltd. Partnership v. State,
81 Wn. App. 353, 914 P.2d 1180 (1996)

A plaintiff alleging a regulatory taking must be able to demonstrate the alleged deprivation of property actually was caused by the government's regulation or action.

Ventures sought to develop property in a flood plain and applied for permits from both the state and the federal government. The federal permitting process proved difficult and a federal Corps of Engineers permit was denied for several reasons, including opposition by various federal agencies, the state Department of Ecology's refusal to issue water quality certifications, and Ventures' repeated failure to work through various permitting information concerns. While the federal permit decision was pending, the county denied a grading and filling permit. Ultimately, the county began foreclosure proceedings against Ventures' property for nonpayment of assessments and taxes. Ventures filed takings claims against the state and the county. Ventures alleged the state's actions had caused the federal permit process to fail, and it alleged the county's permit denial contributed to its inability to develop its property. The Washington Court of Appeals rejected the claims, explaining that a taking claim must be premised upon “causation in fact”—the plaintiff must be able to demonstrate the alleged loss would not have occurred “but for” the government's actions. The court concluded the federal government had a basis to deny the permits before the state refused to provide the required water quality certification. The court also concluded the county's denial of the permit was reasonable because Ventures failed to satisfy a properly imposed condition and because Ventures failed to show that the permit denial resulted in any loss of economic viability.

Snider v. Board of County Commissioners of Walla Walla County,
85 Wn. App. 371, 932 P.2d 704 (1997)

A court cannot force a legislative branch of government to exercise the power of eminent domain.

As a condition for approving a preliminary plat for a proposed subdivision, the county required that an existing road be widened, which would require the developer to acquire a right of way from an adjacent landowner. The superior court upheld the determination that a widened road was needed to serve the proposed development, but held it was arbitrary and capricious for the county to require the developer to obtain the right of way. The superior court modified the condition to require the developer to deposit money with the county sufficient to acquire the right of way and construct the necessary improvements, effectively requiring the county to use its eminent domain power to acquire the right of way. The Washington Court of Appeals reversed. It held the original condition was proper given the impact of the development. More fundamentally, under the doctrine of separation of powers, the court held the superior court lacked the power to modify the condition to require the county to exercise its power of eminent domain.

Burton v. Clark County,
91 Wn. App. 505, 958 P.2d 343 (1998), review denied, 137 Wn.2d 1015 (1999)

To avoid constituting a taking, an exaction placed on a proposed development must solve or tend to alleviate an identified public problem.

As a condition for approving a short plat, the county required the applicant to dedicate right of way and construct a road, curbs, and sidewalks. Applying the principles of *Nollan* and *Dolan*, the Washington Court of Appeals held that, before a government agency may condition a permit using an exaction, it must identify a public problem—not just a problem affecting some private landowners—and must be able to conclude that the proposed development will exacerbate this public problem. The exaction must solve or tend to alleviate the identified problem that is caused by the development and it must do so in a roughly proportional manner. The Washington Court of Appeals found the proposed subdivision would aggravate certain public problems related to traffic congestion, but it concluded the road exaction would contribute to the solution of this problem only if it were extended across another undeveloped parcel. Because there was no evidence any such extension might occur, the court held the county had not met its burden of showing the condition would help solve the identified problem.

Phillips v. King County,
136 Wn.2d 946, 968 P.2d 871 (1998)

No inverse condemnation claim lies against a county that issued a permit to a private development that has a design defect leading to surface water flooding of adjacent property, unless the government is acting as a direct participant in the development that caused the flooding.

A developer proposed a drainage plan that constructed a discharge system on an adjacent county right-of-way even though its engineers warned of liability to adjacent landowners because of soil conditions. The drainage plan was vested under an old code and did not meet the standards of the existing code. The county approved the plan notwithstanding concerns raised by Phillips, whose property lay on the opposite side of the county right-of-way.

Soon after the drainage system was built, Phillips sued both the developer and the county, claiming the system resulted in flooding of Phillips' property. Phillips alleged the county's approval of the drainage system resulted in an inverse condemnation of a portion of Phillips' property. The Washington Supreme Court rejected the inverse condemnation claim. The Court explained that a claim for inverse condemnation from surface water flooding is possible where a county artificially collects and discharges water onto surrounding property in a manner different than from the natural flow, but no inverse condemnation arises (1) where the county merely permitted a development that causes a surface water problem when constructed or (2) where the county later took ownership of the drainage system and the surface water problem was not due to the county's poor maintenance but to the developer's poor design. The Court held, however, that when the county allowed the drainage system to be built on county land it potentially became part of the problem by allowing its land to be used in an allegedly improper manner. The Court remanded to the trial court to determine if the county had participated in a surface water invasion of the neighbor's property.

2000 – 2009

Manufactured Housing Communities of Washington v. State, **142 Wn.2d 347, 13 P.2d 183 (2000)**

Under the Washington State Constitution, private property may be taken only for public use, and not for private use (with certain exceptions). Public benefit, by itself, does not constitute public use.

To address problems facing low income and elderly mobile home tenants as space for mobile homes became increasingly scarce, the Washington Legislature enacted a statute that gave qualified mobile home tenant organizations a right of first refusal to purchase mobile home parks when the landlord decided to sell the land. The mobile home park owners complained that granting a right of first refusal would impair their power to negotiate the best sale of their property and that the enactment of the legislation took their property. The Washington Supreme Court agreed finding that article I, section 16, of the Washington State Constitution, which prohibits government from taking private property for a "private use," provides greater protection than the federal Constitution. While the analysis of this decision related to the definition of a regulatory taking has been abrogated by *Yim I*, the Washington Supreme Court confirmed in *Yim I* the greater protections provided in article I, section 16 and the near prohibition on takings of private property for private use. The appropriate remedy for violation of this prohibition is invalidation of the regulation.

Eggleston v. Pierce County, **148 Wn.2d 760, 64 P.3d 618 (2003)**

Police power and eminent domain power are separate and distinct powers of government. The duty to provide evidence in a criminal case, which involves the police power, does not give rise to a taking of property.

Eggleston's home was rendered uninhabitable when county police removed a load-bearing wall to preserve evidence of a crime committed by her adult son. The police action was taken pursuant to a search warrant and an order to preserve evidence. While the Court struggled with the severe impact sustained by Eggleston, it concluded that some government actions are pure exercises of police powers and

cannot be equated with the power of eminent domain. The preservation of evidence for criminal proceedings is such a power. The Court left open the possibility that Eggleston may have other legal means to address the manner in which the police acted but concluded that the matter should not be analyzed as a taking of property.

Saddle Mountain Minerals, L.L.C. v. Joshi,
152 Wn.2d 242, 95 P.3d 1236 (2004)

Before a property owner can raise a regulatory taking claim, there must be a final governmental decision regarding the application of the regulation to the property at issue.

In 1993, the city rezoned a parcel owned by Joshi to high density residential, a designation that does not allow mining. Thereafter, Saddle Mountain Minerals purchased the mineral estate in Joshi's parcel. A year later, Joshi began developing the property, using sand and gravel from the property to grade an off-site access road. Saddle Mountain sued Joshi, claiming damages for the off-site use of the sand and gravel, part of the mineral estate of the property. Joshi defended by arguing that the mineral estate had been destroyed when the zoning was changed and that Saddle Mountain's predecessor should have filed a takings claim against the city.

The Washington Supreme Court rejected Joshi's defense, holding that the city's ordinance did not destroy Saddle Mountain's mineral rights. The court explained (1) it was inappropriate to apply takings law to a dispute between private parties; (2) a takings claim against the city was not ripe because there was no final government decision applying the zoning regulations to the site, since Saddle Mountain had never applied for a variance or waiver from the mining prohibition in the ordinance; and (3) there was no determination by a fact finder of the remaining value of Saddle Mountain's mineral rights.

In the Matter of Property Located at: 14255 53rd Ave S., Tukwila, King County,
Washington,
120 Wn. App. 737, 86 P.3d 222 (2004), review denied, 152 Wn.2d 1034 (2004), cert. denied, 544 U.S. 977 (2005)

Government action necessary to avert a public calamity does not give rise to a takings claim.

Washington State declared an emergency when it discovered that plants in a commercial nursery were infested with the citrus longhorned beetle. The unchecked spread of this beetle could have devastating effects on Washington's trees and native forests. The primary control strategy approved by a panel of scientists required the destruction of potential host trees within a certain radius of the infested nursery. Three homeowners whose trees were to be destroyed alleged this control strategy was a taking of their property and that compensation had to be paid in advance of any control activities. The Washington Court of Appeals disagreed, holding (1) the destruction of potential host trees was not a physical invasion leading to a taking claim; (2) government action undertaken to avoid a public disaster is not an appropriation of private property for public use and is not susceptible to a takings analysis; and (3) that there is no private right to maintain property in a condition that would lead to a public nuisance, so that the government may abate the nuisance without facing a taking claim.

Dickgieser v. State,
153 Wn.2d 530, 105 P.3d 26 (2005)

(1) A taking may exist for damage to private property that is reasonably necessary for a public use to proceed.

(2) An alleged governmental tort, such as negligence, does not become a taking simply because the government is the alleged tortfeasor.

Logging on state land resulted in flooding damage to Dickgieser's property, which lay down slope from the state land. Dickgieser claimed the state's actions constituted an inverse condemnation of his property, but the trial court granted summary judgment to the state, ruling that no taking occurred because the logging of state lands was not a public use. The Washington Supreme Court reversed. The Court held damage to private property that is reasonably necessary to log state lands is for a public use and requires compensation under article I, section 16 of the Washington State Constitution. The Court remanded to the trial court for a determination whether the damage to Dickgieser's property was reasonably necessary for logging of state land, and whether the state's logging activity concentrated and gathered water into artificial channels or drains and discharged it onto Dickgieser's land in quantities greater than or in a different manner than the natural flow.

The Court rejected the state's argument that Dickgieser's claim was no more than a negligence claim against the state, finding that Dickgieser in fact had raised a taking claim. The Court reiterated, however, that alleged governmental torts, such as negligence, do not become takings simply because the government is the alleged tortfeasor.

HTK Management, L.L.C. v. Seattle Popular Monorail Authority,
155 Wn.2d 612, 121 P.3d 1166 (2005)

If a condemning authority has conducted its deliberations on an action honestly, fairly, and upon due consideration for facts and circumstances, that action will be upheld, even where the court believes an erroneous conclusion has been reached.

The Seattle Monorail Project (SMP) brought an action to condemn a parking garage for use as a monorail station. HTK, owner of the garage, challenged the condemnation. The parties agreed that SMP needed a portion of the property for the station itself and the remainder of the property for staging during construction, after which the excess property would be sold.

As a threshold question, HTK claimed SMP lacked authority to condemn private property. The Washington Supreme Court found that SMP was a creature of the City of Seattle, so that the city's condemnation authority and procedures applied to SMP.

HTK contended SMP should be limited to acquiring a multiyear lease on the portion of the property needed only during construction. The court upheld SMP's finding that it needed the entire property, holding that determinations about the type and extent of property interest necessary to carry out a public purpose are legislative questions to which courts give deference. If a condemning authority has conducted its deliberations on an action honestly, fairly, and upon due consideration for facts and circumstances, that action will be upheld, even when there is room for a difference of opinion upon the course to follow, or a belief by the reviewing authority that an erroneous conclusion has been reached.

Central Puget Sound Regional Transit Authority v. Miller,
156 Wn.2d 403, 128 P.3d 588 (2006)

Compliance with statutory notice requirements constitutes adequate notice of a public hearing concerning the anticipated condemnation of property.

Sound Transit provided notice of a public meeting to discuss possible sites for condemnation by posting notice and its agenda on its web site, but nowhere else. One month later, Sound Transit determined to condemn Miller's property. At the public use and necessity hearing for the condemnation, Miller claimed notice of the prior public meeting was inadequate. The Washington Supreme Court rejected Miller's claim, finding Sound Transit had satisfied its statutory notice requirement. Sound Transit was required to use the same methodology as first class cities for giving notice of public meetings where condemnation is discussed.

Wallace v. Lewis County,
134 Wn. App. 1, 137 P.3d 101 (2006)

In some circumstances, the passage of time may bar an inverse condemnation claim.

Neighbors filed nuisance claims against a landowner who operated a tire disposal business, and inverse condemnation and other claims against the county for using the business for tire disposal. The trial court dismissed all claims and the Washington Court of Appeals affirmed. Insofar as the inverse condemnation claim rested on the fact that tires spilled onto one neighbor's property, the court held the tires had been placed on the neighbor's property for so long they created a prescriptive easement, so that the passage of time barred an inverse condemnation claim. The court also held the inverse condemnation claim failed because the county's tire-disposal activities were not related to a public use or a public benefit; the county acted as a private party who contracted with another private party for disposal of its own tires.

Clear Channel Outdoor v. Seattle Popular Monorail Authority,
136 Wn. App. 781, 150 P.3d 649, review denied, 136 Wn.2d 781 (2007)

For an owner to be entitled to just compensation for an alleged inverse condemnation, the property interest at issue must be something more than a mere unilateral expectation of continued rights or benefits.

A billboard owner with a month-to-month lease had no compensable property interest when the Seattle Popular Monorail Authority ordered the billboard removed after purchasing the property in lieu of and under threat of condemnation.

Public Utility District No. 2 of Grant County v. North American Foreign Trade Zone Industries, LLC,
159 Wn.2d 555, 151 P.3d 176 (2007)

The state's power of eminent domain is an inherent attribute of sovereignty that is limited by the constitution. Political subdivisions of the state, including public utility districts, have only the eminent domain power delegated in state statutes, and that power must be exercised in strict compliance with those statutes.

The PUD leased land owned by North American, a private company, to locate electrical generators, and indicated its intent to negotiate purchase of the leased land. When purchase negotiations broke down, the PUD Commission approved a resolution authorizing condemnation of the land and filed a condemnation petition.

North American challenged the petition on procedural grounds. The Washington Supreme Court held that the statutory notice requirements in certain sections of RCW Title 35 apply to PUDs and are mandatory, and that the PUD complied with those requirements. The Court refused an invitation to constitutionalize the statutory notice requirements. It also affirmed the trial court's finding that substantial evidence supported a determination of public use and necessity.

Brutsche v. City of Kent,
164 Wn.2d 664, 193 P.3d 110 (2008)

In an extension of Eggleston, the Court found no taking for damage that occurred when police with a valid search warrant battered doors open with a battering ram even though property owner offered to open the doors with the keys, and no evidence was gathered and no prosecution resulted.

In response to a suspected methamphetamine operation, a King County District Court judge issued a warrant authorizing the search of an abandoned warehouse, several outbuildings, eight semitrailers, and a mobile home on property in Kent owned by Brutsche. Because of the methamphetamine connection, the search was considered high risk. In executing the warrant, the police gained access to several of the structures by using a battering ram, damaging doors and door jambs in the process. Brutsche maintained the destruction was unnecessary because he offered his keys to the officer in charge, and offered to escort the officers around the property and open all doors for them. The police found no evidence during their search, and took no subsequent prosecutor actions. Brutsche filed a lawsuit alleging trespass and the unconstitutional taking of private property. In denying the taking claim, the Court held that this case was indistinguishable from *Eggleston*, in which the Court found that the destruction of property by police activity pursuant to a valid warrant is a valid exercise of the police power to conserve the safety, morals, health and general welfare of the public, and is not a taking under article 1, section 16 of the Washington State Constitution. The Court also rejected Brutsche's claim that the damage to his property constituted a permanent physical occupation of his property under *Loretto*.

2010 – 2024

Spokane Airports v. RMA, Inc., 149 Wn. App. 930, 206 P.3d 364 (2009), *review denied*, 167 Wn.2d 1017 (2010)

A local governmental entity that has not been statutorily delegated eminent domain authority lacks that authority. Eminent domain authority cannot be delegated from one local governmental entity to another without statutory authority to do so.

The City of Spokane and Spokane County entered into a joint agreement to empower a board to operate, maintain, and develop Spokane International Airport and other airports in the county. The board began work to construct a new air traffic control tower, which would require the removal of buildings leased to RMA, a private company providing aircraft support and maintenance services. After the city and county passed a resolution condemning the leases, the board filed a petition in superior court to condemn RMA's leasehold interests, leading to stipulated order of public use and necessity and a stipulated order for immediate possession and use.

RMA then brought a claim of inverse condemnation, along with other claims, contending the superior court lacked subject matter jurisdiction to consider the petition for condemnation because the board lacked the power of eminent domain.

The Court of Appeals agreed and dismissed the condemnation action, holding (1) that statutes delegating the state's sovereign power of eminent domain are strictly construed; (2) that any delegation of that power must be express or clearly implied; and (3) that the governing statute, RCW 14.08.200, did not authorize the city and county to delegate their power to condemn to the board.

Fitzpatrick v. Okanogan County,
169 Wn.2d 598, 238 P.3d 1129 (2010)

The common enemy doctrine does not bar inverse condemnation claims for damage to property caused by water flowing through a natural watercourse, as can occur when a landowner obstructs a watercourse or natural drainway or prevents water from entering a flood channel.

In 1986, the Fitzpatricks built a log house on their property adjacent to the Methow River. In 2002, that house was washed away when the Methow River changed course during a two-year storm event. The Fitzpatricks filed an inverse condemnation claim, alleging that emergency work done in 1999 on a flood control project maintained by Okanogan County and the State blocked some of the river's natural side channels, causing the river to change course. The County and State claimed that the common enemy rule barred the lawsuit. Clarifying its holding in *Halverson v. Skagit County*, 139 Wn. 2d 1, 983 P.2d 643 (1999), the Court found that the common enemy doctrine does not bar inverse condemnation claims for damage to property caused by water flowing through a natural watercourse, as can occur when a landowner obstructs a watercourse or natural drainway or prevents water from entering a flood channel. The Court then noted that the correct standard for analyzing inverse condemnation actions was that articulated in *Dickgieser*, which looks at whether the damage to the property was a necessary incident to the public use of the state's land. Here, the Court found that the Fitzpatricks provided evidence that the damage may have been a necessary incident to the work done on the dike in 1999, and remanded to the trial court for hearing on that question.

The State also maintained it did not have a sufficient proprietary interest in the dike to render it liable for damages. The court held that issue was to be resolved by the trial court on remand.

Union Elevator & Warehouse Co., Inc. v. State ex rel. Department of Transportation,
171 Wn.2d 54, 248 P.3d 83 (2011)

The Relocation Act, RCW 8.26, which provides relocation benefits for certain condemnation actions, provides only the benefits specified in the statute. While interest may be available in certain regulatory taking claims, it is not available under this statute.

In an earlier appeal, Union Elevator prevailed on its claim of inverse condemnation for loss of feasible access to its grain elevator facility because of a highway project that redesigned and upgraded State Route 395. 96 Wn. App. 288 (1999). After relocating its facility, Union Elevator prevailed in a claim for statutory compensation for new equipment under the Relocation Act, RCW 8.26. 144 Wn. App. 593 (2008). Union Elevator then sought interest on the statutory compensation awarded under RCW 8.26, arguing that it was part of just compensation for inverse condemnation. The Washington Supreme Court rejected that claim, based on the language of the statute and the absence of any statutory waiver of sovereign immunity in the statute, holding that relocation benefits and interest under RCW

8.26 cannot be considered part of the compensation and damages available for inverse condemnation.

Tom v. State,
164 Wn. App. 609, 267 P.3d 361 (2011), review denied, 173 Wn.2d 1025 (2012)

Where a private landowner claims their property, recently rezoned for residential use, is unmarketable because of activity on adjacent government property that had been ongoing for more than a century, there is no taking.

Since 1886, the state had operated an on-site firing range at the state penitentiary in Walla Walla. Tom owned property adjacent to the penitentiary. In 2004, that property was rezoned from agricultural to residential. Tom asked the state to stop using the firing range, but the state declined. Tom then filed an inverse condemnation claim, arguing that his property was unmarketable because of the firing range. The court rejected the claim, noting that no Washington case has ever recognized a compensable taking where the claim arises from a pre-existing government use. The court left open the possibility of a claim for a “new taking” for lost value to property caused by additional or increased government activity occurring after the property has been purchased. The court also held that a rezone, by itself, does not give rise to a cause of action for a new physical taking. It declined to establish a rule that would “allow one government’s regulatory action (a zoning change) to give rise to a new takings claim for another government’s physical activity (firing range noise) that predates the zoning change by almost a century.”

Thun v. City of Bonney Lake,
164 Wn. App. 755, 265 P.3d 207 (2011), review denied, 173 Wn.2d 1035 (2012)

An as-applied takings claim against a municipality generally is not ripe for judicial review until the municipality has issued a final decision and the plaintiff has sought compensation from the municipality.

On the same day a developer submitted a site plan application for a condominium building on Thun’s property, the city rezoned most of the property. The new zoning did not allow condominiums. Thun claimed the rezone was an unconstitutional taking under article I, section 16. The court of appeals held the as-applied takings claim was not ripe for review because no building permit application had been filed. The court explained that a plaintiff need not show ripeness to bring a facial takings claim, but in an as-applied claim the plaintiff must show (1) that there has been a final decision by the municipality, and (2) that the plaintiff has sought compensation from the municipality for the alleged taking. Where there is uncertainty or questions that may be resolved by a building permit or variance, the court will decline to find a final decision. More than uncertainty is required to show that exhaustion of administrative remedies would be futile. This decision is notable for having applied the ripeness standards for takings claims brought under the federal constitution to the “final decision” requirement recognized by Washington courts. Note that the discussion of the standard applicable to regulatory takings claims in this opinion has been abrogated by *Yim I*.

Olympic Stewardship Foundation v. Western Washington Growth Management Hearings Board,
166 Wn. App. 172, 374 P.3d 1040, review denied, 174 Wn.2d 1007 (2012)

The plaintiff’s claim was dismissed as not ripe because the plaintiff did not show the existence of any set of facts under which a landowner would suffer a taking.

Jefferson County enacted a critical areas regulation requiring property owners to retain all vegetation located in “high-risk” channel migration zones for five of the County’s rivers. Olympic Stewardship Foundation alleged violations under the Growth Management Act and claimed the regulation facially violated the nexus and proportionality requirements in RCW 82.02.020 and the Fifth Amendment’s Takings Clause.

The Court held that the Foundation failed to preserve its RCW 82.02.020 claim by not raising the issue in the administrative proceeding. The Court rejected the facial takings claim on ripeness grounds, concluding that the administrative record contained no evidence that the County had made any final decision regarding the application of the vegetation regulation to an individual parcel that contains a high-risk channel migration zones, the Court held that it was not possible to determine whether the vegetation regulation deprived any individual landowner of all economically beneficial use of his or her parcel or defeated the landowner’s reasonable investment-backed expectations sufficient to constitute a taking.

Wolfe v. Department of Transportation,
173 Wn. App. 302, 293 P.3d 1244, review denied, 177 Wn.2d 1026 (2013)

The subsequent purchaser rule bars a cause of action for a taking where the claimed injury is ongoing erosion resulting from a governmental action that occurred before the landowner purchased the property.

In 1986, the state Department of Transportation reconstructed a bridge crossing the Naselle River. Landowners claimed that the reconfiguration of the support piers changed the flow of the river, causing increased erosion of their property, and they alleged inverse condemnation and other claims. The Court of Appeals upheld the trial court’s dismissal of the inverse condemnation claim under the subsequent purchaser rule (a purchaser of land cannot sue for a taking or injury that occurred before they acquired title). Wolfe purchased the parcels in 2003 and 2004, well after the bridge reconstruction. The Court rejected Wolfe’s contention that continuing erosion constituted new injury, holding that a new taking cause of action requires additional governmental action, which was not present here.

Keene Valley Ventures, Inc. v. City of Richland,
174 Wn. App. 219, 298 P.3d 121, review denied, 178 Wn.2d 1020 (2013)

The plaintiff bears the burden to establish its losses in an inverse condemnation action.

A land development company Keene Valley Ventures, Inc. (KVV) purchased property at the low point in a valley that was being developed in stages. As part of the staged development, the city planned for various water runoff control measures, which had not yet been fully constructed. As the staged development continued, water occasionally collected on the KVV property. KVV sued for inverse condemnation. It prevailed, but the trial court ruled that the damage to the land was temporary because the city could reroute the water and it awarded only nominal damages (one dollar) and denied attorney’s fees because KVV had failed to prove that it had sustained damage.

The Court of Appeals affirmed, holding that KVV bears the burden to establish its losses in an inverse condemnation action. The plaintiff must establish more than simple interference with property rights—it must demonstrate a temporary or permanent interference that “destroys or derogates” a fundamental ownership interest.

Jackass Mt. Ranch, Inc. v. South Columbia Basin Irrigation District,
175 Wn. App. 374, 305 P.3d 1108 (2013)

Governmental conduct that is not a cause of damage to a plaintiff cannot constitute a taking in an inverse condemnation claim.

After a cherry orchard was damaged by a landslide, the owners of the orchard sued the irrigation district, claiming the landslide was caused by water seepage from a wasteway the district operated. The evidence at trial showed that the seepage resulted from the design and construction of the wasteway, which had been planned, designed, engineered, and constructed by the U.S. Bureau of Reclamation. There was no evidence that the district's operation of the wasteway caused the taking. The Court of Appeals affirmed the order granting summary judgment to the district.

Mangat v. Snohomish County,
176 Wn. App. 324, 308 P.3d 786 (2013), review denied, 179 Wn.2d 1010, 179 Wn.2d 1012 (2014)

Applicant for a permit to develop real property, who defaulted on the purchase agreement and no longer held any interest in the property to be developed, cannot claim that the permit application itself constitutes "property" for purposes of a taking claim.

Mangat entered into a purchase agreement for land that allowed for the submission of platting and other permit applications prior to the close of the sale. The agreement provided that all platting materials be turned over to the selling landowner if the purchase agreement fell through. Mangat submitted platting applications but later defaulted after financing for the development project fell through. The county then continued to process the permit applications for the benefit of the original landowners. Mangat sued, claiming the permit applications had been "taken" by the county and violated principles of due process. The Court examined Washington statutes and case law addressing permit applications and vested rights and concluded that the permits relate to the land and the landowner, not the applicant. Accordingly, Mangat had no due process rights that were violated and no property that could be "taken."

Lakey v. Puget Sound Energy, Inc.,
176 Wn.2d 909, 296 P.3d 860 (2013)

A land use permit authorizing development by a private party does not form the basis for an inverse condemnation claim by another party affected by the permitted land use activity.

A group of homeowners sued PSE (under nuisance theories) and the City of Kirkland (under an inverse condemnation claim) alleging damage associated with the harmful effects of electromagnetic energy emanating from a cell tower constructed by PSE and permitted by the City of Kirkland. The trial court dismissed their taking claim against the city on the basis that it should have been raised in a timely Land Use Petition Act (LUPA) challenge. The Washington Supreme Court reversed on this point, holding that claims for eminent domain damages do not need to be brought under LUPA. Nevertheless, the Court found that the taking claim was properly dismissed. Citing *Phillips v. King County*, the Court held that principles of proximate causation and the public duty doctrine preclude a taking claim based solely on the issuance of a permit, even if the ensuing development allegedly produces some harm. Government permitting that facilitates a third party project

involves no appropriation of property for public use, no damage associated with construction of a public project, and no regulation of property use sufficient to state a claim under eminent domain or regulatory takings law.

Admasu v. Port of Seattle,
185 Wn. App. 23, 340 P.3d 873, review denied, 183 Wn.2d 1009 (2014)

An easement granted to allow specific government activities with regard to property eliminates inverse condemnation claims for damage to the property necessarily associated with the permitted activity.

Property owners sought compensation for the diminished value of their properties due to the Port of Seattle’s operation of the third runway at the Seattle–Tacoma International Airport, asserting inverse condemnation due to noise and relying on both the federal and state constitutions. The trial court dismissed the claims of one group of property owners because they had conveyed avigation easements to the Port in exchange for noise-proofing services. The Court of Appeals affirmed. This kind of easement allows for “unimpeded aircraft flights over the servient estate[s].” Having granted such easements the landowners effectively waived any right to a taking claim for noise damage.

Kinderace LLC v. City of Sammamish,
194 Wn. App. 835, 379 P.3d 135 (2016), review denied, 187 Wn.2d 1006 (2017), cert. denied, 137 S. Ct. 2328 (2017)

Using a boundary line adjustment to create an undevelopable new parcel does not support a claim that the parcel’s owner has been deprived of all economically viable use of the parcel.

By means of a boundary line adjustment, Kinderace LLC created a new 32,850 square foot parcel of which all but 83 square feet had been designated by the City as environmentally critical areas and buffers. Before the boundary line adjustment and development application, Kinderace used the subject parcel as part of a multi-party development venture, allowing valuable development of a Professional Center to proceed by using the subject parcel as a storm water detention pond. A stream also ran through the subject parcel. After development occurred, Kinderace used a boundary line procedure to isolate the stream area and storm water pond on a new legal parcel separate from the developed upland property.

Kinderace then requested a reasonable use exception that would have allowed it to proceed with a proposed development project on the new parcel. By that time, however, the City’s stream buffers had been enlarged and covered most of the newly configured parcel. The City therefore denied Kinderace’s request, and Kinderace brought a regulatory takings claim against the City, alleging that the denial deprived it of all economically viable use of the parcel—a per se “total taking.”

The Court of Appeals considered this history when rejecting Kinderace’s claim that the boundary line adjustment had created a new discrete parcel of land, with value, all of which had been taken by the denial of a development permit. Relying on the relevant statutes, the court rejected the argument that a boundary line adjustment inherently creates a developable parcel. As to the takings claim, the Court held it was appropriate to consider the prior value Kinderace obtained in using the subject property to develop other property, and that this consideration of value barred

Kinderace’s claim that it had been deprived of all economic value associated with the new allegedly undevelopable parcel.

Tapio Investment Company I v. State,
196 Wn. App. 528, 384 P.3d 600 (2016), review denied, 187 Wn.2d 1024 (2017)

Preparatory activities that might lead to an exercise of eminent domain do not themselves effect a taking of property, unless those activities physically or legally interfere with the property’s use.

Tapio owned a three-acre office park located near a proposed freeway interchange, which was part of the Department of Transportation’s (DOT) ongoing highway expansion project in that area. Even though DOT had not physically or legally interfered with the use of Tapio’s property, Tapio brought an inverse condemnation claim arguing that publicity about the freeway project and DOT’s acquisition of nearby properties hampered Tapio’s leasing activity. Tapio asserted the market value of its office park had been so diminished as to constitute a taking.

The Court of Appeals affirmed the trial court’s grant of summary judgment in favor of DOT. The Court held that “[l]egal acts that do not interfere, physically or by regulating use of private property, are not takings, and neither the Washington nor federal constitutions have been held to require compensation for depreciation in market value caused by such legal acts.” The Court specifically rejected Tapio’s argument that DOT’s preparatory planning actions had a quasi-regulatory effect requiring application of the *Penn Central* fact specific takings analysis.

The Court also rejected Tapio’s alternate and more traditional inverse condemnation claims. Its conclusion is supported by a long line of case law concluding there is no taking based upon lost property value associated with planned construction and possible future exercise of eminent domain, absent facts showing the government has taken actual steps that physically touch property or legally restrict its use.

Yim v. City of Seattle (Yim I),
194 Wn.2d 651, 451 P.3d 675 (2019)

Seattle landlords challenged the City of Seattle’s “first-in-time” or FIT rule which required that landlords provide prospective tenants of their rental criteria, screen completed applications in chronological order and offer the vacancy to the first qualified applicant (subject to a limited number of exceptions). The trial court found that the FIT rule was a per se taking under article I, section 16 of the Washington State Constitution as it destroyed one or more fundamental attributes of ownership citing to prior Washington precedent which appeared to create a Washington-specific definition of a regulatory taking. The Washington Supreme Court took the opportunity in *Yim I* to clarify that prior Washington case law had attempted to achieve consistency with federal takings law but sometimes diverging lines of federal authority had given rise to Washington cases that appeared to create a new Washington specific per se category of regulatory takings that would invalidate regulations that “destroy one or more of the fundamental attributes of property ownership (the right to possess, to exclude others, or to dispose of property)”. The Washington Supreme Court clarified in *Yim I* that the federal definition of a regulatory taking controlled and declined to adopt a state specific analysis for regulatory takings under article I, section 16. The Court did note that article I, section 16 is more protective of takings of private property and prohibits takings

for private use but that this analysis involves a separate question than the definition of a regulatory taking. The Court concluded by explicating adopting the definition of regulatory taking laid out in *Lingle v. Chevron*; that there are only two per se categories of regulatory takings: 1) where the government requires permanent physical invasion of a property and 2) where the regulations deprive the owner of all economically beneficial use of a property. If the alleged taking does not fit into either category, it must be analyzed on a case-by-case basis using the factors laid out in *Penn Central*. The Court specifically disavowed some of its precedent, but many other Washington cases rely on whole or in part on the analysis of these disavowed precedent. Therefore, practitioners are urged to proceed with caution with citing case law prior to *Yim I* describing the definition of a regulatory taking.

***Yim v. City of Seattle (Yim II)*,
194 Wn.2d 684, 451 P.3d 694 (2019), as amended January 9, 2020**

In this case, the Washington Supreme Court answered questions on certification from the federal district court from the Western District of Washington regarding the proper standard to analyze a substantive due process claim involving a land use regulation under the state constitution. This case, *Yim II*, was issued on the same day as *Yim I* and answered these questions in parallel with its holdings on the definition of a regulatory taking in *Yim I*. Here, the plaintiffs challenged the City of Seattle’s Fair Chance Housing ordinance which among other provisions, prohibited inquiry into a prospective renters’ criminal record or history of eviction. The Washington Supreme Court held that the standard for a substantive due process claim in this context under state law is the same as that under federal law and that the applicable standard is rational basis. The Court rejected the proposition that when a “fundamental property interest” is involved, courts should review claims under the state constitution with an intermediate heightened scrutiny. Use of property is not recognized as a fundamental right for substantive due process purposes. The Court clarified that prior precedent was not correct if it suggested that such property interests were fundamental rights deserving of intermediate or even strict scrutiny. The Court rejected past precedent which adopted a “unduly oppressive” test which appeared to provide for an intermediate level of scrutiny under federal law as *Lingle v. Chevron* clarified that these other “tests” correspond to rational basis review. The Court clarified and unambiguously held that rational basis review applies under article I, section 3 of the Washington State Constitution for challenges to laws regulating the use of property. The Court specifically disavowed a long list of prior cases but other Washington cases may suggest that higher scrutiny is appropriate. Therefore, practitioners are urged to proceed with caution with citing case law prior to *Yim II* describing an appropriate level of scrutiny other than rational basis review.

DRAFT TUMWATER PLANNING COMMISSION - 2025 MEETING SCHEDULE

Note: Schedule is tentative and subject to change; Updated 12/17/24

<u>MEETINGS</u>	<u>AGENDA ITEMS</u>
January 14, 2025	<u>Work Session</u> : 2025 Comprehensive Plan Update Climate – Brad/Alyssa
January 28, 2025	
February 11, 2025	<u>Work Session</u> : 2025 Comprehensive Plan Update Climate – Brad/Alyssa <u>Work Session</u> : Food System Plan – Dana
February 25, 2025	<u>Joint Tour with City Council</u> : 2025 Comprehensive Plan Update Transportation – Brad/Dana/Clint
March 11, 2025	<u>Joint Thurston County and City Planning Commission Work Session</u> : BAR Holding Application [Tentative] – Brad <u>Work Session</u> : 2025 Comprehensive Plan Update Climate – Brad/Alyssa <u>Work Session</u> : 2025 Comprehensive Plan Update Housing – Brad/Erika
March 25, 2025	<u>Work Session</u> : 2025 Comprehensive Plan Update Conservation – Brad/Alex
April 8, 2025	<u>Work Session</u> : Food System Plan – Dana <u>Work Session</u> : 2025 Comprehensive Plan Update Land Use– Brad/Erika
April 22, 2025	<u>Work Session</u> : 2025 Comprehensive Plan Update Lands for Public Purposes/Utilities – Brad/Erika
May 13, 2025	<u>Work Session</u> : 2025 Comprehensive Plan Update Housing – Brad/Erika
May 27, 2025	<u>Work Session</u> : 2025 Comprehensive Plan Update Development Code – Brad/Erika
June 10, 2025	<u>Work Session</u> : 2025 Comprehensive Plan Update Land Use– Brad/Erika
June 24, 2025	<u>Work Session</u> : 2025 Comprehensive Plan Update User Guide– Brad/Dana
July 8, 2025	<u>Work Session</u> : Food System Plan – Dana <u>Work Session</u> : 2025 Comprehensive Plan Update Transportation – Brad/Dana <u>Work Session</u> : 2025 Comprehensive Plan Update Development Code – Brad/Erika
July 22, 2025	
August 12, 2025	
August 26, 2025	
September 9, 2025	
September 23, 2025	
October 14, 2025	
October 28, 2025	<u>Briefing</u> : 2025 Comprehensive Plan Update (Ordinance No. O2025-0XX) – Brad/Dana/Erika

<u>MEETINGS</u>	<u>AGENDA ITEMS</u>
Monday, November 10, 2025	<u>Discussion</u> : 2026 Work Program – Brad/Dana/Erika <u>Joint Work Session with City Council</u> : 2025 Comprehensive Plan Update (Ordinance No. O2025-0XX) – Brad/Dana/Erika <u>Discussion</u> : Election of New Planning Commission Chair and Vice Chair - Brad
November 25, 2025	<u>Joint Work Session with City Council</u> : 2026 Work Program – Brad/Dana/Erika <u>Work Session</u> : 2025 Comprehensive Plan Update (Ordinance No. O2025-0XX) – Brad/Dana/Erika
December 9, 2025	<u>Hearing</u> : 2025 Comprehensive Plan Update (Ordinance No. O2025-0XX) – Brad/Dana/Erika
December 23, 2025	[May Cancel Meeting]

January 13, 2026 –

Briefing: 2025 Development Code Update (Ordinance No. O2025-0XX) – Brad/Dana/Erika

Joint Work Session with City Council: 2025 Comprehensive Plan Update (Ordinance No. O2025-0XX) – Brad/Dana/Erika

January 27, 2026 – Work Session: 2025 Development Code Update (Ordinance No. O2025-0XX) – Brad/Dana/Erika

February 10, 2026 – Work Session: 2025 Development Code Update (Ordinance No. O2025-0XX) – Brad/Dana/Erika

February 24, 2026 – Hearing: 2025 Development Code Update (Ordinance No. O2025-0XX) – Brad/Dana/Erika

March 10, 2026 – Joint Work Session with City Council: 2025 Development Code Update (Ordinance No. O2025-0XX) – Brad/Dana/Erika

Notes:

The following will need to be scheduled on the Planning Commission meeting schedule:

- Comprehensive Plan Update Economic Development – Brad
- Thurston County Code Title 22 – Tumwater Urban Growth Area Zoning – The City completed a draft review of what needs to be updated in Title 22, and it is waiting for Thurston County to schedule it in its work program – Brad/Dana/Erika
- Planning Commissioner Training – Brad

Ongoing 2025 Comprehensive Plan Update Master Schedule

Note: Schedule is tentative and subject to change; Updated December 18, 2024

Day	Planning Commission	City Council Work Session	City Council Regular Meeting	General Government Committee	Public Works Committee	Open Houses	City Council & Planning Commission Tours	Other Outreach
Wednesday, January 8, 2025	Climate – Draft)				
Tuesday, January 14, 2025				Climate – Revised Draft				
Tuesday, January 28, 2025								
Tuesday, February 11, 2025	Climate – Revised Draft							
Wednesday, February 12, 2025				Climate – Revised Draft				
Tuesday, February 25, 2025, 5 PM)					Joint Meeting CC/PC – Transportation Tour	
Tuesday, March 11, 2025	Climate – Revised Draft Housing – Draft							
Wednesday, March 12, 2025				Climate – Revised Draft Conservation – Draft Housing – Draft				
Wednesday, March 19, 2025, 5 PM						Transportation, in person 3/19/25, online 3/19 – 4/2/25		
Tuesday, March 25, 2025	Conservation – Draft							
Tuesday, April 1, 2025								
Tuesday, April 8, 2025	Land Use – Draft							
Wednesday, April 9, 2025				Land Use – Draft				
Tuesday, April 15, 2025								
Tuesday, April 22, 2025	Lands for Public Purposes – Draft Utilities – Draft							
Tuesday, May 13, 2025	Housing – Revised Draft							
Wednesday, May 14, 2025				Housing – Revised Draft Lands for Public Purposes – Draft Utilities – Draft				
Tuesday, May 19, 2025								
Tuesday, May 27, 2025	Development Code – Draft							
Tuesday, June 3, 2025								
Tuesday, June 10, 2025	Land Use – Revised Draft							
Wednesday, June 11, 2025				Land Use – Revised Draft User Guide – Draft				
Tuesday, June 17, 2025								
Tuesday, June 24, 2025	User Guide – Draft							
Tuesday, July 8, 2025	Development Code – Draft Transportation – Draft							

Ongoing 2025 Comprehensive Plan Update Master Schedule

Note: Schedule is tentative and subject to change; Updated December 18, 2024

Day	Planning Commission	City Council Work Session	City Council Regular Meeting	General Government Committee	Public Works Committee	Open Houses	City Council & Planning Commission Tours	Other Outreach
Wednesday, July 9, 2025				Development Code – Draft Transportation – Draft				
Thursday, July 17, 2025					Transportation – Draft			
Tuesday, July 22, 2025								
Tuesday, August 12, 2025								
Wednesday, August 13, 2025								
Tuesday, August 26, 2025								
Wednesday, September 10, 2025								
Friday, October 24, 2025								
Tuesday, October 28, 2025	Comprehensive Plan Ordinance - Briefing							Comprehensive Plan Ordinance – Start Commerce Notice of Intent
Friday, October 31, 2025								Comprehensive Plan Ordinance – Start SEPA Comment Period
Tuesday, November 11, 2025	Comprehensive Plan Ordinance – Joint CC-PC Work Session	Comprehensive Plan Ordinance – Joint CC-PC Work Session						
Tuesday, November 25, 2025	Comprehensive Plan Ordinance – Work Session							
Monday, December 1, 2025								Development Code Ordinance – Start Commerce Notice of Intent
Tuesday, December 9, 2025	Comprehensive Plan Ordinance – Hearing							
Tuesday, January 13, 2026	Comprehensive Plan Ordinance – Joint CC-PC Work Session Development Code Ordinance – Briefing	Comprehensive Plan Ordinance – Joint CC-PC Work Session						Development Code Ordinance – Start SEPA Comment Period
Tuesday, January 27, 2026	Development Code Ordinance – Work Session	Comprehensive Plan Ordinance –Work Session						
Tuesday, February 10, 2026	Development Code Ordinance – Work Session							
Tuesday, February 17, 2026			Comprehensive Plan Ordinance – Consideration					
Tuesday, February 24, 2026	Development Code Ordinance – Hearing							
Tuesday, March 10, 2026		Development Code Ordinance – Joint CC-PC Work Session						
Tuesday, March 24, 2026		Development Code Ordinance – Work Session						
Tuesday, April 7, 2026			Development Code Ordinance – Consideration					

Ongoing 2025 Comprehensive Plan Update Master Schedule

Note: Schedule is tentative and subject to change; Updated December 18, 2024

To Be Scheduled:

- Economic Development Plan Update
- Tumwater – Thurston County Joint Plan and Title 22
- Parks, Recreation, and Open Space Plan Update

TO: Planning Commission
FROM: Alyssa Jones Wood, Sustainability Coordinator
DATE: January 14, 2025
SUBJECT: 2025 Comprehensive Plan Periodic Update – Climate Element

1) Recommended Action:

This is a discussion item about the first draft of the new Climate Element for the 2025 Comprehensive Plan periodic update.

2) Background:

On a ten-year cycle, the City is required to conduct a Growth Management Act periodic update of its Comprehensive Plan and related development regulations.

The updated Comprehensive Plan will address diversity, equity, and inclusion throughout the Plan. [2025 Comprehensive Plan Update | City of Tumwater, WA](#) has links to guidance materials and information about the update.

The intent of this work session item is to gather feedback from the Planning Commission on the draft Climate Element goals, including policy and action timelines, and for staff to provide an update on the City's progress in preparing a Climate Element.

3) Alternatives:

None.

4) Attachments:

- A. Staff Report
- B. Draft Climate Element Goals, Policies, and Implementation Actions
- C. Draft Climate Element Technical Information

STAFF REPORT



Date: January 14, 2025
To: Planning Commission
From: Alyssa Jones Wood, Sustainability Coordinator

2025 Comprehensive Plan Update – Climate Element

On a ten-year cycle, the City is required to conduct a Growth Management Act periodic update of its Comprehensive Plan and related development regulations. In accordance with the Climate grant contract with the Washington Department of Commerce, the City must complete a draft of the new Climate Element by June 30, 2025.

The updated Comprehensive Plan will address diversity, equity, and inclusion throughout the Plan and incorporate a large number of state-required changes addressing housing, climate change, and other topics.

The draft Climate Element is currently open for public comment from all community members, until January 31, 2025. It can be found on the City’s website [2025 Comprehensive Plan Update | City of Tumwater, WA](#).

The intent of this agenda item before the Planning Commission work session today, is to discuss the draft goals of the new Climate Element as part of the 2025 Comprehensive Plan periodic update with special attention to the dates/timelines associated with the goals, policies, and actions.

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1. New Requirements

On May 3, 2023, Governor Inslee signed into law HB 1181, which added a new climate change and resiliency goal to the Growth Management Act. The City will need to adopt a new Climate Element as part of 2025 Comprehensive Plan periodic update by December 31, 2025, to meet the state deadline.

The legislation includes the following key changes:

- Adds as climate mitigation sub-element to address greenhouse gas emissions reduction as part of a Climate Element that is mandatory for the City and would require actions to reduce overall greenhouse gas emissions and vehicle miles traveled. The City is required to use 2022 as their emissions baseline year and set incremental targets that lead to achieving net zero emissions in 2050, consistent with Washington’s statewide target.
- Adds a climate resilience sub-element as part of a Climate Element that is mandatory for the City. The Thurston Hazards Mitigation Plan, which was updated and adopted by the City in 2024, can be adopted, by reference, to satisfy the climate resilience sub-element requirements.
- Requires consideration of environmental justice as part of the development of a Climate Element to avoid worsening environmental health disparities.

2. Growth Management Act – Climate Change and Resiliency Goal

The state Growth Management Act (Chapter 36.70A RCW) requires that the City demonstrate that each Element in its Comprehensive Plan meets the relevant fifteen planning goals contained within the Act. The fifteen goals guide the development and adoption of the City’s Comprehensive Plan and development regulations.

The following is a summary of how the new Climate Element will need to meet the goal related to climate change and resiliency. The state legislature added this goal in 2023.

- 14. **Climate change and resiliency.** *Ensure that comprehensive plans, development regulations, and regional policies, plans, and strategies under RCW 36.70A.210 and chapter 47.80 RCW adapt to and mitigate the effects of a changing climate; support reductions in greenhouse gas emissions and per capita vehicle miles traveled; prepare for climate impact scenarios; foster resiliency to climate impacts and natural hazards; protect and enhance environmental, economic, and human health and safety; and advance environmental justice.*

The Conservation Element, Land Use Element, and Transportation Plan of the Comprehensive Plan will need to address this as a new goal in coordination with the new Climate Element. A new overarching Comprehensive Plan goal will address increasing climate resiliency by promoting sustainability, reducing pollution, promoting health habitats, and supporting clean air and water.

3. Sub-Elements

The Climate Element will need to incorporate two sub-elements: climate mitigation, which addresses greenhouse gas reduction, and climate resilience.

A. Climate Mitigation

Climate mitigation addresses greenhouse gas emission reductions that involve actions taken to reduce or eliminate the emissions of greenhouse gases to reduce the rate and extent of climate change damage.

Greenhouse gases (GHG) include carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other gas or gases designated by the State Department of Ecology.

Increasing emissions of carbon dioxide and other greenhouse gases are changing City's climate in ways that will impact both human and natural systems. In general, we can expect to experience hotter, drier summers and warmer, wetter winters. These changes are anticipated to worsen existing hazards—like floods, landslides, and wildfires—and introduce new threats—like invasive plants, insects, and infectious diseases.

To ensure that the City significantly reduces local contributions to climate change, the Thurston Regional Planning Council, Thurston County, and the cities of Lacey, Olympia, and Tumwater adopted the following greenhouse gas emissions reduction targets in 2021 as part of the Thurston Climate Mitigation Plan (TCMP):

- Forty-five percent reduction below 2015 levels by 2030; and
- Eighty-five percent below 2015 levels by 2050.

The City adopted the Thurston Climate Mitigation Plan in 2021, the actions of which will be updated and incorporated into the climate mitigation sub-element of the City's new Climate Element. Note that the Plan's goals and baseline are not consistent with the new statewide requirements for a 2022 baseline year and net-zero by 2050 goal.

The figures below are from the Thurston County 2022 GHG Emissions Inventory (by the Department of Commerce) and show current GHG emissions, the breakdown of GHG emissions by sector, and a wedge analysis of a business-as-usual scenario and GHG emission reduction scenarios.

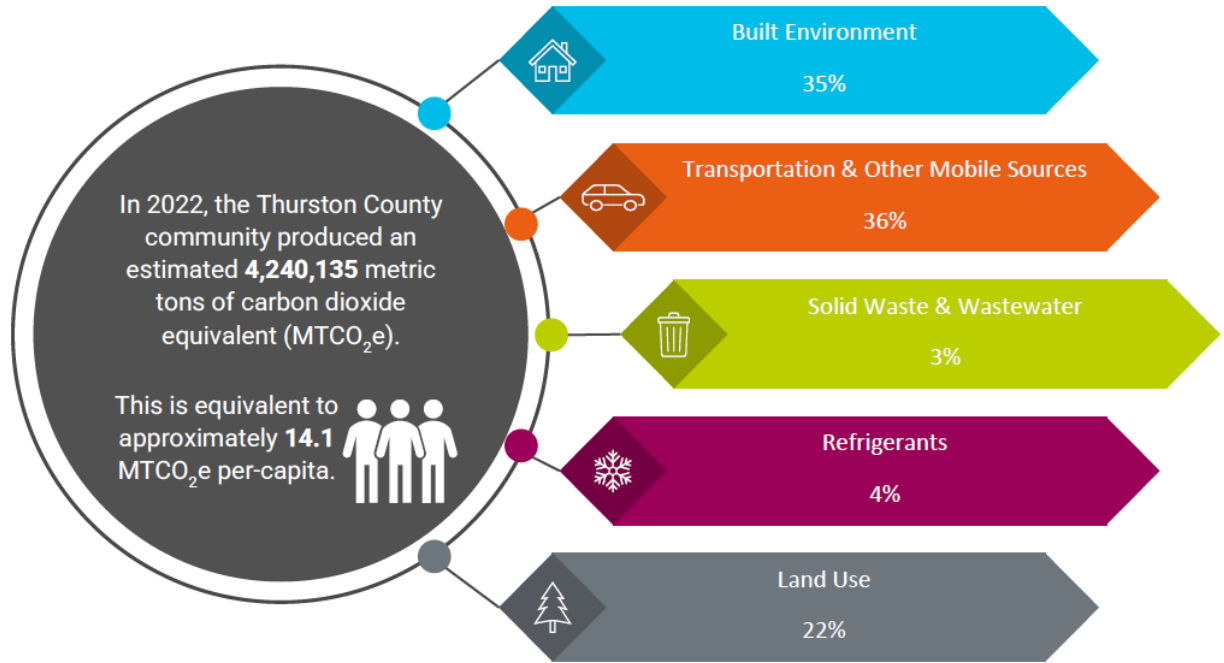


Figure 1. 2022 Emissions by Sector

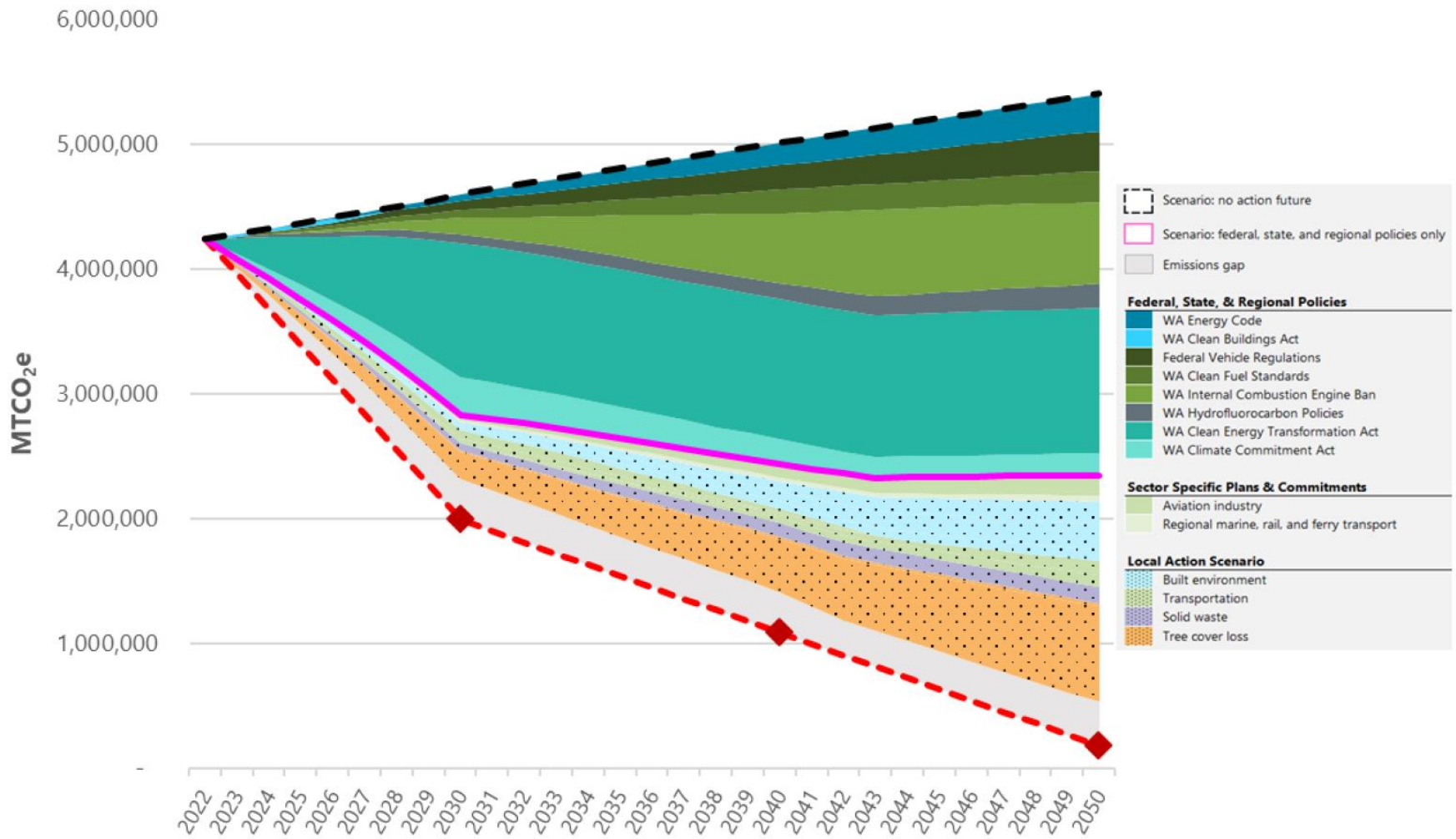


Figure 2. Forecasted GHG Emissions and Reductions

The Department of Commerce has identified the following three pathways to meet the new state requirement for a climate mitigation sub-element.

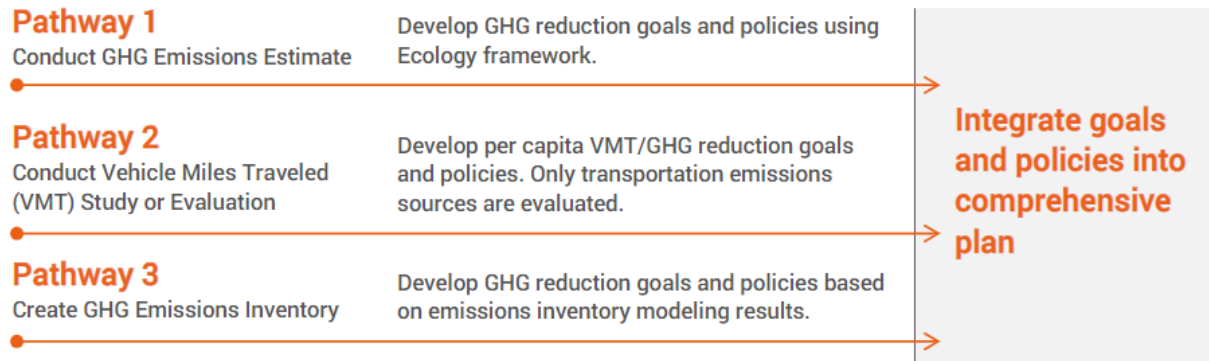


Figure 3. Pathway summary for GHG sub-element.

Staff will pursue pathway one and supplement the Tumwater GHG estimate with the 2022 Thurston County GHG Emissions Inventory provided by the Department of Commerce. Department of Commerce staff have confirmed that method is acceptable for meeting requirements.

B. Climate Resilience

RCW 70A.65.010 defines climate resilience as:

“...the ongoing process of anticipating, preparing for, and adapting to changes in climate and minimizing negative impacts to our natural systems, infrastructure, and communities. For natural systems, increasing climate resilience involves restoring and increasing the health, function, and integrity of our ecosystems and improving their ability to absorb and recover from climate-affected disturbances. For communities, increasing climate resilience means enhancing their ability to understand, prevent, adapt, and recover from climate impacts to people and infrastructure.”

The Department of Commerce has identified the following five step process to meet the new state requirement for a climate resilience sub-element.



Figure 4. Steps and pathways to integrate resilience into Comprehensive Plan.

The Thurston Hazards Mitigation Plan with the City of Tumwater annex was adopted by the City Council in 2024. The Thurston Hazards Mitigation Plan to date addressed Steps 1 through 3. The Thurston Hazards Mitigation Plan is in substantial conformance with the state guidance, so in Step 4, the City will be adopting the Plan, by reference, to satisfy the state climate resilience sub-element requirements.

In addition, the Thurston Regional Planning Council adopted the Thurston Climate Adaption Plan in 2018, the actions of which will be updated and incorporated into the climate resilience sub-element of the City’s new Climate Element.

Staff and consultants will also utilize the Department of Commerce Climate Element Workbook to ensure any gaps between state requirements and previously developed content from the Thurston Hazards Mitigation Plan and/or Thurston Climate Adaptation Plan will be investigated and addressed.

4. Environmental Justice

The new state legislation requires that the Climate Element must:

- Prioritize greenhouse gas reductions in overburdened communities.
- Prioritize climate resilience in communities that will disproportionately suffer from compounding environmental impacts.

In addition, HB 1181 requires that as part of the required Comprehensive Plan periodic update process that:

- The Land Use Element avoids worsening environmental health disparities.
- The Transportation Plan ensures multimodal levels achieve environmental justice goals.

5. Transportation and Land Use Changes

In addition, the new state legislation requires other transportation and land use changes such as:

- Requiring that the Washington State Department of Transportation maintain a summary of the per capita vehicle miles traveled for cities and the unincorporated portions of counties. This resource will in turn support the required updates to the Transportation Plan and the new Climate Element.
- Adds multimodal concurrency.
- Must accommodate all users “safely, reliably and efficiently.”

6. Goals, Policies, and Implementation Actions Review

A. Introduction

Example from the current Climate Element:

GOAL CL-2	Increase the City’s capacity to implement climate action and adaptation priorities.
<u>Policy</u>	<u>Action</u>
CL-2.2	Develop a program funding strategy to support equitable access to climate mitigation and adaptation programs developed by the City.
CL-2.2.1.	Review actions outlined in the Climate Element to determine what kinds of funding will be needed to support the programs created therein.

Goals and policies describe how the City proposes to address identified needs. Goals are statements of desired outcomes or intended achievements. Policies are specific statements

that guide actions and provide a framework for future decision-making. Actions are specific implementations of goals and policies.

B. Policy Strength Continuum

When developing goals and policies, it is important to understand the policy strength continuum. The Puget Sound Regional Council developed the following example.

Passive	Policy Strength	Active
<p>Statements of Inclination</p> <p>Conveys intent, but establishes no target or definition of success</p>	<p>Statements of Principle</p> <p>Describes clear targets or conditions of success</p>	<p>Statements of Impact</p> <p>Go further, describing specific situations where protecting critical areas is a priority</p>
<p>Example</p> <p>The City shall encourage protection of prairie lands.</p>	<p>Example</p> <p>The City shall endeavor to support the maintenance of 100-acres of conservation land.</p>	<p>Example</p> <p>Work with nonprofits to support active maintenance of prairie conservation lands to protected habitat standards.</p>

C. Draft Time Period and the Climate Crisis

The Tumwater City Council passed resolution No. R2021-002 on January 19, 2021, which declared a climate emergency and support for the mobilization of community and region wide efforts to mitigate climate change in order to provide a safe environment for future generations. All aspects of the Climate Element – climate mitigation, adaptation, environmental justice, and equity – are exceptionally urgent issues requiring action and system change on a local and global level. However, unilateral actions taken without adequate community engagement and ownership often leads to unintended consequences and harm. Also, system change – which is the most pivotal to addressing these urgent issues – takes time that is tragically not well aligned with the urgency of the climate crisis.

The City of Tumwater, and all governments working on climate change, are faced with a paradox of the urgency of action and the necessity of working at the speed of trust with community, especially those in the community who have been historically marginalized, left out, or forgotten. Staff have done their best to balance the urgency of action, the anticipated speed of trust for actions, community demand, existing commitments (GHG targets), and

internal capacity to draft timelines for each action in the Climate Element. Bringing this paradox to light is not intended to be interpreted as an excuse, but rather a careful consideration and nuance that staff are incorporating into their work as they address the climate crisis.

D. Initial Review

Attachment B is the initial draft of the Climate Element. This draft has been reviewed by staff and the Climate Policy Advisory Team (CPAT). This draft is concurrently being reviewed by the Planning Commission and the community at-large. This draft is not final, and feedback provided by the community and Planning Commission will be incorporated as much as possible.

Appendix A – Guidance

The State Department of Commerce has provided guidance specific to the periodic update on their Periodic Update webpage.

<https://www.commerce.wa.gov/serving-communities/growth-management/periodic-update/>

www.commerce.wa.gov/serving-communities/growth-management/growth-management-topics

The State Department of Commerce has a webpage for Climate Element guidance.

<https://www.commerce.wa.gov/serving-communities/growth-management/growth-management-topics/climate-change-2/>

In addition, the Puget Sound Regional Council is conducting a series of workshops on a variety of topics related to the periodic update.

www.psrc.org/our-work/passport-2044-comprehensive-plan-workshop-series

The Municipal Research Services Center has a Comprehensive Planning webpage as well as webpage addressing the new legislative requirements.

<https://mrsc.org/getdoc/d7964de5-4821-4c4d-8284-488ec30f8605/Comprehensive-Planning.aspx>

[MRSC - New Legislation Related to Climate and the Natural Environment](#)

Climate Element

Goals, Policies, and Implementation Actions

City of Tumwater 2025 Comprehensive Plan

Balancing Nature and Community: Tumwater's Path to Sustainable Growth

DRAFT VERSION
Updated December 31, 2024

December 2024

Ordinance No. O2025-0XX



Climate Element

Goals, Policies, and Implementation Actions



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Acronyms and Abbreviations Used in Document

ASD – Administrative Services Department.

CBO – **Community Based Organization**

CCA – The [Climate Commitment Act](#) (CCA) (Chapter 310, Laws of 2021) caps and reduces GHG emissions from Washington’s largest emitting sources and industries, allowing businesses to find the most efficient path to lower carbon emissions. This program works alongside other critical climate laws and policies to help Washington achieve its commitment to reducing GHG emissions by 95% by 2050. The CCA also puts environmental justice and equity at the center of climate policy, making sure communities that bear the greatest burdens from air pollution today breathe cleaner, healthier air as the state cuts GHGs. Finally, funds from the auction of emission allowances support new investments in climate-resiliency programs, fund clean transportation, and address health disparities across the state.

CDD – Tumwater Community Development Department

City – City of Tumwater

Commerce - Washington State Department of Commerce

County – Thurston County

CPAT – Climate Policy Advisory Team

DAH – Washington State Department of Archaeology and Historic Preservation

EDC – Thurston Economic Development Council

EV – Electric Vehicle

EXD – Tumwater Executive Department

Fire & EMS – Fire and Emergency Medical Services Department.

FIN – Tumwater Finance Department

GHG – Greenhouse Gas

LID – Low Impact Development

PRFD – Tumwater Parks, Recreation, & Facilities Department

RCW – Revised Code of Washington

TCAT – Thurston Climate Action Team

TED – Tumwater Transportation & Engineering Department

TMC – Tumwater Municipal Code



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Tribes – Nisqually Indian Tribe, Squaxin Island Tribe, and the Confederated Tribes of the Chehalis Reservation

TRPC – Thurston County Regional Planning Council

UFMP – Urban Forestry Management Plan

WRS – Tumwater Water Resources & Sustainability Department

WSDOT - Washington State Department of Transportation

Key Terms and Definitions

15-minute neighborhood: An urban planning concept referring to neighborhoods in cities in which most daily necessities, services, and amenities (e.g., work, education, health care, shopping, recreational opportunities) can be reached by a 15-minute walk, bicycle ride, or public transportation trip. These neighborhoods tend to be relatively walkable and support a greater baseline of residential density.

Climate: The “average weather” generally over a period of three decades. Measures of climate include temperature, precipitation, and wind.

Climate change: Any significant change in the average climate of a region lasting for decades or longer. Can be measured through substantial changes in temperature, precipitation, or wind. Climate change may result from natural factors and from human activities that change the atmosphere’s composition and land surface.

Climate refugia: Areas that continue to resist the impacts of anthropogenic climate change, allowing valued and culturally significant physical, ecological, and socio-cultural resources to continue to survive and even thrive amidst a changing landscape.¹

Environmental Justice (EJ): The fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to environmental laws, rules, and policies (RCW) 70A.02.010(8). Environmental justice includes addressing unfair environmental and health impacts in all laws, rules, and policies by:

- prioritizing vulnerable populations and overburdened communities,
- the equitable distribution of resources and benefits, and
- eliminating harm.

Food Justice: Assumes consistent access to nutritious, affordable, and culturally relevant food to be a human right that should be secured and protected.

¹ Morelli, T.L.; Millar, C. 2018. Climate Change Refugia. USDA Forest Service Climate Change Resource Center. <https://www.fs.usda.gov/ccrc/topics/climate-change-refugia>



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Frontline Community²: Those communities that experience the effects of climate change “first and worst” while also having significantly lower capacity to adapt and reduced access to resources and political power to respond to those risks. Though not limited to these groups, frontline communities generally include communities of color, Indigenous peoples, and low-income communities. These communities have also not historically had access to City decision making processes.

Gray-green infrastructure: stormwater management systems used in places where gray infrastructure cannot be entirely phased out without losing functionality, but some green elements can be introduced to increase the resilience of the system and improve the local ecology.

Green infrastructure: Stormwater management systems that mimic natural systems, capturing and absorbing or diverting rainwater where it falls.

Greenhouse gas (GHG): Any gas that absorbs heat in the atmosphere; examples include carbon dioxide, methane, nitrous oxide, ozone, and water vapor.

Managed retreat: The voluntary movement and transition of communities away from regions likely to become unsustainable for life due to climate change impacts. Primarily a tool used in coastal regions to move communities away from sea level rise impacts, but increasingly a tool used in planning for other climate hazards.

Native species: Any plant, fungus, or animal species native to our area. In the US, this only includes species present in the region prior to the arrival of European settlers.³

Overburdened Community⁴: According to RCW 70A.02.010 (11), denotes a geographic area where vulnerable populations face combined, multiple environmental harms and health impacts, and includes, but is not limited to, highly impacted communities as defined in RCW 19.405.020.

Passive survivability: Building to ensure that residences will remain at a safe temperature for occupants if the power goes out and that they will overall require less power to keep at a regulated temperature. Can also entail building single-family residences with one room designed to maintain comfortable temperatures or multifamily residences with a designated common area designed to serve this same function. Building for passive survivability also reduces demand on local energy infrastructure.

² In the Climate Element the term “frontline community” is preferred as it does not carry the disempowering and othering connotations of the terms “overburdened community” and “vulnerable population.” However, the latter terms carry legislative meaning, with precise definitions in Washington State law and policies that direct funding for and engagement with these groups. All three terms will be used throughout the goals, policies, and implementation actions contained in this Element. “Frontline communities” will be the preferred term where the legislative context is not relevant, while “overburdened community” and “vulnerable population” will be used where the precise definitions are key to enacting the policy

³ United States Department of Agriculture, n.d. “What is a native plant?” <https://www.usda.gov/peoples-garden/gardening-advice/why-native-species-matter>

⁴ See Note 1

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Vulnerable Populations⁵: According to RCW 70A.02.010 (14), includes population groups that are more likely to be at higher risk for poor health outcomes in response to environmental harms, due to: adverse socioeconomic factors, high housing and transportation costs relative to income, limited access to nutritious food and adequate health care, linguistic isolation, and other factors that negatively affect health outcomes and increase vulnerability to the effects of environmental harms; and sensitivity factors, such as low birth weight and higher rates of hospitalization. Vulnerable populations can include but are not limited to: racial or ethnic minorities, low-income populations, populations disproportionately impacted by environmental harm, and populations of workers experiencing environmental harm.

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⁵ See Note 1

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1. Introduction

The Climate Element is part of Tumwater's Comprehensive Plan that was created to meet the State Growth Management Act (Chapter 36.70A RCW) requirements to adapt to and mitigate the effects of a changing climate.

This section of the Climate Element specifies goals, policies, and actions meant to set forth a direction to advance equity, sustainability, and resilience in Tumwater. The goals, policies, and actions also serve to ensure coordination with separate Comprehensive Plan Elements, regional plans, and County-Wide Planning Policies. Additionally, they serve as the plan for implementing certain actions within the Climate Element.

A. How to Read this Element

The City's Vision, Mission, and Belief Statements provide overarching direction for the future of the community are found in the Comprehensive Plan Summary.

The Summary of Element Goals and Strategies provides a high-level overview of the Climate Element's sixteen goals and supporting policies and actions.

The remaining document presents each goal in full detail, with introductory text, explanation of the lead and timeline for each policy and implementation action, and identification of priority items.

Actions and policies are marked with the appropriate icon if they fall into any of the below categories:

	<p><u>Equity-focused Action</u></p> <p>Action helps the City achieve equity goals. These actions include financial programs, outreach activities, legislative changes, and other strategies designed to empower frontline and historically excluded communities to pursue climate adaptation and mitigation activities.</p>
	<p><u>Publicly Identified Priority</u></p> <p>Action was developed out of conversations with and feedback from Tumwater community members. Community members contributed their input through an in-person workshop, a virtual open house, and a Climate Policy Advisory Team (CPAT) that worked closely with the City to develop specific policy language.</p>



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2. Growth Management Act – Element Goals

The State Growth Management Act (Chapter 36.70A RCW) requires that the City show that each Element in its Comprehensive Plan meets the relevant fifteen planning goals contained within the Act. The fifteen goals guide the development and adoption of the City's Comprehensive Plan and development regulations.

The following is a summary of how the new Climate Element addresses the goal related to climate change and resiliency. The state legislature added this goal in 2023.

- 15. Climate change and resiliency.** *Ensure that comprehensive plans, development regulations, and regional policies, plans, and strategies under RCW 36.70A.210 and chapter 47.80 RCW adapt to and mitigate the effects of a changing climate; support reductions in greenhouse gas emissions and per capita vehicle miles traveled; prepare for climate impact scenarios; foster resiliency to climate impacts and natural hazards; protect and enhance environmental, economic, and human health and safety; and advance environmental justice.*

The Conservation Element, Land Use Element, and Transportation Plan of the Comprehensive Plan will need to address this as a new goal in coordination with the new Climate Element. A new overarching Comprehensive Plan goal will address the dual goals of increasing climate resiliency and mitigating Tumwater's contributions to climate change by promoting sustainability, reducing pollution, promoting healthy habitats, and supporting clean air and water.

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3. County-Wide Planning Policies

The Growth Management Act requires that comprehensive plans be consistent with Thurston County's County-Wide Planning Policies, as amended in 2015. The sections of the County-Wide Planning Policies relevant to this Element are cited below. All County-Wide Planning Policies are adopted as Appendix B to the Comprehensive Plan. .

The Climate Element has goals, policies, and actions that address County-Wide Planning Policies 1.1 through 1.14. These goals, policies and actions support a regional vision for sustainable communities which will thrive in the face of climate change impacts and lead efforts to mitigate future impacts.

II. Urban Growth Areas

2.2 The boundaries of designated urban growth areas must meet the following criteria:

[...]

d. be compatible with the use of designated resource lands and critical areas.

[...]

III. Promotion of Contiguous and Orderly Development, Provision of Urban Services, and Protection of Rural Areas

3.4 Provide Capacity to accommodate planned growth by:

[...]

b. Protecting ground water supplies from contamination and maintaining groundwater in adequate supply by identifying and reserving future supplies well in advance of need.

[...]

VII. Economic Development and Employment

7.2 Support the recruitment, retention, and expansion of environmentally sound and economically viable commercial, public sector, and industrial development and resource uses, including the provision of assistance in obtaining funding and/or technical assistance.

Resource uses and resource land protection are addressed in Chapters 2 through 4.

7.5 Build a vital, diverse, and strong local economy, including job opportunities that support community and household resilience, health, and well-being, by;

[...]

f. Nurturing urban and rural agricultural and food-oriented businesses.

g. Protecting resource lands.

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- h. Encouraging the utilization and development of areas designated for industrial use, consistent with the environmental policies in these countywide policies.*
- i. Connecting economic health with personal health and well-being and the advancement of environmental health.*
- j. Adding incentives for business to demonstrate their environmental sustainability including reduction in greenhouse gas emissions.*

[...]

X. Environmental Quality

- 10.1 Recognize our dependence on natural systems and maintain a balance between human uses and the natural environment.*
- 10.2 Establish a pattern and intensity of land and resource use that is in concert with the ability of land and resources to sustain such use, reduce the effects of the built environment on the natural environment, conserve natural resources, and enable continued resource use, through:*
 - [...]
 - c. Planning for the amount of population that can be sustained by our air, land and water resources without degrading livability and environmental quality.*
 - [...]
- 10.3 Protect the soil, air, surface water, and groundwater quality, including through:*
 - Reducing dependence on the use of chemicals and other products that pollute and, when their use is necessary, minimizing releases to the environment.*
 - Ensuring adequate clean water is available to support household and commercial needs while sustaining ecological systems through conservation, balancing of uses, and reuse.*
 - Protecting ground and surface water and the water of the Puget Sound from further degradation by adopting and participating in comprehensive, multi-jurisdictional programs to protect and monitor water resources for all uses.*
- 10.5 Acknowledge that changing weather and climate patterns will impact the human, natural, and built environments and plan for impact such as increase wildfire, flooding, and sea-level rise.*
- 10.6 Protect and restore natural ecosystems, such as, forests, prairies, wetlands, surface and groundwater resources, that provide habitat for aquatic and terrestrial plants and animals.*
- 10.7 Provide for public access to natural resource lands, while ensuring that uses and economic activity, which are allowed within those lands, are sustainable.*

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10.8 Provide for parks and open space and maintain significant wildlife habitat and corridors.

The Climate Element is based upon the themes of equity, sustainability, and resilience.

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4. Summary of Element Goals

The sixteen goals of this Climate Element are guided by the County-wide planning goals discussed above, the City's general goals, and by the vision of a Tumwater that is a vibrant city that fosters sense of place, active transportation, local business prosperity, and provides a safe environment for our coming climate challenges.

Goals are not listed in order of priority.

A. Overarching Climate Goals

- Goal CL-1 Ensure environmental justice by providing all members of the Tumwater community with an equitable opportunity to learn about climate impacts, influence policy decisions, and take actions to enhance community resilience.
- Goal CL-2 Increase the City's capacity to implement climate action and adaptation priorities.
- Goal CL-3 Address that changing weather and climate patterns driven by human-generated emissions will affect every aspect of life in Tumwater, and plan for impacts such as increased heat, wildfire, and flooding while working to reduce local emissions.

B. Greenhouse Gas Reduction Goals

- Goal CL-4 Reduce greenhouse gas emissions from all building types through energy conservation measures prioritizing the deployment of financial resources and programs that help finance or subsidize improvements across Tumwater.
- Goal CL-5 Expand the use of on-site renewable energy technology (e.g., solar photovoltaics, battery storage, etc.) across all building types through providing funds, code changes, and educational programs.
- Goal CL-6 Reduce greenhouse gas emissions by making it easier for people to shift to low-/zero-carbon transportation modes through policy, programming, and regional partnerships.
- Goal CL-7 Reduce vehicle miles traveled by using permitting, regulatory, and other land use tools to promote multimodal transportation options and the use of public transit throughout and beyond Tumwater.



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Goal CL-8 Strengthen existing policy and regulations to deploy and enhance natural carbon solutions that are ecosystem-appropriate, store carbon, and offer co-benefits such as pollution reduction, wildlife habitat, and climate resilience.

C. Climate Resilience Goals

Goal CL-9 Ensure that buildings and energy infrastructure can accommodate renewable energy opportunities, keep the community safe, and can withstand and recover from extreme weather and natural hazards worsened by climate change.

Goal CL-10 Increase preparedness for acute climate impacts and improve the resilience of Tumwater's people and systems against climate hazards.

Goal CL-11 Preserve, protect, and sustain cultural sites and resources in alignment with the values and needs of Tribes and frontline communities.

Goal CL-12 With climate, growth, and environmental changes in mind, identify and elevate the protection of key habitats, ecosystem services, and wildlife corridors.

Goal CL-13 Ensure that zoning and development decisions support compact urban development and city-wide resilience, including a resilient local economy.

Goal CL-14 Ensure that the local transportation system, including infrastructure, routes, and non-motorized travel modes, fosters connectivity and can withstand and recover quickly from climate impacts.

Goal CL-15 Protect and improve water quality and availability.

Goal CL-16 Expand local food justice to address climate impacts and increase access to nourishing, affordable, culturally appropriate, and climate-friendly foods while expanding local use of composting.

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5. Element Goals, Policies, and Implementation Actions

A. Overarching Climate Goals

Goal CL-1 Ensure environmental justice by providing all members of the Tumwater Community with an equitable opportunity to learn about climate impacts, influence policy decisions, and take actions to enhance community resilience.

Environmental justice must be central to any effort to mitigate and adapt to climate change. Tumwater’s frontline communities⁶ who experience the impacts of climate change “first and worst” are already feeling the burden of climate impacts, while having contributed the least to causing and worsening climate change. The City must create opportunities for members of frontline communities to make meaningful changes to climate policy and must also ensure frontline communities have access to resources to adapt to climate impacts.

Policies and Implementation Actions	Lead	Period	Notes
CL-1.1 Conduct intentional outreach with frontline communities to create opportunities for equitable engagement in climate adaptation, mitigation, and education.	WRS, Community Organizers	Start: 2025	
CL-1.1.1 Build and support partnerships with existing organizations (i.e. CBOs) that have the capacity and existing relationships needed to convene diverse coalitions of community members and collaboratively empower their communities to develop and implement climate resilience and mitigation actions and work to address underlying disparities that impact these communities.	City	Start: 2025 Ongoing	

⁶ Policies CL-1.1 and CL 1.3 and action CL-11.9.3 will help the City identify where Tumwater’s frontline communities live, work, and play and form relationships within these communities and with existing CBOs that have existing relationships.



Climate Element





Goals, Policies, and Implementation Actions

Policies and Implementation Actions	Lead	Period	Notes
CL-1.1.2 Create and implement tailored outreach and education initiatives that will empower frontline communities to respond to climate change threats.	WRS	Start: 2025 Complete: est. 2 years ⁷	
CL-1.1.3 Attend pop-up events with existing CBOs and hold focus groups, office hours, and other events to build trust in both group settings and one-on-one with Tumwater's frontline community members.	WRS, Community Organizers	Start: 2025 Ongoing	
CL-1.1.4 Conduct outreach and listening sessions in frontline communities to understand existing needs and opportunities and to educate on projected climate impacts.	WRS & ED	Start: 2026 Ongoing	
CL-1.2 Prioritize the people of Tumwater and their needs, values, and goals in all future planning efforts by developing and implementing all climate-related adaptation and mitigation tasks in collaboration with equitable representation from all Tumwater communities.	WRS	Start: 2025	
CL-1.2.1 Prioritize recruiting frontline community members most impacted by climate change when forming any City of Tumwater working group, committee, or task force on climate-related issues. Strive to form all working groups and committees with equitable representation.	WRS	Start: 2025 Ongoing	

⁷ Estimated times required for completing each action are estimates only based on current projected funding, staff capacity, and alignment with broader City goals. Unforeseen circumstances could cause timelines to be extended beyond estimated completion timelines.

Climate Element

Goals, Policies, and Implementation Actions

Policies and Implementation Actions	Lead	Period	Notes
CL-1.2.2 Plan and conduct community engagement activities to ensure all policies and tasks are co-created with the community and to share new plan information upon completion and update throughout implementation.	WRS	Start: 2025 Ongoing	
CL-1.3 Develop programs and resources to promote equitable financial access to climate resilience and mitigation activities.	WRS, Finance, & ED	Start: 2026	
CL-1.3.1 Identify funding sources for subsidies for overburdened communities to offset costs associated with climate impacts and mitigation actions. Covered funding could include potential cost increases associated with changing to non-fossil-fuel energy sources, increased energy usage to maintain livable indoor temperatures, and home hardening projects.	WRS, Finance, & ED	Start: 2026 Complete: est. 1-2 years	
CL-1.3.2 Establish and initiate a process to consult with frontline communities to identify ways to equitably distribute climate funding.	WRS	Start: 2027 Complete: est. 3-5 years	

Goal CL-2 Increase the City's capacity to implement climate action and adaptation priorities.


The goals, policies, and implementation actions contained in this Element will only lead to effective climate mitigation and adaptation if the City devotes appropriate resources to implement all aspects of the Element.

Policies and Implementation Actions	Lead	Period	Notes
CL-2.1 Fully staff City positions needed to support the actions outlined in the Climate Element.	WRS, EXD	Start: 2026	



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Goals, Policies, and Implementation Actions



Policies and Implementation Actions	Lead	Period	Notes
CL-2.1.1 Review actions outlined in the Climate Element to determine whether additional support staff (including emergency management personnel) are required.	WRS, EXD	Start: 2026 Ongoing Every 2 years	
CL-2.1.2 Fill any existing vacant positions that will allow implementation of Climate Element actions, and post and fill any positions identified in CL-2.1.1.	WRS, EXD	Start: 2026 Ongoing Every 2 years	
CL-2.1.3 Develop a fellowship position to help meet Element goals.	WRS, EXD	Start: 2027	
CL-2.2 Develop a program funding strategy to support equitable access to climate mitigation and adaptation programs developed by the City.	WRS, EXD	Start: 2026	
CL-2.2.1 Review actions outlined in the Climate Element to determine what kinds of funding will be needed to support the programs created therein.	WRS, EXD	Start: 2026 Ongoing Every 2 years	
CL-2.3 Educate City Staff and the public on the Climate Element's goals, policies, and actions.		Start: 2025	
CL-2.3.1 Develop training materials for the City employees responsible for implementing actions outlined in the Climate Element. Require designated employees to undergo training and offer opportunities to ask clarifying questions.		Start: 2025 Ongoing	
CL-2.3.2 Develop educational outreach materials on the Climate Element to share with members of the Tumwater community so that they can learn how they can be involved in future climate planning efforts and how they will be impacted by forthcoming policies.		Start: 2025 Ongoing	

Climate Element

Goals, Policies, and Implementation Actions

Goal CL-3 Address that changing weather and climate patterns driven by human-generated emissions will affect every aspect of life in Tumwater, and plan for impacts such as increased heat, wildfire, and flooding while working to reduce local emissions.

This goal is at the heart of why Tumwater is climate planning. Human-generated emissions are driving unprecedented climate changes, and that fact drives the GHG Reduction Sub-Element, whose goals strive to curb human emissions. Simultaneously, Tumwater and all communities globally must prepare for the inevitable impacts already set in motion.

Policies and Implementation Actions	Lead	Period	Notes
CL-3.1 Assess and address the City's vulnerability to climate change.	WRS	Start: 2026	
CL-3.1.1 Conduct a comprehensive Vulnerability Assessment that considers climate impacts to communities, physical assets, and City operations and services, including impacts from extreme heat and flooding.	WRS	Start: 2026 Complete: est. 1 year	
CL-3.1.2 Utilize community outreach efforts (see policies CL-1.1, CL-1.2) to discuss community climate impacts and work with any community groups that desire additional adaptation or mitigation planning beyond existing city efforts.	WRS	Start: 2026 Implement : Ongoing	
CL-3.1.3 Review climate impacts to City operations and adjust operations plans as needed to mitigate climate impacts on services.	WRS	Start: 2027 Complete: est. 3-5 years	
CL-3.1.4 Develop and implement plans to reduce impacts and vulnerabilities for any existing City facilities, utilities, infrastructure, or other assets vulnerable to projected climate change hazard. Plans will incorporate renewable energy, green infrastructure, and other sustainable additions.	WRS	Start: 2027 Complete: est. 10-15 years for all facilities	
CL-3.2 Address climate change impacts in all City planning efforts.	WRS, CDD, EXD	Start: 2027	

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Goals, Policies, and Implementation Actions



Policies and Implementation Actions	Lead	Period	Notes
CL-3.2.1 Integrate planning methods that identify and prioritize multiple potential adaptation pathways into all planning efforts to mitigate the risk of bad investments and account for changes in climate projections.	WRS, CDD, EXD	Start: 2027 Complete: Ongoing	
CL-3.2.2 Develop a systematic review process to assess the City’s plan to build and maintain roads, buildings, utilities, and other facilities for potential climate vulnerabilities to planned facilities, utilities, and infrastructure projects (e.g. the Capital Facilities Plan) and address prior to installation.	WRS, TED, PRD, CDD, EXD	Start: 2028 Complete: Ongoing, every 2 years	

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Climate Element

Goals, Policies, and Implementation Actions

Greenhouse Gas Reduction Sub-Element

This sub-element contains five goals that aim to help the City of Tumwater reach its new goal of net-zero emissions by 2045, ahead of the State’s emissions target. The policies and actions in this element focus on continuing the City’s progress on Climate Mitigation.

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B. Greenhouse Gas Reduction Targets

Under HB 1181, cities and counties that are required to prepare Climate Elements as part of their Comprehensive Plans must include a sub-element on greenhouse gas (GHG) emissions reduction. **The City of Tumwater’s GHG Reduction Sub-Element dictates the City’s approach to eliminating GHG emissions towards achieving net-zero emissions by 2045.** The City has identified specific interim targets for municipal emissions (i.e., emissions from City-owned assets, operations, and services) and community-wide emissions (i.e., emissions from various sectors across the city of Tumwater, including but not limited to residential, commercial, and transportation sectors).

Municipal GHG Emissions Targets

- Reduce municipal emissions by 50% from 2023 levels by 2030.
- Achieve net-zero municipal emissions by 2045.

Community-wide GHG Emissions Targets

- Reduce community-wide emissions by 45% from 2023 levels by 2030, and 70% by 2040.
- Achieve net-zero community-wide emissions by 2045.

The goals and policies identified in Section C (Greenhouse Gas Reduction Goals) are designed to move Tumwater towards these emissions reduction milestones. As with other components of this Climate Element, these goals and policies were developed based on present information and community feedback, but they are subject to revision over time as regulations and technology evolve.

C. Greenhouse Gas Reduction Goals

Goal CL-4 Reduce greenhouse gas emissions from all building types through energy conservation measures prioritizing the deployment of financial resources and programs that help finance or subsidize improvements across Tumwater.

Greenhouse gas (GHG) emissions from buildings and energy use account for over half of the community-wide emissions across Thurston County. This presents significant opportunities for action and impact, which can include prioritizing energy conservation measures and funding programs and incentives that will reduce the City’s municipal and community-wide GHG emissions. Community members expressed support for energy efficiency measures to provide financial benefits, particularly for renters and low-income residents.

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Goals, Policies, and Implementation Actions



Policies and Implementation Actions	Lead	Period	Notes
CL-4.1 Reduce energy use across building types.			
CL-4.1.1 Provide educational resources and/or technical assistance to industry professionals and building owners and managers on energy-efficient building design, retrofits, and operations for new and existing buildings.	CDD, WRS	Start: 2025 Ongoing	
CL-4.1.2 Partner with public, private, non-profit, and faith-based organizations to construct and highlight high-profile demonstration buildings that use innovative energy efficiency and/or technology to limit energy use.	CDD, WRS	Start: 2026 Ongoing	
CL-4.1.3 Establish policies and programs to lower costs and pollution from fossil fuel consumption by incentivizing green building standards (i.e., building frameworks that are environmentally responsible and resource-efficient). (see CL. 5.2, 5.3, 5.4).	CDD, WRS	Start: 2026 Ongoing	
CL-4.1.4 Develop data methodology to monitor use and impacts of green building incentives (i.e., encouraging buildings that are environmentally responsible and resource-efficient) and inform recommendations for policy or programs.	CDD, WRS	Start: 2026 Ongoing	
CL-4.1.5 Partner with Puget Sound Energy (PSE) to promote and/or deploy energy efficiency programs, local funds, and customer enrollment in clean energy projects and programs.	CDD, WRS	Start: 2025 Ongoing	
CL-4.2 Reduce energy use in existing residential buildings.			
CL-4.2.1 Require energy performance ratings and disclosures for dwelling units at times of listing for sale so that prospective buyers are informed before making purchasing decisions.	CDD, WRS	Start: 2026 Ongoing	

Climate Element

Goals, Policies, and Implementation Actions

Policies and Implementation Actions	Lead	Period	Notes
CL-4.2.2 Require energy performance ratings and disclosures for rental dwelling units at times of application so that tenants are informed before making rental decisions.	CDD, WRS	Start: 2027 Complete: est. 1-5 years	
CL-4.2.3 Provide education and outreach to prospective home buyers and renters to ensure that incentives for energy efficiency upgrades are readily available to them, with focus on low-to middle-income earners.	CDD, WRS	Start: 2026 Ongoing	
CL-4.2.4 Develop and adopt policies that require existing dwelling units undertake an energy audit during a substantial remodel. ⁸	CDD, WRS	Start: 2029 Ongoing	
CL-4.2.5 Provide incentives for property owners who take part in energy efficiency programs such as property tax breaks for installing energy conservation measures in rental housing.	CDD, EXD, FIN, WRS	Start: 2025 Complete: est. 1-5 years	
CL-4.2.6 Require baseline levels of energy efficiency as part of building permit review.	CDD	Start: 2029 Ongoing	  Brought up by community members to benefit renters and low-income residents.

⁸ “Substantially rehabilitate”, or remodel, refers to extensive structural repair or extensive modeling of premises that requires a permit such as a building, electrical, plumbing, or mechanical permit, and that results in the displacement of an existing tenant (RCW 59.18.200).



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Goals, Policies, and Implementation Actions

CL-4.3 Reduce energy use in existing nonresidential buildings.			
CL-4.3.1	Require energy performance ratings for nonresidential buildings be disclosed at the time of application for tenants and at time of listing for sales so that owners, tenants, and prospective buyers are informed before making purchasing or rental decisions.	CDD, WRS	Start: 2027 Complete: est. 1-5 years
CL-4.3.2	Continue to install LED lighting in City buildings and infrastructure as funding becomes available.	TED, PRFD	Ongoing Complete: est. 1-2 years
CL-4.3.3	Create an incentive program for the installation of cool roofs ⁹ and living walls on nonresidential buildings to reduce energy consumption and the urban heat island effect.	CDD, WRS	Start: 2027 Ongoing
CL-4.3.4	Set energy efficiency performance standards for existing nonresidential buildings with gross floor areas smaller than 20,000 square feet which are not yet covered under the state Department of Commerce's Clean Building Performance Standards.	CDD & WRS	Start: 2028 Ongoing
CL-4.4 Reduce energy use in new construction, redevelopment, and deconstruction.			
CL-4.4.1	Incentivize projects that meet green building or net-zero carbon certification through land use tools such as floor area ratio, density bonus, height bonus, or parking reductions.	CDD	Start: 2027 Ongoing
CL-4.4.2	Support CDD staff pursuing green building accreditations and certifications from green building specialists.	CDD	Start: 2025 Ongoing

⁹ Roofs designed to reflect more sunlight, thus lowering building temperatures.



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Goals, Policies, and Implementation Actions

CL-4.4.3 Explore developing guidelines for deconstruction and salvaging materials for reuse.	CDD	Start: 2026 Complete: est. 5 years	
CL-4.5 Convert to alternative fuel sources.			
CL-4.5.1 Educate community members on options for electric appliances and the benefits of pairing electrification with the installation of renewable energy. Create incentives to support fuel switching.	WRS	Start: 2025 Ongoing	

Goal CL-5 Expand the use of on-site renewable energy technology (e.g., solar photovoltaics, battery storage, etc.) across all building types through providing funds, code changes, and educational programs.

Local on-site renewable technology, such as solar photovoltaics and battery storage, will provide increased renewable energy options to Tumwater community members. Additionally, the development of local renewable energy resources strengthens Tumwater's resilience during future extreme weather events. Developing local renewable energy resources can also strengthen the local economy through job creation.

Policies and Implementation Actions	Lead	Period	Notes
CL-5.1 Increase the production of local renewable energy.			
CL-5.1.1 Install solar photovoltaics on all available and feasible municipal sites (including building rooftops, city hall, police and fire stations, community centers, parking lots, and municipal water pump sites) in collaboration with key community partners, like Olympia Community Solar and/or Puget Sound Energy	TED, PRFD	Start: 2025 Complete: est. 1-5 years	
CL-5.1.2 Support and implement local development code amendments that require solar-ready construction for all building types.	CDD	Start: 2025 Complete: est. 1-5 years	
CL-5.1.3 Pursue public-private partnerships to seek funding sources to accelerate clean energy projects.	WRS	Start: 2025 Complete: est. 5-10 years	

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Goals, Policies, and Implementation Actions



Policies and Implementation Actions	Lead	Period	Notes
CL-5.1.4 Support existing community solar initiatives from Olympia Community Solar and PSE by providing educational resources, promoting programs, and identifying opportunities for Tumwater residents to participate.	WRS	Start: 2025 Complete: est. 1-5 years	

Goal CL-6 Reduce greenhouse gas emissions by making it easier for people to shift to low-/zero-carbon transportation modes through policy, programming, and regional partnerships.

Transportation is the second largest source of GHG emissions in Thurston County. Tumwater can significantly reduce emissions by creating policies and programs that support zero emissions transportation modes, including increasing the number of electric vehicles and charging stations throughout the city and encouraging active transportation such as biking and walking. Community members strongly expressed the desire for improved sidewalks and an increased number of bike lanes to enable active transit.

Policies and Implementation Actions	Lead	Period	Notes
CL-6.1 Promote increased use of active forms of travel such as bicycling, walking, and other nonmotorized options.			
CL-6.1.1 Coordinate with the bike and pedestrian plans of the and other cities toward a large regional plan to expand walking and bicycling infrastructure, per goals laid out in the Transportation Plan to maximize funding mechanisms and opportunities.	TED, WRS	Start: 2025 Complete: est. 1-5 years	 Many people want to bike or walk more but feel unsafe due to lack of bike lanes or sidewalks.
CL-6.1.2 Promote biking, walking, and rolling by investing in accessible and attractive street-level elements per goals included in the Transportation Plan like seating, shaded sidewalks, ADA ramps, enhanced signals and crossings, and protected bike lanes.	TED, CDD	Start: 2025 Complete: est. 1-5 years	

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Goals, Policies, and Implementation Actions





Policies and Implementation Actions	Lead	Period	Notes
CL-6.1.3 Develop a rebate program for community members who wish to buy a bicycle or electric bicycle, with priority for low-income residents or households with greater barriers to vehicles.	WRS	Start: 2026 Complete: est. 1-5 years	
CL-6.1.4 Continue support for InterCity Transit's Walk N Roll program that focuses on a walking and bicycling incentive program with safety education for families, in coordination with Tumwater School District.	TED, WRS	Ongoing	
CL-6.1.5 Reevaluate long term plans, such as the Transportation Plan and Capital Facilities Plan, and update to prioritize non-motorized transportation. Set goals and plans for shifting to non-motorized transportation, like developing car-free corridors in commercial and mixed-use areas to encourage mode shift.	TED	Start: 2025, Complete: est. 3 years	
CL-6.2 Increase adoption of electric vehicles (EVs).			
CL-6.2.1 Partner with industry experts and environmental organizations to increase consumer awareness about EV options and incentives for use and purchase.	WRS	Start: 2025 Complete: est. <1 year	
CL-6.2.2 Provide educational resources for community members seeking to install EV chargers at home, with specific incentive support for smaller-scale and multi-family property owners.	WRS, CDD	Start: 2025 Complete: est. 1-5 years	
CL-6.2.3 Explore more opportunities to expand the city's publicly available EV charging network.	WRS, TED, PRFD	Ongoing	

Climate Element

Goals, Policies, and Implementation Actions

Goal CL-7 Reduce vehicle miles traveled by using permitting, regulatory, and other land use tools to promote multimodal transportation options and the use of public transit throughout and beyond Tumwater.

In addition to increasing the adoption of electric vehicles and encouraging active transportation in Tumwater, increasing multimodal options and public transit ridership can greatly affect the city's GHG emissions. Promoting public transit ridership includes short term efforts, such as public awareness campaigns and expand transit lines, and long-term efforts, such as urban planning to reduce urban sprawl. Land use tools, such as street network connectivity improvements, can also contribute to reduced vehicle miles traveled, or VMT, which in turn lead to reduced emissions, air pollution, and traffic congestion.

Policies and Implementation Actions	Lead	Period	Notes
CL-7.1 Continue land use policies that support increased urban density and efficient transportation networks and reduce urban sprawl.			
CL-7.1.1 Develop and implement a strategy for eliminating parking minimums and establishing parking maximums, in alignment with statewide requirements.	CDD	Start: 2025 Complete: est. 1-5 years	
CL-7.1.2 Create a safe, regionally well-connected, and attractive bike and pedestrian network to encourage active transportation both within Tumwater and between neighboring jurisdictions.	CDD, TED	Ongoing Complete: est. 5-10 years	 Interest in increased transit to centralized commercial hubs.
CL-7.1.3 Collaborate with City departments to increase the number of 15-minute neighborhoods (i.e., walkable environment, destinations that support a range of basic living needs and a residential density), in coordination with goals outlined in the Land Use Element. Help identify key infrastructure components needed to increase the number of 15-minute neighborhoods, prioritizing low- and middle-	CDD	Ongoing Complete: est. 5 years	

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Goals, Policies, and Implementation Actions



Policies and Implementation Actions	Lead	Period	Notes
income residents, then change zoning and codes if needed and coordinate with other cities to make public investments where necessary.			
CL-7.2 Increase efficiency of the transportation system.			
CL-7.2.1 As part of the Transportation Plan, fund programs and projects to increase transportation efficiency, reduce delay, and reduce emissions. Examples include traffic signal timing improvements, reevaluating speed limits, deploying roundabouts vs. signalized intersections, promoting street connectivity, and other traffic flow control tools.	TED	Ongoing	Added benefits are decreased pollution due to idling and improved fuel efficiency leading to cost savings.
CL-7.2.2 Develop educational campaigns and programs about benefits of properly inflated tires, including signage at gas stations and local businesses and partnering with schools.	TED, WRS, Stream Team	Start: 2025 Complete: est. <1 year	Benefits of proper tire inflation include reduced GHG emissions, increased fuel efficiency, safety, salmon recovery, etc.
CL-7.2.3 Work with Intercity Transit to increase local public transit routes or frequency with a focus on ensuring the greatest number of riders have access to a low-carbon transportation option. Any expansion of service should include an analysis of climate impacts to ensure the program does not result in an increase in greenhouse gas emissions.	CDD, TED	Start: 2025 Complete: est. 1-5 years	
CL-7.2.4 Work with Intercity Transit to identify and implement programs that help people move to and from transit,	CDD, TED	Start: 2025 Complete: est. 1-5 years	

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Goals, Policies, and Implementation Actions



Policies and Implementation Actions	Lead	Period	Notes
reduce GHG emissions, and use street-level improvements to connect neighborhoods without the population to support fixed routes transit options. Tumwater will engage homeowners' associations for representation and feedback. Expansion of service will include an analysis of climate impacts to ensure the program does not result in an increase in GHG emissions.			

Goal CL-8 Strengthen existing policy and regulations to deploy and enhance natural carbon solutions that are ecosystem-appropriate, store carbon, and offer co-benefits such as pollution reduction, wildlife habitat, and climate resilience.

Natural carbon solutions play an important role in the local environment by sequestering carbon through tree canopy and natural open space. In conjunction with reducing greenhouse gas emissions at the source, natural carbon solutions reduce atmospheric carbon, pollutions, and reduce urban heat. Community members have expressed strong support of preserving the tree canopy in Tumwater.

Policies and Implementation Actions	Lead	Period	Notes
CL-8.1 Preserve tree canopy and support habitat restoration and conservation to sequester carbon.			
CL-8.1.1 Adopt and implement a coordinated reforestation and afforestation program guided by the UFMP with goals and policies to support stormwater management. Consider how existing or future tree canopy can support stormwater management and water quality improvements in receiving waters. Include goals for maintaining or increasing canopy in overburdened communities.	WRS	Start: 2026 Complete: est. 1-5 years	



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Goals, Policies, and Implementation Actions

Policies and Implementation Actions	Lead	Period	Notes
CL-8.1.2 Establish goals for preserving existing mature tree canopy in alignment with TMC 16.08 . Include guidelines and incentives for maintaining larger, more established trees.	WRS	Start: 2025 Complete: est. >1 year	
CL-8.1.3 Support implementation of habitat conservation plans (HCPs) that allow for state required development and provide for preservation and restoration of prairie habitat for endangered and threatened prairie species.	CDD	Ongoing	
CL-8.1.4 Continue to champion statewide conservation efforts to protect, restore, and manage wetlands and riparian habitat.	CDD	Ongoing	
CL-8.1.5 Build relationships and capacity among regional partners to ensure successful and effective data coordination and program alignment.	WRS	Ongoing	
CL-8.1.6 Maximize tree canopy coverage in surface parking lots. Establish an initiative for identifying impervious surfaces across parking lots for potential reforestation or conversion.	WRS, CDD	Start: 2025 Complete: est. 1-5 years	

Climate Element

Goals, Policies, and Implementation Actions



Resilience Sub-Element




This sub-element contains eight goals that aim to help the City of Tumwater guide climate adaptation efforts to protect its communities against unavoidable climate impacts. The policies and actions in this element focus on expanding and improving the City's work on Climate Adaptation.

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D. Climate Resilience Goals



Goal CL-9 Ensure that buildings and energy infrastructure can accommodate renewable energy opportunities, keep the community safe, and can withstand and recover from extreme weather and natural hazards worsened by climate change.

Tumwater’s energy infrastructure and buildings need to be protected against projected climate impacts, creating safe and reliable space for community members. Renewable energy does not just offer climate mitigation benefits: locally generated and stored renewable energy is also more resilient under an uncertain climate future.

Policies and Implementation Actions	Lead	Period	Notes
CL-9.1 Require that planned facilities, utilities, and infrastructure projects and existing vulnerable sites be built or hardened to avoid or withstand climate impacts, including extreme heat, extreme precipitation, and sea level rise.	CDD, WRS	Start: 2028	
CL-9.1.1 Identify potential funding sources to bury existing power lines and associated infrastructure, or to make more resilient to climate impacts where burial is not feasible.	CDD, TED, WRS	Start: 2028 Complete: Ongoing	
CL-9.1.2 Identify potential funding sources to develop and maintain a grant program that will enable affordable housing development projects to bury new power lines and associated infrastructure as required, or to make more resilient to climate impacts where burial is not feasible.	WRS, CDD	Start: 2028 Complete: Ongoing	 
CL-9.1.3 Review existing and planned capital facilities to ensure they will be able to function as intended over their planned life cycle, creating and implementing plans to strengthen any capital facilities with identified vulnerabilities.	TED, PRFD, WRS	Start: 2028 Complete: Ongoing	

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Goals, Policies, and Implementation Actions

Policies and Implementation Actions		Lead	Period	Notes
CL-9.2	Plan energy infrastructure to be able to integrate with an increase in renewable energy sources, including increasing energy storage capacity to improve energy grid resilience.	CDD, WRS, Fire and EMS	Start: 2026	
CL-9.2.1	Identify key public facilities that must remain operational during a hazard event that impacts power availability.	CDD, TED, PRFD, WRS, Fire and EMS	Start: 2026 Complete: est. <1 year	
CL-9.2.2	Identify sites to install local microgrid solar and battery storage facilities that will lead to negligible or low impacts on local habitats, infrastructure, and human health.	TED, PRFD, WRS, CDD	Start: 2027 Complete: est. 2-3 years	
CL-9.2.3	Install locally distributed renewable energy generation and battery storage infrastructure at identified key public facilities to ensure continuity of operations for a minimum of 24 hours.	TED, PRFD, WRS, CDD	Start: 2030 Complete: est. 5-10 years	
CL-9.3	Require buildings in high-risk areas¹⁰ to be designed and built to be resilient to natural hazards and extreme weather worsened by climate change.	CDD	Start: 2028	
CL-9.3.1	Adopt and enforce fire-resilience standards for new and redeveloped sites in high-risk wildfire areas identified by the State of Washington's Wildland-Urban Interface Map (forthcoming).	CDD	Start: 2028 Complete: est. 4-5 years	Period contingent on release of revised WUI map.
CL-9.3.2	Require a hazard assessment and climate risk planning for new and existing buildings in designated high-risk areas, designing for enhanced resilience and mandating building practices that.	CDD, WRS	Start: 2032 Ongoing	

¹⁰ High risk areas to be identified by the City's Comprehensive Vulnerability Assessment, which should be completed by 2028. Weatherization and hardening building codes should be developed based on identified risks and land use designations of at-risk land parcels.

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Goals, Policies, and Implementation Actions



Policies and Implementation Actions	Lead	Period	Notes
CL-9.3.3 Develop and maintain a fund to subsidize the cost of hazard risk assessments and climate risk planning for low-income property owners and low-income housing development projects.	CDD, WRS, FIN	Start: 2028 Ongoing	
CL-9.3.4 Amend Tumwater building code to require that all residential development and redevelopment projects be appropriately weatherized and built to be livable and comfortable during extreme weather events. Requirements may include installing heat pumps or air conditioning units if it cannot be proved the building is built for passive survivability. ¹¹	CDD, WRS	Start: 2030 Complete: est. 10 years	
CL-9.4 Encourage property owners to increase the resilience of existing buildings to natural hazards and extreme weather worsened by climate change.	CDD, WRS	Start: 2028	
CL-9.4.1 Develop Climate Resilience Guidelines demonstrating how to design buildings for passive survivability, ⁷ at a minimum providing one common room for residents that provides refuge from heat and power during extended outages for medical necessities. Share this guidance with developers and property owners through outreach activities.	CDD, WRS	Start: 2028 Complete: est. 5 years	
CL-9.4.2 Secure and maintain funding for an incentive program for retrofit of existing buildings to meet established Climate Resilience Standards.	CDD, WRS	Start: 2033 Ongoing	

¹¹ See Part 2: Technical Information for more information on heat projections, passive survivability, and building code.




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Goals, Policies, and Implementation Actions

Policies and Implementation Actions	Lead	Period	Notes
CL-9.4.3 Develop and maintain a rebate program for low-income residents who do not qualify for weatherization assistance through the Community Action Council or whose dwellings are considered vulnerable, such as manufactured homes, to weatherize their homes against extreme weather.	WRS	Start: 2028 Complete: Ongoing	 
CL-9.5 Work with energy utilities to improve the safety and reliability of infrastructure vulnerable to climate change.	WRS, Puget Sound Energy, CDD	Start: 2025	
CL-9.5.1 Establish partnerships with all regional energy utilities and develop short- and long-range plans to assess and mitigate the risk of climate hazard impacts on energy generation and transmission infrastructure.	WRS, Puget Sound Energy	Start: 2025 Complete: est. 3-5 years	
CL-9.5.2 In partnership with local energy utilities, explore large-scale energy storage options to use in Tumwater as part of a transition to reliable renewable energy.	WRS, Puget Sound Energy, CDD, Fire and EMS	Start: 2026 Complete: est. 3 years	






Goal CL-10 Increase preparedness for acute climate impacts and improve the resilience of Tumwater's people and systems against climate hazards.

Research has shown that climate change impacts frontline communities first and worst, while these communities also contribute the least to worsening climate change. System-wide changes need to be implemented to protect all of Tumwater's community members from both chronic and acute climate harm, with particular attention to frontline communities.

Policies and Implementation Actions	Lead	Period	Notes
CL-10.1 Improve community outreach on and response capabilities for climate health and hazard issues, prioritizing frontline communities to address economic, social, and health disparities.	WRS & ED	Start: 2025	

Climate Element

Goals, Policies, and Implementation Actions

Policies and Implementation Actions	Lead	Period	Notes
CL-10.1.1 Partner with a philanthropic organization or a CBO to build a volunteer network to develop and manage a vulnerable population database that includes community members who require aid and/or check-in calls during and after emergencies. This database can be built on the existing Lifeline Program members.	WRS, Fire and EMS, County	Start: 2025 Complete: est. 1 year	 
CL-10.1.2 Transition management of the vulnerable population database to the City and secure long-term funding and staffing to keep the database up to date and oversee its use during emergencies.	WRS, Fire and EMS, County	Start: 2028 Complete: est. 1-2 years	 
CL-10.1.3 Develop and adopt a Pre-Event Recovery Ordinance using American Planning Association's guidance that will allow the City to establish a Local Recovery Management Organization (LRMO) charged with planning for long-term, resilient disaster recovery and coordinating with the Tumwater Disaster Recovery Group and County Disaster Recovery Team after a disaster to align long-term planning with short-term needs.	CDD, EXD, City Attorney, County, Fire & EMS	Start: 2026 Complete: < 1 year	
CL-10.1.4 Develop climate-resilient redevelopment guidelines to help guide disaster recovery decisions. Utilize recommendations from FEMA's <i>Pre-Disaster Recovery Planning Guide for Local Governments</i> .	CDD, EXD, Fire and EMS, LRMO	Start: 2030 Complete: est. 1-5 years	

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Goals, Policies, and Implementation Actions



Policies and Implementation Actions	Lead	Period	Notes
CL-10.1.5 Require that all City employees that participate would serve a role in EOC activation complete FEMA training courses on disaster recovery and achieve functional expertise in FEMA post-disaster processes.	City	Ongoing	
CL-10.2 Develop resources to mitigate the risks posed by extreme heat.	City	Start: 2025	
CL-10.2.1 Implement the Thurston County Extreme Heat, Emergency Response, and Illness Prevention Plan.	WRS, County, Fire and EMS	Start: 2026	
CL-10.2.2 Preserve and expand tree and shade cover to reach the 2040 goal of 39% recommended in the UFMP to reduce urban heat.	WRS	Start: 2027 Complete: est. 10-15 years	
CL-10.2.3 Assess potential partnerships with CBOs and regional agencies that can serve as resilience hubs that provide resources such as heat pumps and emergency supplies for community members to check out during emergencies.	WRS, Fire and EMS, Community-Based Organizations, County	Start: 2026 Complete: est. 3-5 years	
CL-10.2.4 Explore feasibility of implementing and maintaining a program to distribute portable cooling units and install heat pumps, prioritizing households with residents most vulnerable to extreme temperature events such as renters and low-income seniors.	WRS	Start: 2025 Complete: est. 1-2 years	
CL-10.3 Increase regional wildfire resilience, preparedness, and response capabilities in Tumwater.	WRS, Fire and EMS	Start: 2025	
CL-10.3.1 Collaborate with regional partners to develop a community wildfire protection plan.	WRS, Fire and EMS	Start: 2030 Complete: est. 3-5 years	Later expected start due to uncertainty around WUI mapping



Climate Element





Goals, Policies, and Implementation Actions

Policies and Implementation Actions	Lead	Period	Notes
CL-10.3.2 Collaborate with emergency managers and fire experts to educate and empower homeowners to make changes to their homes and properties that lower their wildfire risk, encouraging measures that do not decrease canopy cover where possible. Enroll 75% of residents in wildfire risk areas in the Wildfire Ready Neighbors program.	WRS, Fire and EMS, Thurston Conservation District	Start: 2030 Complete: est. 5-7 years	Longer expected period due to uncertainty around WUI mapping
CL-10.3.3 Incentivize communities and homeowners in the WUI to invest in wildfire hardening and mitigation strategies to protect their homes and properties, encouraging measures that do not decrease canopy cover where possible. Mitigate wildfire risk for at least 60% of homes.	CDD, Fire and EMS	Start: 2030 Complete: est. 5-7 years	Longer expected period due to uncertainty around WUI mapping
CL-10.3.4 Secure funding to provide grants to low-income community members to follow recommended changes to their homes and properties to lower their wildfire risk.	CDD, Fire and EMS	Start: 2030 Complete: est. 2 years	
CL-10.3.5 Provide educational resources to aid community members in developing personal wildfire evacuation plans, prioritizing residents in the WUI.	WRS, Fire and EMS	Start: 2025 Complete: est. 2 years	
CL-10.4 Collaborate with regional partners to develop resources that address projected increases in risks and impacts associated with climate change.	WRS	Start: 2026	
CL-10.4.1 Develop and share guidance for navigating post-disaster mental health and social resources, translated into multiple languages.	WRS, Fire and EMS	Start: 2026 Complete: < 2 years	

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Goals, Policies, and Implementation Actions



Policies and Implementation Actions	Lead	Period	Notes
CL-10.4.2 Coordinate with the County and LeMay Pacific Disposal to develop an emergency waste management plan that includes contingencies for waste pickup schedules in the event of flooding predictions or other hazards that can be mitigated in advance.	City & LeMay Pacific Disposal Thurston County	Start: 2030 Complete: est. 5 years	
CL-10.4.3 Develop and implement a regional wildfire and smoke resilience and response strategy.	WRS, Fire and EMS, ORCAA	Start: 2025 Complete: est. 5-7 years	
CL-10.4.4 Develop a protocol for using the County emergency alert system to issue alerts for wildfire risk, smoke exposure, and evacuation information. Create alert messaging that uses plain language to communicate risks and information.	WRS, Fire and EMS, ORCAA, County	Start: 2027 Complete: est. 3-5 years	
CL-10.5 Improve community resilience, health equity, and environmental justice by ensuring that all community members can walk or roll to public green spaces within ½ a mile and connected by sidewalks or protected walkways.	TED, WRS, PRFD	Start: 2027	 
CL-10.5.1 Utilize data from the Trust for Public Land and from community outreach efforts to find any gaps in equitable access to public green spaces.	WRS	Start: 2027 Complete: est. 1-2 years	
CL-10.5.2 Engage community members who lack equitable access to green spaces to determine how they would like to improve their access. Options can include better transportation options, addition of new green space, and improved safety of active transportation routes, among others.	TED, WRS, PRFD	Start: 2030 Complete: est. 1-5 years	



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Goals, Policies, and Implementation Actions

Policies and Implementation Actions	Lead	Period	Notes
CL-10.5.3 Obtain funding to finish the Deschutes Valley Trail, aiming to complete construction by 2040.	TED, WRS, PRFD	Start: 2028 Complete: est. 10 years	
CL-10.6 Position the city to qualify for more funding opportunities to adapt to climate impacts.	WRS	Start: 2028	
CL-10.6.1 Explore opportunities to partner with academic research institutions to study hazard events of all magnitudes to provide a fuller understanding of the community's hazard characteristics — including those affected by climate change.	WRS, SPSCC, Evergreen State College, St. Martins University	Start: 2028 Complete: est. 1-3 years	
CL-10.6.2 Analyze how well the municipal water system would maintain adequate pressure during a major wildfire event with multiple structures burning, and how it will look under current and projected drought conditions. Generate a report with specific recommendations for increasing the resilience of the water system.	WRS	Start: 2028 Complete: est. 2-3 years	
CL-10.6.3 Incorporate findings from the City's Comprehensive Vulnerability Assessment into the Tumwater Annex of the Thurston County Hazard Mitigation Plan. Identify specific projects and opportunities that the City can leverage to maximize funding.	CDD	Start: 2029 Complete: est. 2-3 years	
CL-10.6.4 Develop a specific, phased plan for completing a large-scale tree planting program to secure funding for this program.	WRS	Start: 2027 Complete: est. 3-4 years	
CL-10.7 Increase understanding of how climate change impacts vector-borne disease outbreaks. Make a plan to protect against projected increases in frequency and severity.	WRS, County Health Department	Start: 2027	

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Goals, Policies, and Implementation Actions



Policies and Implementation Actions	Lead	Period	Notes
CL-10.7.1 Identify and map areas in Tumwater that are at high risk to become disease vectors, including developed areas with poor drainage and standing water that serves no ecological purpose.	WRS, TED, County Health Department	Start: 2027 Complete: est. 2 years	
CL-10.7.2 Coordinate with the County Health Department to develop strategies to mitigate projected increases in disease and pest risk.	WRS, County Health Department	Start: 2029 Complete: est. 3 years	
CL-10.8 Develop programs that enable and empower community members to protect themselves from poor air quality.	WRS	Start: 2027	
CL-10.8.1 Collect data to determine how many Tumwater community members are vulnerable to poor air quality and the neighborhoods in which these residents live, using both quantitative and qualitative data from tools like EJScreen and from community outreach efforts. Use collected data to set target thresholds for shelter occupancy and locations and air conditioner/heat pump and air filtration distribution programs.	WRS	Start: 2027 Complete: est. 1-2 years	
CL-10.8.2 Establish and maintain a stable funding source to distribute personal protective equipment to populations vulnerable to poor air quality.	WRS, Thurston County Health Department, & Community Based Organizations	Start: 2029 Complete: est. 1-2 years Maintain: ongoing	


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Goals, Policies, and Implementation Actions

Policies and Implementation Actions	Lead	Period	Notes
CL-10.8.3 Identify facilities that serve high-risk populations to create incentive programs encouraging infrastructure updates for clean indoor air. Updates should include HVAC system improvements.	WRS	Start: 2030 Complete: est. 1-5 years	
CL-10.9 Ensure community members have resources to shelter in place or to adequately reach temporary shelter.	WRS	Start: 2025	 
CL-10.9.1 Coordinate with other agencies and jurisdictions to provide more cooling centers with 24-hour capacity. Offer 24-hour capacity for all of Tumwater's heat-vulnerable residents including seniors, low-income, and houseless individuals. Shelter locations should be sited equitably throughout the city, with priority for opening locations near the highest concentrations of heat-vulnerable residents.	WRS, County Health Department	Start: 2025 Complete: est. 5-10 years	
CL-10.9.2 Coordinate with local businesses, community centers, and other neighborhood hubs to assess the potential of using these spaces as cooling centers. Provide sites that agree to participate in this program with resources detailing how to set up an equitable and functional cooling center.	WRS, County Health Department	Start: 2025 Complete: est. 5-10 years	
CL-10.9.3 Develop outreach programs or materials to increase awareness and education on individual emergency preparedness (e.g. Two Weeks Ready).	Fire and EMS, WRS	Start: 2025 Complete: est. <1 year	
CL-10.10 Increase language accessibility of emergency services, plans, and resources.	ASD, CDD, WRS	Start: 2025	
CL-10.10.1 Establish on-call contracts for language interpretation and translation services, including ASL.	ASD, CDD, WRS	Start: 2025 Complete: est. <1 year	







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Goals, Policies, and Implementation Actions

Policies and Implementation Actions	Lead	Period	Notes
CL-10.10.2 Utilize on-call contracts for language services to translate all emergency resources and plans.	ASD, CDD, WRS	Ongoing upon adoption of relevant plans	







Goal CL-11 Preserve, protect, and sustain cultural sites and resources in alignment with the values and needs of Tribes, traditional stewards, and frontline communities.

Tumwater is built on land traditionally stewarded by the Coast Salish people. Their descendants in the Nisqually, Squaxin Island, and Chehalis Tribes continue to live on and steward the land today but are also unfairly impacted by climate change and excluded from key climate decision-making. Tumwater must elevate the goals, values, and needs of the region's Indigenous communities.

Policies and Implementation Actions	Lead	Period	Notes
CL-11.1 Enhance partnership between the Tribes and the City, integrating Tribal expertise, opinions, and values into climate planning efforts, projects, and programs.	ED, WRS, Tribes	Start: 2025	
CL-11.1.1 In collaboration with the Tribes, establish guidelines and standards for incorporating Traditional Ecological Knowledge into City programs and planning efforts to adapt to climate change impacts.	WRS, Tribes	Start: 2025 Complete: est. 5 years	 
CL-11.1.2 Integrate the Tribal Stewards Curriculum or an alternative approved by Tribal representatives into regular City training schedules.	WRS, Tribes	Start: 2030 Complete: est. 5 years	 
CL-11.2 In accordance with Tribal treaty rights, protect, enhance, and restore ecosystems and culturally important consumptive and non-consumptive resources including foods, medicinal plants, places, and materials that could be adversely impacted by climate change.	WRS, Tribes	Start: 2025	

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Goals, Policies, and Implementation Actions



Policies and Implementation Actions	Lead	Period	Notes
CL-11.2.1 Work with local partners, especially representatives of the Tribes, to establish and sustain a native plant nursery and seed bank to support long-term ecological restoration and ensure continued access to culturally significant plants.	WRS, Tribes	Start: 2026 Complete: est. 4 years	
CL-11.2.2 In collaboration with the Tribes, identify consumptive and non-consumptive resources that will be adversely impacted by climate change.	WRS, Tribes	Start: 2025 Complete: est. 3 years	
CL-11.2.3 In collaboration with the Tribes, develop and implement a plan to protect, enhance, restore, and/or preserve cultural resources that have been identified as threatened by climate change.	WRS, Tribes	Start: 2028 Complete: est. 5 years	
CL-11.3 Collaborate with the Tribes to ensure the preservation of archaeological sites and traditional cultural properties that are vulnerable to climate impacts.	WRS, CDD, PRFD, Tribes	Start: 2026	
CL-11.3.1 Request recommendations from the Tribes for actions the City can take to preserve historic sites and cultural properties.	WRS, PRFD, Tribes, DAHP	Start: 2026 Complete: est. 3 years	
CL-11.3.2 In collaboration with the Tribes, develop guidelines for protecting, enhancing, and restoring affected historic sites and cultural properties.	WRS, Tribes	Start: 2029 Complete: est. 5 years	

Goal CL-12 With climate, growth, and environmental changes in mind, identify and elevate the protection of key habitats, ecosystem services, and wildlife corridors.

Protecting Tumwater's local ecosystems is key to building both ecological and community resilience to expected climate impacts. Resilient ecosystems will ensure vital native species are able to survive and thrive in the coming decades, while also continuing to provide key ecosystem services to Tumwater's human residents.




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Goals, Policies, and Implementation Actions

Policies and Implementation Actions	Lead	Period	Notes
CL-12.1 Manage Tumwater’s urban forest in line with the most recent UFMP and current climate projections and guidance.	City	Start: 2025	
CL-12.1.1 Enact the updated Tree Ordinance.	City	Start: 2025 Complete: < 1 year	
CL-12.1.2 Protect and enhance the climate resilience of urban forests by implementing the most recent UFMP. Prioritize implementation of UFMP actions that provide benefits for frontline communities.	WRS	Ongoing	
CL-12.1.3 Update the UFMP every five years, including updated tree species selection and planting guidance, and integrate the most recent available climate data into each new edition of the Plan. Climate guidance consideration should include projections for heat, precipitation, pests, and any other relevant emergent information.	WRS	Start: 2027 Reassess every 5 years	
CL-12.1.4 Develop and share guidance with community members that identifies native drought- and pest-resistant trees, shrubs, and grasses. Encourage their use over non-native, non-resilient species in urban forest plantings and in restoration efforts to support climate resilience.	WRS	Start: 2027 Complete: est. 2 years	
CL-12.1.5 Develop a program to analyze and address the climate impacts and risks of pests and disease on Tumwater’s urban forest.	WRS	Start: 2027 Complete: est. 5-7 years	
CL-12.1.6 Assess tree canopy and forests including parks, greenbelts and urban forests to identify potential wildfire risk zones and develop strategies to mitigate that risk.	WRS, PRFD	Start: 2038 Complete: est. 8 years	

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Goals, Policies, and Implementation Actions

Policies and Implementation Actions	Lead	Period	Notes
CL-12.2 Protect, restore, and connect streams, riparian zones, estuaries, wetlands, and floodplains to increase resiliency to climate change and reduce flood risk.	WRS, CDD	Start: 2028	
CL-12.2.1 Conduct inventory of watersheds throughout Tumwater, including an assessment of overall health and connectivity and the type and degree of restoration or protection needed	WRS	Start: 2028 Complete: est. 3 years	
CL-12.2.2 Protect and restore wetlands and corridors between wetlands to provide biological and hydrological connectivity that fosters resilience to climate impacts.	WRS, CDD	Start: 2031 Complete: est. 8 years	
CL-12.2.3 Protect and restore riparian vegetation to reduce erosion, provide shade, and support other functions that improve the climate resilience of streams.	WRS, CDD	Start: 2031 Complete: est. 8 years	
CL-12.2.4 Collaborate with relevant parties to prioritize where and how beavers can be incorporated strategically to address climate change impacts on water quality, streamflow volume, and riparian habitat without causing any adverse impacts to Oregon Spotted Frog habitat.	WRS	Start: 2028 Complete: est. 2 years	
CL-12.3 Manage Tumwater's natural resources to protect, restore, and connect native ecosystems and foster habitats that are resilient to climate change.	CDD, WRS	Start: 2030	
CL-12.3.1 Collaborate with other regional partners to inventory potential climate refugia sites in Tumwater that will require protection and to assess existing habitat protections, habitat quality levels, and connectivity.	WRS, Tribes, County, TRPC, Climate Refugia Coalition	Start: 2032 Complete: est. 5 years	



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Goals, Policies, and Implementation Actions

Policies and Implementation Actions	Lead	Period	Notes
CL-12.3.2 Develop an Ecosystem Restoration Plan or a Natural Resource Management Plan and adopt relevant measures from other relevant existing plans. The plan(s) must address existing stressors, consider climate change impacts, emphasize taking a precautionary approach to reduce risk of environmental harm, and guide adaptive management.	WRS	Start: 2030 Complete: est. 5 years	Use National Fish, Wildlife and Plants Climate Adaptation Strategy
CL-12.3.3 Locate funding to implement the Ecosystem Restoration Plan and/or Natural Resource Management Plan	WRS, CDD	Start: 2035 Complete: est. 2 years	
CL-12.4 Increase the climate resilience of native fish species and aquatic ecosystems by reducing the impact of threats such as aquatic invasive species, invasive plants, pollutants, and changes in seasonal water flow.	WRS	Start: 2025	
CL-12.4.1 Conduct a study of existing threats to native fish and aquatic ecosystems to prioritize which threats are addressed.	WRS, TRPC	Start: 2025 Complete: est. 2 years	
CL-12.4.2 Develop an Aquatic Resilience Strategy that addresses each unique threat identified.	WRS	Start: 2027 Complete: est. 1 year	
CL-12.4.3 Implement the Aquatic Resilience Strategy.	WRS	Start: 2028 Complete: est. 5 years	
CL-12.5 Advocate for prioritizing maintenance of habitat integrity and function when working with regulatory agencies to determine allowed activities and uses within protected wetlands and Fish and Wildlife Habitat Conservation Areas (FWHCAs).	WRS	Start: 2025	
CL-12.5.1 Identify programs that will have a substantive impact on fish and wildlife habitat.	WRS	Start: 2025 Complete: est. 3 years	

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Goals, Policies, and Implementation Actions



Policies and Implementation Actions	Lead	Period	Notes
CL-12.5.2 Review and amend local policies, rules, and management activities to eliminate potential negative impacts on fish and wildlife habitat and take advantage of opportunities to incorporate positive impacts.	WRS, TED, PRFD, CDD	Start: 2028 Ongoing	
CL-12.6 Take early action to eliminate or control non-native invasive species, including insects and plants that take advantage of climate change, especially where invasives threaten native species or ecosystem function.	WRS	Start: 2026	
CL-12.6.1 Develop and implement a monitoring plan to assess how invasive species are spreading and impacting local plant communities.	WRS	Start: 2026 Complete: est. 2 years	
CL-12.6.2 Partner with regional stakeholders and experts to develop an Invasive Insect and Pest Management Plan based on collected data. Utilize an integrated approach that includes a wide variety of strategies, including at a minimum: (a) management of established pest infestations, (b) widespread use of and restoration of native plants resilient to regional pest threats; (c) regular monitoring activities, and (d) requirements to include invasive species prevention plans in future projects.	WRS	Start: 2028 Complete: est. 5 years	

Goal CL-13 Ensure that zoning and development decisions support compact urban development, prevent displacement, and foster system-wide resilience, including a resilient local economy.

Compact, walkable, and transit-oriented cities are vital to building community resilience. Zoning decisions should support this future, while also striving to ensure equity in decision-making.

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Goals, Policies, and Implementation Actions



Policies and Implementation Actions	Lead	Period	Notes
CL-13.1 Develop anti-displacement programs in overburdened communities when increasing densities.	CDD, WRS	Start: 2025	
CL-13.1.1 Review existing anti-displacement and equity decision-making tools and use these to develop guidance specific to Tumwater for future housing and zoning decisions.	CDD, WRS	Start: 2025 Complete: est. 2 years	
CL-13.1.2 Conduct extensive outreach activities in frontline communities at risk of displacement to collaboratively develop a set of anti-displacement strategies.	CDD, WRS	Start: 2027 Complete: est. 3 years	
CL-13.1.3 Review land use maps and Comprehensive Vulnerability Assessment findings to identify regions at high-risk of disaster displacement such as barriers to rebuilding housing in high-risk areas and develop strategies in collaboration with impacted communities to develop solutions.	CDD, WRS	Start: 2028 Complete: est. 5 years	
CL-13.2 Form a working group to secure Tumwater's economic resilience.	EXD, WRS	Start: 2025	
CL-13.2.1 Develop partnerships within the local business community and in collaboration with existing economic organizations and other stakeholders to set up a working group to analyze projected economic impacts on Tumwater.	EXD, WRS, Chambers of Commerce, EDC	Start: 2027 Complete: est. 2 years	
CL-13.2.2 Provide resources to the local Economic Resilience Working Group to inform the development of an economic resilience component of the Economic Development Plan.	EXD, WRS	Start: 2029 Complete: est. 1-2 years	



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Goals, Policies, and Implementation Actions

Policies and Implementation Actions	Lead	Period	Notes
CL-13.2.3 Coordinate with partners to incorporate continuity of operations thinking into the County's Comprehensive Emergency Management Plan.	EXD, WRS, Economic Resilience Working Group, County	Start: 2029 Complete: est. 4 years	
CL-13.2.4 Form partnerships with organizations that aid workers affected by climate change who are transitioning to new fields of employment to share their services with Tumwater community members.	EXD, WRS	Start: 2025 Complete: est. 7 years	 
CL-13.3 Embed environmental justice in City land use decisions.	CDD, WRS	Start: 2025	 
CL-13.3.1 Develop an Environmental Justice Audit process, using the State Department of Ecology guidance as well as US EPA guidance to inform Tumwater's audit process.	CDD, WRS	Start: 2025 Complete: 3 years	
CL-13.3.2 Conduct a city-wide environmental justice audit prior to amending land use designations.	WRS & CDD	Start: 2028 Ongoing as needed	
CL-13.4 Restore and maintain critical areas, non-regulated open space areas, and the floodplain to maximize climate resilience and ecosystem benefits.	WRS	Start: 2026	
CL-13.4.1 Inventory existing and projected vulnerabilities of critical areas, open spaces, and floodplain-adjacent parcels.	WRS	Start: 2026 Complete: est. 2 years	
CL-13.4.2 Identify maintenance and restoration actions needed to keep critical areas and open spaces resilient. Prepare a report outlining the recommended actions which should incorporate green and gray-green infrastructure that will enhance natural systems into recommended actions.	WRS & TED	Start: 2028 Complete: 3 years	


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Goals, Policies, and Implementation Actions

Policies and Implementation Actions	Lead	Period	Notes
CL-13.4.3 When new State best available science is issued, update critical areas ordinances.	CDD	Ongoing	
CL-13.4.4 Coordinate with FEMA to update floodplain and flood risk maps for the region based on projected extreme precipitation, increased winter streamflow, and sea-level rise due to climate change.	CDD, FEMA	Start: 2026 Complete: est. 6 years	
CL-13.4.5 Review best available science for buffers and setbacks for steep slopes vulnerable to erosion exacerbated by climate change, and establish new minimums, if necessary, so that improvements are not required to protect structures during their expected life.	CDD	Start: 2026 Reassess every 2 years	
CL-13.5 Identify and implement strategies for reducing residential development pressure in the wildland-urban interface.	CDD	Start: 2030	
CL-13.5.1 Identify areas with high fire risk and explore the feasibility of land use changes to reduce further development in these areas.	CDD	Start: 2032 Complete: est. 1-3 years	Longer expected period due to uncertainty around WUI mapping
CL-13.5.2 Establish incentives and regulations to maintain open space buffers to reduce wildfire risk.	WRS, CDD	Start: 2030 Complete: est. 3-5 years	
CL-13.6 Encourage the location of new development in areas where exposure to climate hazards is low and ecological impacts are minimized.	CDD	Start: 2025	
CL-13.6.1 Develop design guidelines for climate-resilient multi-use development. Guidelines should require residential development to be designed for passive survivability under future climate projections.	CDD	Start: 2030 Complete: est. 5 years	

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Goals, Policies, and Implementation Actions

Policies and Implementation Actions	Lead	Period	Notes
CL-13.6.2 Update the regional Transfer of Development Rights program to meet state-mandated growth requirements while preventing urban sprawl and protecting key ecosystems.	County, CDD	Start: 2028 Complete: est. 1-2 years	
CL-13.6.3 Develop hazard-specific overlay zones and create design guidelines, codes, and guidebooks that will lead to climate resilient development.	WRS, CDD, TED	Start: 2028 Complete: est. 10 years	
CL-13.6.4 Update development regulations on a regular basis to incorporate best practices for reducing the risk of wildfire, extreme heat, flooding, and other climate-exacerbated hazards.	CDD	Start: 2025 Reassess every 5 years	
CL-13.7 Support local businesses' efforts to bolster climate preparedness and continuity of operations.	EXD, WRS	Start: 2035	
CL-13.7.1 In partnership key stakeholders, draft recommendations for new building codes and incentive programs that help installation of on-site renewable energy and battery storage.	EXD, Chambers of Commerce, Thurston EDC, Economic Resilience Working Group	Start: 2035 Complete: est. 3 years	
CL-13.8 In areas with significant vulnerability to climate hazards, facilitate and support long-term community visioning including consideration of managed retreat.	CDD, WRS	Start: 2026	
CL-13.8.1 Utilize information from the Comprehensive Vulnerability Assessment to identify areas at high risk from climate impacts that will require substantial adaptation activities or the managed retreat of the entire community.	CDD, WRS	Start: 2028 Complete: est. 7 years	




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Goals, Policies, and Implementation Actions

Policies and Implementation Actions	Lead	Period	Notes
CL-13.8.2 Conduct regular outreach activities with identified high-risk communities and other key stakeholders (Transportation, developers, etc.) to educate them on risks.	CDD, WRS	Start: 2028 Ongoing	
CL-13.8.3 Review adaptation plans for communities in other cities and neighborhoods facing similar risks.	CDD, WRS	Start: 2026 Complete: est. 1 year	
CL-13.8.4 Establish long term action plans with at-risk communities, with distinct phases for different increasing levels of risk.	CDD, WRS	Start: 2027 Complete: est. 3-5 years	





Goal CL-14 Ensure that the local transportation system, including infrastructure, routes, and non-motorized travel modes, fosters connectivity and can withstand and recover quickly from climate impacts.

Although the Tumwater Transportation Plan lays out a framework for an equitable, accessible, and multimodal future for the City, it is important to address the intersection of Transportation planning and climate resilience.

Policies and Implementation Actions	Lead	Period	Notes
CL-14.1 Improve street connectivity, transit accessibility, and walkability, including sidewalks and street crossings, to ease emergency evacuation.	TED	Start: 2028	
CL-14.1.1 Assess Tumwater's street network to find gaps in street connectivity and transit access.	TED	Start: 2028 Complete: est. 5 years	
CL-14.1.2 Redesign streets in alignment with complete streets mandate where possible, eliminating connectivity gaps to facilitate smoother evacuations and create whole communities connected by safe walking routes.	TED	Start: 2035 Complete: est. >10 years	

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Goals, Policies, and Implementation Actions

Policies and Implementation Actions	Lead	Period	Notes
CL-14.1.3 Work with Intercity Transit to expand their transit program that provides evacuation aid to community members who do not or cannot drive, utilizing the vulnerable population database established by CL-10.1.2.	Intercity Transit, Fire and EMS	Start: 2029 Complete: est. 8 years	
CL-14.2 Prioritize access to and restoration of water bodies and water-adjacent sites when designing and siting new and expanded transportation infrastructure.	TED, WRS	Ongoing	
CL-14.3 Improve habitat connectivity wherever possible when constructing and redeveloping roadways.	TED, WRS. WSDOT	Start: 2028	
CL-14.3.1 Integrate habitat connectivity considerations into road construction and redevelopment projects, reviewing plans for opportunities to make roads more permeable for both aquatic and terrestrial species through actions like widening culverts.	TED, WRS, WSDOT	Start: 2028 Ongoing	
CL-14.4 Facilitate quick recovery of the whole multimodal transportation system after disruption from disasters or extreme weather events.	TED	Start: 2028	
CL-14.4.1 Develop transportation recovery plans that ensure recovery of one aspect of the transportation system does not inhibit recovery of other forms of transportation. For example, snow plowing should not restrict access to bike lanes.	TED	Start: 2028 Complete: est. 5 years	
CL-14.4.2 Prioritize infrastructure needed for the recovery of Intercity Transit in the aftermath of an extreme weather event.	TED, Intercity Transit	Ongoing	


Goal CL-15 Protect and improve water quality and availability.



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Goals, Policies, and Implementation Actions

Climate change will cause drastic and uncertain impacts to regional watersheds. Tumwater needs to prepare for potential droughts, changes in seasonal water flow, and impacts to aquatic life.

Policies and Implementation Actions	Lead	Period	Notes
CL-15.1 Manage Tumwater’s water sustainably, ensuring there is adequate quantity and quality of water available for future generations.	WRS	Start: 2025	
CL-15.1.1 Develop guidance for Tumwater residents, businesses, and developers on sustainable water management practices. Topics may include smart irrigation, drought tolerant plant selection, etc.	WRS	Start: 2025 Complete: est. 1-2 years	
CL-15.1.2 Study projected climate hazard impacts on water quality & quantity and develop strategies to protect and preserve water for Tumwater's future.	WRS	Ongoing (as new projections are available)	
CL-15.1.3 Evaluate the long-term adequacy of water delivery infrastructure to ensure that changes in hydrological patterns can be anticipated and managed effectively. Changes in hydrological patterns may include increases in flooding frequency or reduction of late-summer water availability associated with climate change.	WRS	Start: 2028 Complete: est. 3-4 years	
CL-15.1.4 Assess current groundwater reservoirs for any projected climate impacts, including saltwater intrusion, contamination, and reduced quantities. If necessary, develop and implement strategies to mitigate impacts.	WRS	Start: 2028 Complete: est. 4-5 years	
CL-15.2 Improve the City’s drought resilience through water reclamation and conservation measures, drought-tolerant landscape design, and advocacy.	WRS, CDD	Start: 2025	

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Goals, Policies, and Implementation Actions

Policies and Implementation Actions	Lead	Period	Notes
CL-15.2.1 Expand use of reclaimed water at City facilities when resources are available and expand municipal reclaimed water systems.	WRS	Start: 2026 Reassess every 2 years	
CL-15.2.2 Allow onsite non-potable water systems such as rain cisterns to reduce water demand in private-sector commercial and residential buildings.	WRS	Start: 2025 Complete: est. 4-6 years	
CL-15.2.3 Promote rain gardens, dormant lawns and lawn alternatives, as well as native and drought-tolerant landscaping choices. Secure funding to establish an incentive or rebate program for community members who use native and drought-tolerant landscaping options.	WRS	Start: 2025 Ongoing	
CL-15.2.4 Establish a demonstration area for lawn alternatives that highlights native and drought-tolerant landscaping.	WRS & Parks, Recreation, & Facilities Department	Start: 2026 Complete: est. 1 year	
CL-15.2.5 Lobby at the county health department and state level agencies for the reuse of greywater on-site in buildings for flushing toilets, irrigation.	WRS	Start: 2025 Ongoing	
CL-15.2.6 Lobby at state level to prioritize using water resources in alignment with public interests.	WRS	Start: 2025 Ongoing	
CL-15.3 Develop and implement a comprehensive drought resilience strategy that factors in projected climate impacts and sets action levels for different drought stages.	WRS	Start: 2026	
CL-15.3.1 Conduct outreach to understand current water resource needs (i.e. water-reliant livelihoods).	WRS	Start: 2026 Complete: est. 1 year	



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Goals, Policies, and Implementation Actions

Policies and Implementation Actions	Lead	Period	Notes
CL-15.3.2 Draft measures to ensure low-income residents and residents whose income relies on water availability continue to receive water at a fair rate.	WRS	Start: 2027 Complete: est. 2 years	
CL-15.4 Increase use of Low-Impact Development (LID) infrastructure projects that help capture, filter, store, and reuse stormwater runoff.	WRS	Start: 2025	
CL-15.4.1 Continue to prioritize funding for LID infrastructure projects using Stormwater Utility Funds.	WRS	Ongoing	
CL-15.4.2 For all stormwater project designs, require use of improved stormwater runoff modeling that uses future rainfall projections.	WRS	Ongoing	
CL-15.4.3 Share guidance for different types of LID best management practices with developers to use in future projects.	WRS	Start: 2025 Ongoing	
CL-15.5 Assess current and projected future water demand and water storage.	WRS	Start: 2030	
CL-15.5.1 Evaluate current water storage capacity against projected water availability and population growth to discover whether additional storage is required.	WRS	Start: 2030 Complete: est. 2 years	
CL-15.5.2 Identify preferred methods and sites for more water storage through community outreach and a comprehensive review of water storage options.	WRS	Start: 2032 Complete: est. 3 years	
CL-15.5.3 Construct and maintain new water-storage systems as needed.	WRS	Ongoing	

Goal CL-16 Expand local food justice to address climate impacts and increase access to nourishing, affordable, culturally appropriate, and climate-friendly foods while expanding local use of composting.



Climate Element

Goals, Policies, and Implementation Actions





Climate change will have inevitable impacts on access to nourishing and culturally appropriate foods, but Tumwater has an opportunity to secure a sustainable food future. At the same time, the City can address waste reduction goals by shifting food waste into composting waste streams.

Policies and Implementation Actions	Lead	Period	Notes
CL-16.1 Improve local food justice through collaboration, education, and advocacy.	WRS	Start: 2025	
CL-16.1.1 Implement the Food System Plan, updating it periodically as necessary.	CDD, WRS	Start: 2025 Complete: est. 1-2 years	
CL-16.1.2 Identify relevant stakeholders who can further sustainable, climate-adapted, and equitable food distribution in Tumwater.	CDD, WRS	Start: 2025 Complete: est. 1 year	
CL-16.1.3 Establish opportunities for the community to provide and engage in local and sustainable food production and consumption, such as farmers markets and community gardens.	WRS	Start: 2025 Complete: est. 2-5 years	
CL-16.1.4 Work with urban farms and community gardens to invest in climate-resilient water storage solutions such as natural rainwater collection.	WRS	Start: 2027 Complete: est. 3 years	
CL-16.1.5 Advocate for state-wide regulations that protect producers and consumers from climate change impacts on the food system.	WRS	Ongoing	
CL-16.1.6 Collaborate with community members to identify culturally important foods and develop strategies to secure access to these, incorporating strategies into an update to the Food System Plan.	WRS	Start: 2030 Complete: est. 2-3 years	
CL-16.2 Increase composting in urban agriculture and by private residences.	WRS	Start: 2026	
CL-16.2.1 Develop outreach materials to promote and educate on composting methods and systems.	WRS	Start: 2026 Complete: est. 1 year	

Climate Element

Goals, Policies, and Implementation Actions



Policies and Implementation Actions	Lead	Period	Notes
CL-16.2.2 Develop an incentive program for residents to install and utilize composting systems.	WRS	Start: 2031 Complete: 1-2 years	
CL-16.3 Expand consistent access to food for Tumwater community members.	WRS	Start: 2025	 
CL-16.3.1 Coordinate with the County to expand access to food bank services.	WRS, County	Start: 2025 Complete: est. 1-3 years	
CL-16.3.2 Conduct community outreach to find gaps and barriers in consistent access to nutritious food.	WRS	Start: 2026 Complete: est. 1 year	

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Climate Element

Technical Information

City of Tumwater 2025 Comprehensive Plan

Balancing Nature and Community: Tumwater's Path to Sustainable Growth

DRAFT VERSION December 2024

Updated December 31, 2024

December 2024

Ordinance No. O2025-0XX



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Acronyms and Abbreviations Used in Document

ASD – Administrative Services Department.

CBO – Community Based Organization

CCA – The [Climate Commitment Act](#) (CCA) (Chapter 310, Laws of 2021) caps and reduces GHG emissions from Washington’s largest emitting sources and industries, allowing businesses to find the most efficient path to lower carbon emissions. This program works alongside other critical climate laws and policies to help Washington achieve its commitment to reducing GHG emissions by 95% by 2050. The CCA also puts environmental justice and equity at the center of climate policy, making sure communities that bear the greatest burdens from air pollution today breathe cleaner, healthier air as the state cuts GHGs. Finally, funds from the auction of emission allowances support new investments in climate-resiliency programs, fund clean transportation, and address health disparities across the state.

CDD – Tumwater Community Development Department

City – City of Tumwater

Commerce - Washington State Department of Commerce

County – Thurston County

CPAT – Climate Policy Advisory Team

DAHPP – Washington State Department of Archaeology and Historic Preservation

EDC – Thurston Economic Development Council

EV – Electric Vehicle

EXD – Tumwater Executive Department

Fire & EMS – Fire and Emergency Medical Services Department.

FIN – Tumwater Finance Department

GHG – Greenhouse Gas

LID – Low Impact Development

PRFD – Tumwater Parks, Recreation, & Facilities Department



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RCW – Revised Code of Washington

TCAT – Thurston Climate Action Team

TED – Tumwater Transportation & Engineering Department

TMC – Tumwater Municipal Code

Tribes – Nisqually Indian Tribe, Squaxin Island Tribe, and the Confederated Tribes of the Chehalis Reservation

TRPC – Thurston County Regional Planning Council

UFMP – Urban Forestry Management Plan

WRS – Tumwater Water Resources & Sustainability Department

WSDOT - Washington State Department of Transportation

Key Terms and Definitions

15-minute neighborhood: An urban planning concept referring to neighborhoods in cities in which most daily necessities, services, and amenities (e.g., work, education, health care, shopping, recreational opportunities) can be reached by a 15-minute walk, bicycle ride, or public transportation trip. These neighborhoods tend to be relatively walkable and support a greater baseline of residential density.

Climate: The “average weather” generally over a period of three decades. Measures of climate include temperature, precipitation, and wind.

Climate change: Any significant change in the average climate of a region lasting for decades or longer. Can be measured through substantial changes in temperature, precipitation, or wind. Climate change may result from natural factors and from human activities that change the atmosphere’s composition and land surface.

Climate refugia: Areas that continue to resist the impacts of anthropogenic climate change, allowing valued and culturally significant physical, ecological, and socio-cultural resources to continue to survive and even thrive amidst a changing landscape.¹

Environmental Justice (EJ): The fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to environmental laws, rules, and policies (RCW)

¹ Morelli, T.L.; Millar, C. 2018. Climate Change Refugia. USDA Forest Service Climate Change Resource Center. <https://www.fs.usda.gov/ccrc/topics/climate-change-refugia>



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70A.02.010(8). Environmental justice includes addressing unfair environmental and health impacts in all laws, rules, and policies by:

- prioritizing vulnerable populations and overburdened communities,
- the equitable distribution of resources and benefits, and
- eliminating harm.

Food Justice: Assumes consistent access to nutritious, affordable, and culturally relevant food to be a human right that should be secured and protected.

Frontline Community²: Those communities that experience the effects of climate change “first and worst” while also having significantly lower capacity to adapt and reduced access to resources and political power to respond to those risks. Though not limited to these groups, frontline communities generally include communities of color, Indigenous peoples, and low-income communities. These communities have also not historically had access to City decision making processes.

Gray-green infrastructure: stormwater management systems used in places where gray infrastructure cannot be entirely phased out without losing functionality, but some green elements can be introduced to increase the resilience of the system and improve the local ecology.

Green infrastructure: Stormwater management systems that mimic natural systems, capturing and absorbing or diverting rainwater where it falls.

Greenhouse gas (GHG): Any gas that absorbs heat in the atmosphere; examples include carbon dioxide, methane, nitrous oxide, ozone, and water vapor.

Managed retreat: The voluntary movement and transition of communities away from regions likely to become unsustainable for life due to climate change impacts. Primarily a tool used in coastal regions to move communities away from sea level rise impacts, but increasingly a tool used in planning for other climate hazards.

Native species: Any plant, fungus, or animal species native to our area. In the US, this only includes species present in the region prior to the arrival of European settlers.³

² In the Climate Element the term “frontline community” is preferred as it does not carry the disempowering and othering connotations of the terms “overburdened community” and “vulnerable population.” However, the latter terms carry legislative meaning, with precise definitions in Washington State law and policies that direct funding for and engagement with these groups. All three terms will be used throughout the goals, policies, and implementation actions contained in this Element. “Frontline communities” will be the preferred term where the legislative context is not relevant, while “overburdened community” and “vulnerable population” will be used where the precise definitions are key to enacting the policy

³ United States Department of Agriculture, n.d. “What is a native plant?” <https://www.usda.gov/peoples-garden/gardening-advice/why-native-species-matter>



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Overburdened Community⁴: According to RCW 70A.02.010 (11), denotes a geographic area where vulnerable populations face combined, multiple environmental harms and health impacts, and includes, but is not limited to, highly impacted communities as defined in RCW 19.405.020.

Passive survivability: Building to ensure that residences will remain at a safe temperature for occupants if the power goes out and that they will overall require less power to keep at a regulated temperature. Can also entail building single-family residences with one room designed to maintain comfortable temperatures or multifamily residences with a designated common area designed to serve this same function. Building for passive survivability also reduces demand on local energy infrastructure.

Vulnerable Populations⁵: According to RCW 70A.02.010 (14), includes population groups that are more likely to be at higher risk for poor health outcomes in response to environmental harms, due to: adverse socioeconomic factors, high housing and transportation costs relative to income, limited access to nutritious food and adequate health care, linguistic isolation, and other factors that negatively affect health outcomes and increase vulnerability to the effects of environmental harms; and sensitivity factors, such as low birth weight and higher rates of hospitalization. Vulnerable populations can include but are not limited to: racial or ethnic minorities, low-income populations, populations disproportionately impacted by environmental harm, and populations of workers experiencing environmental harm.

⁴ See Note 1

⁵ See Note 1

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1. Introduction

A. Background

The Climate Element is part of Tumwater's Comprehensive Plan. It was created to meet the new state Growth Management Act (Chapter 36.70A RCW) requirements laid out in HB 1181 to adapt to and mitigate the effects of a changing climate.

The objectives of this climate element are twofold. The first sub-element addresses reducing Tumwater's greenhouse gas emissions to achieve net zero goals set by the State of Washington. The second sub-element focuses on adapting to climate impacts that are already being felt across the region. This climate resilience sub element aims to address those impacts that cannot be avoided regardless of whether the City reaches its net zero goals.

The Element addresses:

1. Climate Mitigation

- Building-Scale Emissions Reduction
- Transportation and VMT reduction
- Carbon Sequestration

2. Climate Resilience

- Adaption strategies across 11 key sectors
 - Agriculture and Food Systems
 - Buildings & Energy
 - Cultural Resources
 - Economic Development
 - Ecosystems
 - Emergency Management
 - Health & Well-being
 - Transportation
 - Waste Management
 - Water Resources

- Zoning & Development

3. Climate Equity

- Embedded throughout both sub-elements
- Addressing inequities in climate impacts and access to resources

The Growth Management Act requires that the City demonstrate that each Element in its Comprehensive Plan meets the relevant fifteen planning goals contained within the Act. The fifteen goals in turn guide the development and adoption of the City's Comprehensive Plan and development regulations.

The new Climate Element addresses the Growth Management Act goal related to Climate:

- 14. *Climate change and resiliency.*** *Ensure that comprehensive plans, development regulations, and regional policies, plans, and strategies under RCW 36.70A.210 and chapter 47.80 RCW adapt to and mitigate the effects of a changing climate; support reductions in greenhouse gas emissions and per capita vehicle miles traveled; prepare for climate impact scenarios; foster resiliency to climate impacts and natural hazards; protect and enhance environmental, economic, and human health and safety; and advance environmental justice.*

The Climate Element has specific guidelines and policies that delineate what must be covered across the two sub-elements.

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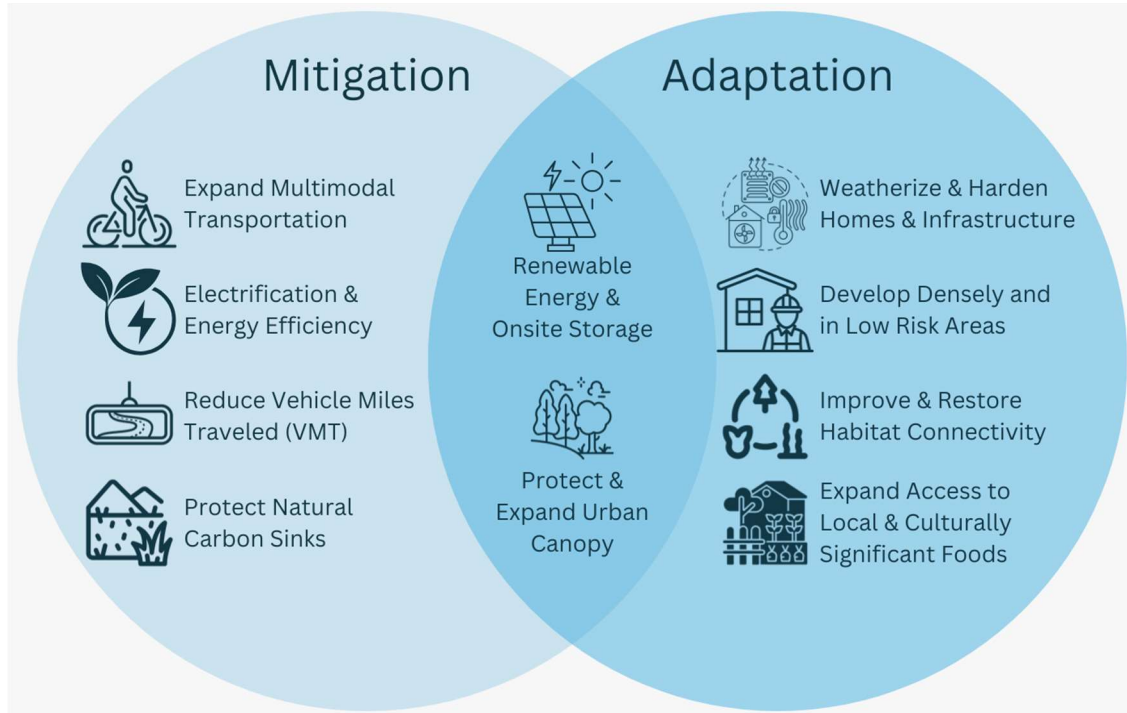
The state legislature added the Growth Management Act climate change and resiliency goal in 2023. The Climate Element is made of two sub-elements: a GHG Emissions Reduction sub-element and a Resilience sub-element. The GHG Emissions Reduction sub-element contains specific policies designed to guide the City towards Washington State’s goal of net-zero by 2050. The Resilience sub-element policies direct climate adaptation measures.

This Element and implementing ordinances were developed with public input as described in the Public Outreach Plan required by the Growth Management Act. This chapter is also based on the updated list of additional supporting plans, documents, and best available science found in Appendix A.

Tumwater has a long history of pursuing sustainability goals and leading the region on

efforts like tree canopy preservation and expansion and working across jurisdictions to advance climate mitigation action. In recent years, however, it has become apparent that some climate impacts cannot be avoided. Therefore, the City must pursue climate resilience or adaptation measures as well to ensure Tumwater residents can survive and thrive while continuing to push for global climate mitigation. Resilience and mitigation actions are not discrete categories. There are several key areas of overlap across the two. For instance, preserving and expanding tree canopy cover provides both resilience and mitigation benefits. This provides shade and cooling benefits that protect residents from heat waves while sequestering carbon. When Tumwater preserves and expands tree canopy we get closer to our new goal of Net Zero by 2050.

Figure 1. Climate Mitigation and Adaptation have distinct goals, but there are many co-benefits for pursuing these actions.



Commerce requires two separate sub-elements addressing these two focus areas. At times there are actions that appear to be missing but are instead addressed in the other sub-

element. Throughout the Climate Element, policies and goals were prioritized where they provided co-benefits with environmental justice and climate equity goals.

B. Methodology

Tumwater’s Climate Element was established through a phased, multilateral process with analytical, public outreach, and regulatory inputs.

1. Regulatory, policy, and planning drivers

All planning and policy documents for the region that addressed any aspect of climate mitigation or resilience were gathered and reviewed for relevance to the development of the Climate Element. The documents that were determined to be the most relevant based on recency, policy robustness and focus on climate mitigation or resilience, were reviewed more thoroughly. Through this review, the City identified what Tumwater and the region have accomplished and what gaps remain. The details of this policy gap analysis, including the documents reviewed and breakdown of policies by sector and focus area can be found in Appendix A.

2. Climate Policy Advisory Team

Commerce issued guidance that suggests jurisdictions should create an interdisciplinary group of planners, public works professionals, and community members with a focus on helping to prepare the Climate Element, otherwise referred to as a Climate Policy Advisory Team (CPAT). CPATs are intended to do the following:

- support the analysis of climate information;

- provide recommendations on short- and long-term goals;
- center equity in the creation of policy and the implementation of the Climate Element; and
- represent community voices across the community, particularly overburdened communities.

The City of Tumwater issued invitations to interested individuals within and outside of the city, aiming to capture a mix of representation including:

- subject matter experts including academia and research institutions
- local businesses,
- public officials from the City and the County, and
- frontline communities.

The resulting 11 member CPAT was engaged continuously and substantively throughout the Climate Element Planning process, providing feedback and advice with respect to the following issues and questions:

- Vision and Alignment:
 - What is the short- and long-term vision for this Climate Element?
 - How does the City align its Element with other city and regional climate plans and community feedback and priorities?

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- Public Engagement:
 - How should the City engage with residents on the issue of climate change?
 - Who are the priority groups and individuals to engage?
 - What are the appropriate times and venues for engagement?
- GHG Reduction and Resilience Analyses:
 - Do the findings of the emissions inventory and climate vulnerability and risk analyses align with the community's lived experience?
 - How do we effectively and thoughtfully use these analyses to inform the goals and policies in the Climate Element?
- Policy Development and Planning:
 - What should the goals and measures be in this Climate Element?
 - Do the respective sub-elements satisfy and align with findings from our analyses and with input from community members?

The CPAT provided direct input and completed multiple rounds of review on the goals and policies throughout the Climate Element. The City expects that CPAT will continue to provide advisory on an as-needed basis to the City of Tumwater as it moves forward with implementing the Climate Element.

3. Public Engagement

Public outreach and engagement were critical components of the Climate Element planning process. The City of Tumwater presented its

Public Engagement Strategy on the City's Comprehensive Plan Update in July 2023. The City developed an addendum to this strategy specific to the Climate Element in June 2024. This addendum detailed the City's approach to engaging community members on the GHG Reduction and Climate Resilience sub-elements.

The City's public engagement strategy for the Climate Element was focused on providing community members with equitable and ongoing access to the planning process. This entailed direct engagement with City staff, as well as multiple in-person and virtual opportunities to provide input on the Climate Element. The City also considered planning fatigue as a limitation, since other elements of the Comprehensive Plan Update were being developed at the same time as the Climate Element. The City utilized two key approaches to engagement for all chapters of the Comprehensive plan including the Climate Element:

- Public workshop: An in-person workshop where participants reviewed GHG reduction and climate resilience analyses, with the intent to learn more about the community's lived experience and vision for the Climate Element;
- Online Story Map: An online platform that provides all relevant analytical and qualitative information pertaining to the two sub-elements. The Story Map set up for the Climate Element provided ongoing feedback to the City throughout the initial development of the Climate Element.

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2. Equity and Environmental Justice

A. Introduction

The City of Tumwater recognizes that climate change, inequity, social justice, and environmental justice are inextricably intertwined. The root causes of climate change and environmental justice are the same – they are systemic outcomes of the exploitative extraction of natural and human resources. Communities across the world, including Tumwater, have suffered from the inequitable distribution of benefits and burdens that are especially relevant to the issue of climate change.

Frontline communities are groups of people that typically experience the impacts of climate change ‘first and worst.’ They are often made up of marginalized populations, such as Black and Indigenous communities of color and low-income individual and households. Frontline communities are often located in areas that are more exposed to certain climate hazards. They have historically had less political power and fewer resources. They may not have the capacity to respond to these risks due to inflexible work policies or positions. For example, some employers may not pay work is suspended due to a hazard event.

For these reasons, the Climate Element and the Comprehensive Plan more broadly will place the issues of environmental justice and climate equity at the center of planning efforts by establishing goals related to these core problems.⁶ Centering equity principles is

⁶ One of the overarching goals (CL-1) that guides policy in both sub-elements focuses exclusively on equity and environmental justice, while both sub-elements contain

essential for the development of a plan that ensures frontline communities aren’t adversely impacted further by new plans and policies.

1. Community Engagement

Effective community engagement is centered around the following traits:

- mutually beneficial;
- recognizes and values the contributions of all participants;
- focuses on strengths and successes; and
- ensures that all voices are equally respected in shaping decisions whether based on lived experience or technical knowledge.

Tumwater held a public workshop that invited residents to identify priorities and solutions. The in-person workshop was designed to encourage community members who might not always feel welcome or choose to attend public forums to participate. The workshop was held in the ASHHO Cultural Community Center and advertised extensively by City Staff. Over 60 community members attended the workshop. They visited three different stations to learn about and share their lived experience and opinions on GHG reduction strategies, climate hazards and resilience, and local governance. A full summary is included in Appendix B.

specific policies and actions that further equity. A full list of equity-focused policies and actions can be found in Appendix C.



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2. Equity Goals

All community members, regardless of their background, have an opportunity to benefit from policies and programs. Equity in this strategy is essential to ensure that all communities can participate in and benefit from policies in a fair and inclusive way. Tumwater developed a series of goals and policies to address these concerns using targeted universalism. This means that universal goals are set for everyone, but the targeted approaches are tailored to meet the unique needs of different groups. Using this approach ensures that all communities can achieve the same outcomes, even if the methods differ.⁷ This approach integrates various forms of equity, including:

- procedural equity, which ensures that everyone can participate in decision-making;
- distributional equity, which ensures that benefits and burdens are shared fairly;
- structural equity, which addresses historical and systemic inequalities; and
- transgenerational equity, which ensures that decisions made today consider their impact on future generations.

Together, these principles create a more inclusive, fair, and sustainable approach to community engagement and policy development.

⁷ Throughout the Climate Element, policies that require community members to meet new, more stringent codes or assessment requirements are supported by implementation actions that call for creating subsidy or rebate programs or developing funds to support low-income community members (see: [CL-10.1](#), [CL-10.1.2](#)).

The following equity goals aim to empower underserved communities, enhance access to resources, and ensure that all voices are represented in decision-making processes. In developing the Climate Element, the City made sure to:

- Develop an accessible, equitable, and engaging Element;
- Meet people where they are and ensure that all engagement efforts are accessible and equitable. This means not excluding anyone with certain health, physical, or working conditions, and it requires that needs around language, mobility, or family care are thoughtfully addressed;
- Focus on reducing inequalities and fostering greater community ownership⁸ of the Climate Element which will lead to more equitable outcomes to benefit frontline communities; and
- Seek how best to intentionally allocate resources to overcome the cumulative impacts of institutional racism on historically underserved and under-represented people.

3. Frontline Communities

In Tumwater, frontline communities face disproportionate challenges related to housing affordability, environmental stressors, and access to essential resources. Since these challenges are disproportionate they require targeted interventions to center equity and

⁸ All policies and actions that were developed by or with the CPAT or originated from a suggestion from the public workshop or virtual open house are flagged as Community-Identified Priorities so that community members can see their input in action.

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resilience. To address these disparities, the city must identify overburdened communities and vulnerable populations within its jurisdiction. Tumwater is making intentional efforts to understand the cumulative threats these communities face.

Tumwater has aligned with the motto, “no data without stories and no stories without data.” Data confirmed by lived experience can inform how land use planning and policy adjustments may alleviate these issues in ways that align with community needs. To get those stories, the City must:

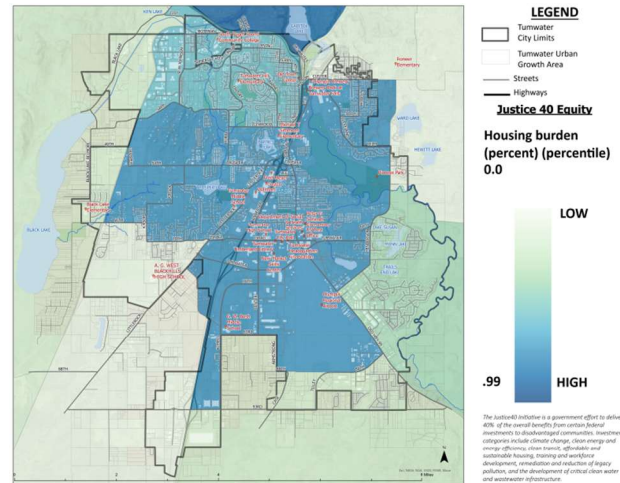
- prioritize collaboration with impacted communities;
- build community capacity; and
- foster meaningful relationships with community members and community-based organizations.

This work ensures support is both impactful and aligned with local priorities. Tumwater's equity goals align closely with the Justice40 Initiative. The Justice40 Initiative aims to ensure historically disadvantaged communities receive benefits from infrastructure investments, including clean transit investments. Throughout this project, Justice40 and other equity-related data were used to inform decisions and guide resource allocation.

Housing Burden

The Justice40 Equity framework is applied in Tumwater to address housing affordability. This focuses attention on areas where communities are disproportionately burdened by high housing costs. The city can identify where resources and support should be allocated to reduce financial strain on households. This

Map 2. Map of Tumwater with a Justice40 overlay that displays the differences in Housing Burden across the City.



“Most of us senior citizens do not have the money to add insulation, although we are exposed to the increase in temperatures more rapidly than most stick-built homes. Help us upgrade the mobile homes we live in. Our rent is being increased annually and on a reduced fixed income leaves little money for improvements.”

approach aligns with federal initiatives aimed at directing 40% of benefits from federal investments to underserved and overburdened populations. Reducing housing burdens contributes to broader goals of increasing housing equity, improving affordability, and fostering resilient communities.

Unemployment Rates

Applying the Justice40 Equity framework to unemployment rates aims to address disparities in employment opportunities, particularly in areas with higher rates of joblessness. Identifying regions with elevated unemployment levels allows the city to prioritize economic development initiatives, job

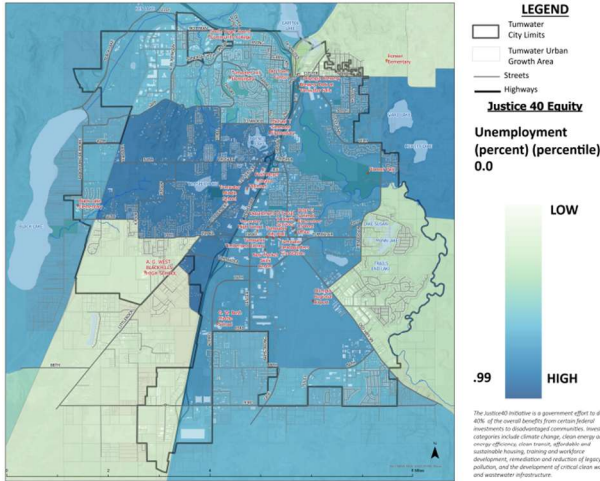


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training programs, and workforce support services for communities most in need. This data-driven approach is critical for fostering economic resilience and reducing inequities.

Map 2. Map of Tumwater with a Justice40 overlay that displays the differences in Equity across the City.



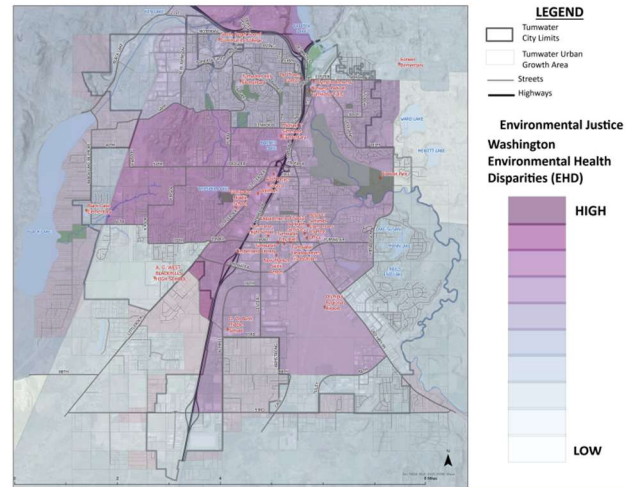
“Something that improves the lives of poor and working class people. More bike and ped infrastructure in Tumwater - make it not only safe, but inviting for people to get out of their cars..”

Environmental Health Disparities

The Environmental Health Disparities (EHD) analysis in Tumwater highlights areas with higher environmental justice concerns. This analysis shows where communities may be more vulnerable to pollution, health risks, and other environmental hazards. By identifying regions with elevated environmental health disparities, Tumwater can target these areas for interventions to:

- mitigate health risks,
- improve air and water quality, and
- enhance access to green spaces.

Map 3. Map of Tumwater with an Environmental Justice overlay that displays environmental health disparities.



“During the June 2021 heat wave, I experienced heavy sweating, heart racing and flushing. It felt like my brain was in a fog and I felt weak and fatigued. I recognized these symptoms as the symptoms of heat exhaustion and went to the mall to escape the heat for a while. We did not have air conditioning in our home, and as there was almost no wind, opening the windows couldn't help. Our house got hotter than it was outside. I am 71 years old, so such heat is especially dangerous for my health”

This approach aligns with the principles of environmental justice, ensuring that communities disproportionately affected by environmental and health challenges receive focused support, resources, and protections to improve overall public health and quality of life.

4. Evaluating Equity within Strategies

When communities can actively participate in decision-making, policies are more likely to reflect local realities and provide meaningful,

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sustainable impacts. Collaborative governance empowers the communities most affected by social and environmental challenges, fostering self-determination and reducing systemic inequities. Targeted benefits emphasize the right to healthy environments. This approach also explicitly prioritizes support for those experiencing the highest cumulative risks.

Each measure is assessed in accordance with the Intermediate Planning Guidance’s Equity Criterion Matrix which helps determine if the measure is deemed equitable in its respective jurisdiction. The matrix, as shown in Table 1 provides questions for co-governance, targeted benefits, just responsibility, and wealth building considerations/sub-considerations to assess for each climate measure.

Table 1: Washington Department of Commerce’s Equity Criterion Matrix

Co-Governance

Consideration: Does the measure show potential to build self-determination for frontline communities of color and/or low-income communities?	Sub-considerations: Are communities' most impacted identifying their needs and solutions? Do they have the ability to meaningfully shape the decisions in implementation?
--	--

Targeted Benefits

Consideration: Is the measure clear about rights to healthy communities, and explicit in targeting interventions to communities furthest from achieving those rights?	Sub-considerations: Do the goals and targets recognize our fundamental rights to healthy environments and communities? Do the strategies prioritize those most at risk from highest cumulative impacts?
---	--

Just Responsibility

Consideration: Does the measure show potential to directly limit harm and hold offenders responsible? Does it prioritize effectiveness?	Sub-considerations: Is the solution directly stopping the problem? Is it making anything worse? Are those causing the greatest harm held most accountable?
---	---

Wealth Building

Consideration: Does the measure show potential to invest in and sustain local livelihoods, starting with communities with the greatest barriers to meeting their needs?	Sub-considerations: Are we supporting production by local communities for local communities, based on a principle of using local resources and living wage labor?
---	---

Using this system of continuous engagement and evaluation of equity criteria throughout plan development, 24% of the policies and 27% of the actions in the Climate Element directly address issues of equity. Additionally, 10 of the plan’s 16 goals contain equity considerations.

Frequent and multifaceted public engagement also led to a plan in which 19% of the policies and 18% of the actions were developed directly out of requests, input, and ideas generated through the public workshop, virtual open house, and CPAT meetings.

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3. Greenhouse Gas Reduction

A. Introduction

Under HB 1181, cities and counties that are required to prepare Climate Elements as part of their Comprehensive Plans must include a sub-element on greenhouse gas (GHG) emissions reduction. The City of Tumwater’s GHG Reduction Sub-Element **dictates the City’s approach to eliminating GHG emissions towards achieving net-zero emissions by 2050**, with interim targets for municipal and community-wide emissions.

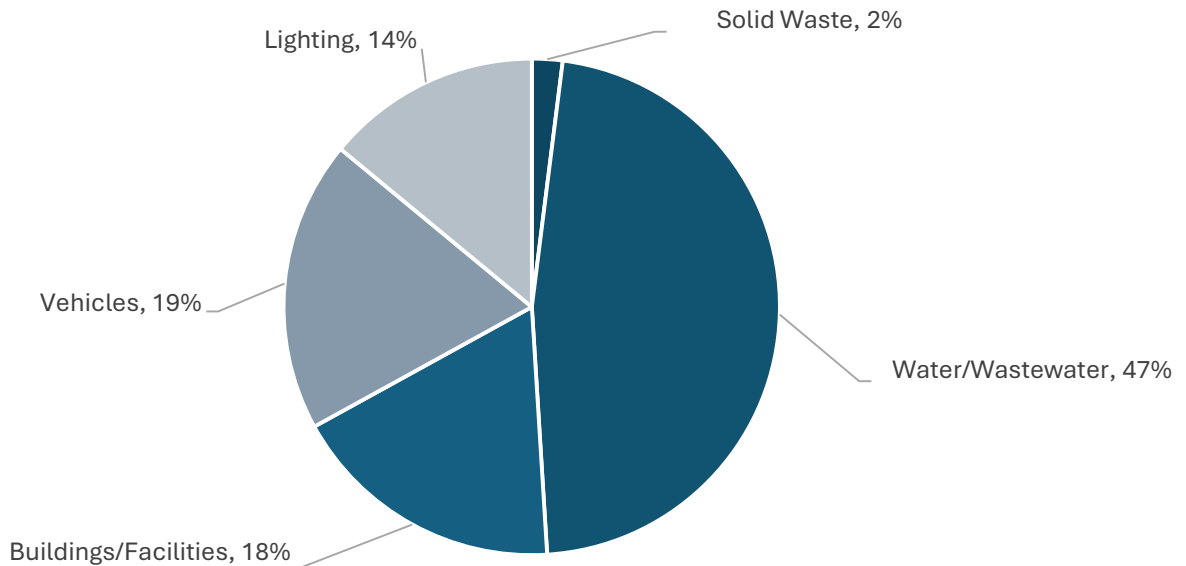
1. Greenhouse Gas Emissions

Greenhouse gases refer to specific gaseous compounds that trap heat from the sun after it radiates from the Earth’s surface. GHGs include, but are not limited to, carbon dioxide (CO₂), methane (CH₄), and nitrous oxide (N₂O). Some greenhouse gases are naturally occurring, or ‘biogenic,’ whereas others are produced by

human activity, or are ‘anthropogenic.’ Greenhouse gases are essential to life on earth: they prevent heat from escaping Earth’s atmosphere.

However, increased anthropogenic emissions from burning fossil fuels and land use changes like deforestation, have rapidly and significantly increased the concentration of GHGs in the Earth’s atmosphere. This increased volume has resulted in a global warming effect that is shifting climate and weather patterns across the world. This phenomenon has far-reaching impacts on communities, infrastructure, ecosystems, and wildlife (see Section 4 on “Climate Resilience”). As a result, it is critical that cities like Tumwater take action to reduce anthropogenic GHG emissions, and to do so as quickly as possible.

Figure 2. City of Tumwater 2023 Municipal GHG Emissions Inventory





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2. Measuring and Reducing Emissions

Tumwater developed a series of goals and policies to reduce greenhouse gas emissions across the city. These were informed by municipal and community-wide GHG emissions inventories, providing an accounting of the city's largest sources of GHG emissions.⁹ The City drew upon these emissions inventories to help determine the specific goals and policies for the GHG Reduction Sub-Element. These goals and policies align with feedback from community members, the Thurston County Climate Mitigation Plan, and statewide regulations and climate goals.

3. Greenhouse Gas Emissions Targets

The City of Tumwater's GHG Reduction Sub-Element dictates the City's approach to eliminating GHG emissions towards achieving net-zero emissions by 2045. The City has identified specific interim targets for municipal emissions (i.e., emissions from City-owned assets, operations, and services) and community-wide emissions (i.e., emissions from various sectors across the city of Tumwater, including but not limited to residential, commercial, and transportation sectors).

Municipal emissions goals

Based on the City's current municipal emissions, Tumwater is **establishing an interim target of reducing emissions by 50% from 2023 levels by 2030 on its way to net-zero emissions by 2045**. These municipal emissions milestones keep the City ahead of statewide emissions reduction goals through both 2030 and 2045.

⁹ Greenhouse gas emissions are measured in metric tons of carbon dioxide equivalent (MTCO_{2e}).

Community-wide emissions goals

Based on the City's current community-wide emissions, Tumwater is establishing an interim target of reducing emissions by 45% from 2023 levels by 2030, and 70% by 2040 on its way to net-zero emissions by 2045. These milestones align with statewide emissions goals through 2040, while exceeding the State's requirements by 2045.

4. Municipal Operations Greenhouse Gas Emissions

For this Climate Element, the City of Tumwater is utilizing a municipal inventory of its GHG emissions from calendar year 2023. Per the Washington State Department of Commerce's Intermediate Guidance on GHG Emissions-Reduction Pathways, the City exercised Pathway 3 – Create GHG Emissions Inventory, coordinating with an external expert to prepare a comprehensive municipal emissions inventory for 2023.

In that year, Tumwater's municipal emissions totaled 3,821 MTCO_{2e}, with the leading sources of emissions including electricity used to provide water and wastewater services to residents (47%), gasoline, diesel, and electricity used to power city vehicles and equipment (19%), and electricity and natural gas used to power the City's municipal buildings and facilities (see Figure 2).

Water and wastewater services

Water and wastewater services are critical operations for the City of Tumwater and residents. The emissions from these operations

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are 47% of the City of Tumwater’s municipal emissions. The emissions from electricity used to provide water and wastewater services to the city largely stem from water wells and wastewater lift stations. Electricity is used to power pumps in water wells and wastewater lift stations.

Fleet vehicles

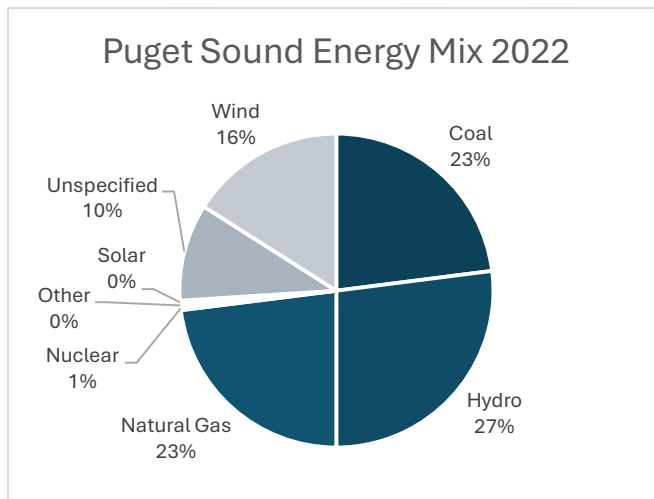
Emissions from the City’s fleet vehicles make up 19% of municipal emissions. Of these emissions, 75.5% are attributed to gasoline fuel vehicles, while 24.3% are attributed to diesel fuel vehicles. Electric vehicle (EV) emissions contribute 0.2% of vehicle emissions for the City of Tumwater’s fleet.

Municipal lighting makes up approximately 14% of the city’s municipal GHG emissions. Municipal lighting includes traffic signals, streetlights, lights, and other outdoor lighting throughout the city.

Electricity and power content

Much of the City’s GHG emissions can be attributed to the electricity used to power its

Figure 3. Puget Sound Energy 2022 Power Content Mix



¹⁰ The Washington State Department of Commerce funded the development of GHG emissions inventories for

assets. Emissions from this source are directly attributed to the power content of the electricity that the City procures from its utility, Puget Sound Energy (PSE). Under the State’s Clean Energy Transformation Act, utilities like PSE are required to provide fully clean, renewable energy by 2045. As of 2022, PSE’s electric power content (see Figure 3) includes natural gas (23%) and coal (23%), which explain much of the emissions coming from the City’s electricity use. As PSE’s power content improves and more clean energy sources are used to power the electric grid, emissions from municipal assets will decline.

5. Community-Wide Greenhouse Gas Emissions

The City did not conduct its own community-wide GHG emissions inventory. Instead, Tumwater’s community-wide emissions were derived from the 2022 Thurston County GHG emissions inventory.¹⁰ Community emissions includes those produced by residential, commercial, industrial and agricultural and other activities outside municipally owned assets and operations. While this emissions inventory accounts for jurisdictions and land area that falls outside of the jurisdiction of Tumwater, it still provides key insights into emissions across different sectors. , Tumwater exercised Pathway 1 – Conduct GHG Emissions Estimate – according to Commerce’s Intermediate Guidance to derive its community-wide emissions from another source.

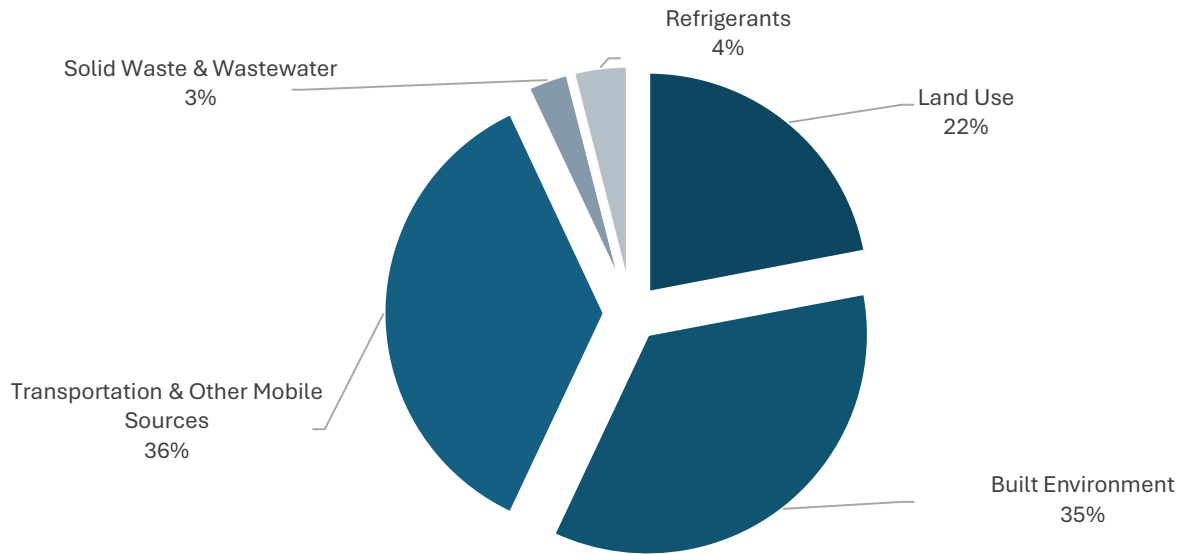
Thurston County GHG emissions in 2022 (see Figure 4) amounted to 4,240,135 MTCO_{2e} (or 14.1 MTCO_{2e} per capita). A majority of

the State’s eleven largest counties, including Thurston County.

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Figure 4. Thurston County 2022 Community-wide GHG Emissions



countywide GHG emissions are from the transportation sector (36%), which largely comprise emissions from on-road vehicles (e.g., passenger vehicles, freight and service vehicles etc.). Other transportation emissions can be attributed to:

- public transit,
- off-road equipment,
- aviation, and
- marine and rail.

The built environment makes up the second largest source of emissions in Thurston County (35%), largely stemming from natural gas and electricity to power buildings.

In 2022, Thurston County had approximately 19,518 acres of agricultural cropland. Land use from agricultural activities contributed 22% of GHG emissions countywide, with nearly half of those emissions stemming from methane production at dairy farms. Land use emissions

also include emissions from tree cover loss in the county.

Smaller sources of GHG emissions countywide include:

- emissions from solid waste and wastewater (3%), which include generation and disposal of solid waste, commercially processed compost, and wastewater treatment, and
- emissions from refrigerants (4%), which include use and leakage of hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and CO₂ from ozone depleting substances (ODs) that are used to cool buildings and other assets.

Vehicle Miles Traveled and Land Use

Vehicle Miles Traveled (VMT) is a measure of the number of miles traveled by vehicles in a geographic area. In 2023, the Thurston County VMT was 2,404,917,000 total, and 7,927 per



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capita. Increasing public transit ridership, carpooling, and increasing modes of active transit (biking, walking) all reduce VMT, and emissions from transportation.

VMT can also be reduced through land use and urban planning. Urban sprawl increases the number of miles for daily trips such as commuting to work, or running errands. Denser

city development reduces VMT by reducing the distance of these trips. Additionally, planning public transit routes, bike lanes, and micro mobility between denser areas of housing and commercial centers contributes to lowering VMT.

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4. Climate Resilience

A. Introduction

Climate adaptation aims to prepare a community for the inevitable impacts of climate change. These impacts are already being felt and can no longer be lessened by climate mitigation activities alone. At the core of climate adaptation is community resilience. The goal of resilience is that a community not only recovers after a climate-related disaster but bounces back better. Effective resilience requires policies that support a mix of disaster preparedness, response, and recovery activities. Policies should also address systemic underlying issues. Climate adaptation can include:

- repairing and enhancing existing infrastructure,
- restoring natural systems that provide a variety of ecosystem services,
- providing educational resources on individual resilience actions, and
- enacting policies that provide legal protections.

During implementation it is important to continuously engage broadly across the entire community to ensure adaptation actions are:

- equitable,
- provide benefits for frontline communities, and

- designed to avoid or mitigate unintended negative consequences.

Effectively building resilience requires acting across all sectors:

- Agriculture and Food Systems,
- Buildings & Energy, Cultural Resources,
- Economic Development,
- Ecosystems,
- Emergency Management,
- Health & Well-being,
- Transportation,
- Waste Management,
- Water Resources, &
- Zoning & Development.

Tumwater has combined these 11 sectors into 8 focus areas:

1. Buildings & Energy
2. Community Well-being & Preparedness
3. Cultural Resources
4. Ecosystems
5. Local Economy, Zoning & Development
6. Transportation
7. Water Resources
8. Agriculture, Food Systems, & Waste Management

B. Projected Climate Impacts

Tumwater is exposed to many natural hazards, several of which are projected to be exacerbated by climate change in the coming decades. Although the city has laid out mitigation actions

for high-risk hazards through the County's Hazard Mitigation Plan (HMP), the mitigation actions laid out in the HMP plan were not created through a climate lens. Further,

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traditional hazard mitigation tends to focus on infrastructure upgrades alone, neglecting social, behavioral, and institutional adaptation actions.

All of these must be implemented in conjunction with infrastructure to effectively build resilience to climate change impacts.

Table 2: Tumwater Climate Projections, Low & High Emissions (Data Source: Climate Impacts Group Climate Mapping for a Resilient Washington Tool)

Climate Projection	By 2100	
	Low emissions scenario	High emissions scenario
Average summer temperature in June-August	↑ 5.4°F increase	↑ 9.5°F increase
Summer maximum temperature	↑ 4.7	↑ 9.6
Number of hot days (humidex over 90 degrees)	↑ 29.1 days	↑ 58.2 days
Total annual precipitation	<i>no data</i>	↑ 5.1% increase
Intensity of extreme rainfall events (change in the magnitude of 2-year storms)	<i>no data</i>	↑ 14% increase
Percent change in the magnitude of 25-year storm	<i>no data</i>	↑ 25% increase
Peak streamflow	↑ 15% increase	↑ 14% increase
Return interval of 25-year peak streamflow	↓ 9.6 years	↓ 13.8 years
Likely sea level rise	↑ 2.17 ft. increase	↑ 2.67 ft. increase
Change in high fire danger days	↑ 7 days (<i>by 2040</i>)	↑ 10 days (<i>by 2040</i>)
Precipitation drought (likelihood of a year with summer precipitation below 75% of historical normal)	<i>no data</i>	↑ 38% increase
Total late summer precipitation July-September	<i>no data</i>	↓ 22% decrease
Percent change in April 1 snowpack	<i>no data</i>	↓ 100% decrease

By 2050, Tumwater is projected to experience hotter temperatures, especially during the summer months, with higher average temperatures and a greater number of days each year that are considered extremely hot. The City will also experience more frequent and more intense precipitation events, with no projected change in annual rainfall but less precipitation falling during the summer months. There will also be a reduction in winter snowpack and an earlier start to seasonal snowmelt, resulting in altered streamflow regimes. Although Tumwater is not projected to experience drastic sea level rise in this period, the city could begin to experience impacts on groundwater water

quality due to saltwater intrusion or other climate-related impacts.

All of these projected impacts will lead to more frequent and more intense disaster events in the City, including:

- more extreme heat waves,
- more frequent and severe urban and riverine flooding,
- a higher likelihood of wildfires and the accompanying risk of smoke,
- a higher likelihood of drought due to high temperatures and lack of summer rain, and

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- a higher risk of landslide activity due to heavier rainfall, saturating soils and wildfires removing supportive root structures.

Tumwater is also projected to experience an increase in vector-borne illnesses, pollen-related air quality issues, and other public health hazards.

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Appendix A Foundational Documents

The purpose of this gap analysis was to evaluate the existing policy framework to identify both its strengths and weaknesses. The analysis focused on assessing policies in the areas environmental, economic, and community aspects, while also evaluating responses to various risks such as climate change impacts and natural disasters.

The analysis aimed to provide a comprehensive understanding of the current policy landscape, highlighting both effective areas and critical gaps and shortcomings in policies. The overall goal was to develop a more comprehensive and inclusive policy framework that effectively addresses diverse needs and challenges, thereby enhancing community well-being and ensuring long-term sustainability.

An extensive literature review compiled a total of 107 resources to explore climate planning and mitigation strategies. These resources covered a wide range of topics including:

- forestry and urban green spaces,
- transportation and air quality,
- equity and community involvement,
- regulatory and policy frameworks, as well as
- hazard and risk management.

From this comprehensive collection, a detailed policy analysis focused on key plans to assess their content and relevance. 362 relevant policies were extracted from the 16 plans shown in the table below.

Table 3: Data Gap Analysis Documents

Plan	Description
Thurston County Hazard Mitigation Plan (2023)	Outlines a multi-jurisdictional strategy to reduce the risks of the most destructive natural hazards such as floods, earthquakes, and wildfires that threaten communities in Thurston County.
Thurston Climate Adaptation Plan (2018)	Climate Resilience Actions for Thurston County and South Puget Sound.
Thurston County Climate Mitigation Plan (2020)	Lays out a roadmap for continuing regional collaboration on reducing local contributions to climate change and actions that can help to achieve GHG reduction goals.
Clean Energy Transformation Act (CETA) (2019)	CETA aims to transition Washington to a clean energy economy by eliminating coal-fired electricity by 2025, achieving 100% carbon-neutral electricity by 2030, and 100% carbon-free electricity by 2045.



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Tumwater Urban Forestry Management Plan (2021)	Lays out goals and recommendations for sustainably managing Tumwater's urban canopy.
Tumwater Tree Inventory and Maintenance Plan (2024)	Outlines inventoried tree resources (distinct species compositions, age distribution and condition).
Tumwater City Plan 2036 - Transportation Master Plan (2016)	It outlines the transportation goals, policies, and strategies for the community. Aims to improve mobility, safety, and accessibility while promoting sustainable and efficient transportation systems.
Tumwater City Plan 2036 - Conservation Element (2016)	Outlines natural resource land conservation and critical area protection.
Tumwater City Plan 2036 - Land Use Element (2016)	It outlines policies and guidelines for land use planning and development. Aims to promote sustainable growth, protect natural resources, and enhance community livability.
City of Tumwater Shoreline Master Program (2014)	Provides guidance for positive, equitable use and development of the shoreline while promoting community well-being, ecological preservation and compliance with state policy
Tumwater City Plan 2036 - Lands for Public Purposes Element (2016)	Details the public facilities and services planning for 20 years (after 2016), including essential public facilities siting and expansion.
City of Tumwater and Thurston County Joint Plan (2021)	Cities of Lacey, Olympia, and Tumwater and Thurston County initially agreed upon the process of joint plan. It aims to guide future development in the unincorporated portion of Tumwater's urban growth area, ensuring a smooth transition from rural to urban development.
Olympia Climate Action Annual Report (2019)	The goals are establishing framework for climate-focused decisions, set foundation for solar and green building community, create city staff culture of climate awareness, green the city's fleet and facilities, build foundation for climate-friendly infrastructure, and build and leverage partnerships.

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Puget Sound Energy (PSE) Green Direct Program	PSE’s Green Direct program allows government and commercial customers the ability to purchase 100% of their energy from a local, renewable energy resource that is cost-efficient.
Washington Clean Fuel Standard (2023)	The standard will reduce carbon pollution from transportation by decreasing emissions from the production and supply of transportation fuels. It will also provide an increasing range of low-carbon and renewable alternatives to improve air quality and decrease dependency.

The detailed policy analysis involved categorizing the reviewed resources into sectors, focus areas, and climate hazards to systematically evaluate their coverage and identify gaps. The categorization was as follows:

Sectors:

- Agriculture & Food Systems
- Buildings & Energy
- Cultural Resources & Practices
- Economic Development
- Ecosystems
- Emergency Management
- Health & Well-being
- Transportation
- Waste Management
- Water Resources
- Zoning & Development

- Drought
- Extreme Heat
- Flooding, Extreme Precipitation, & Sea Level Rise (SLR)
- Wildfire
- Earthquake
- Landslide
- Snowpack Reduction/Snowstorms

Focus Areas:

- Climate Resilience
- Climate Mitigation
- Climate Equity

Hazards:

Conducting a thorough policy analysis was essential to understand the current stance on various policy areas. This detailed inquiry revealed several important findings. Firstly, there is a robust framework of policies addressing ecosystems, zoning, and development. These existing policies underline a strong commitment to natural resource management and land use governance. However, the analysis has also revealed notable gaps in other areas. Specifically, there is a gap in policies related to cultural resources, practices, and economic development. This indicates a need for more comprehensive strategies that integrate and support these important aspects of the community.

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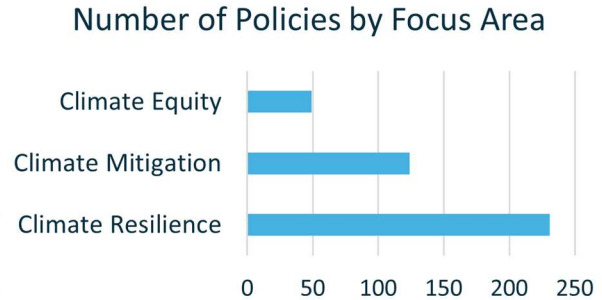
Figure 5. Policies by sector, policy gap analysis



Moreover, while many policies prioritize climate resilience—aiming to safeguard the environment against the impacts of climate change—there is a noticeable gap in policies that address climate equity. This gap suggests that,

although the city is preparing for climate-related challenges, they are not equally addressing the impacts on diverse communities and ensuring that all groups benefit from climate resilience efforts. Additionally, nearly all resilience policies originated from County-level

Figure 6. Policies by focus area



Thus, this policy analysis underscores the importance of developing a more balanced and inclusive approach that not only fortifies the city’s climate resilience but also promotes equitable outcomes for all stakeholders.

Appendix B Engagement Results

Community input was collected in three ways: the CPAT, the in-person public workshop, and the Virtual Open House. The CPAT provided feedback on each draft of the Climate Element and worked with City Staff in small working groups to develop specific policy and implementation action language and review language recommended by the City. Community input from the in-person public workshop was collected via notes taken during each breakout session, sticky notes left on posterboards and maps, and anonymous comment cards. Finally, the Virtual Open House included multiple

surveys to collect public opinions on preferred climate mitigation methods, equity, and lived experiences with climate change in Tumwater.

Policies and implementation actions driven by community input through one of these three channels are marked as Community-Identified Priorities within the Climate Element. The responses to Virtual Open House Surveys and a high-level summary of input received at the in-person workshop, both of which informed policy development, are found below.

In-Person Workshop

Across all focus groups, participants called for greater collaboration and engagement citywide, as well as a need to identify funding sources and provide financial incentive, safeguards, and subsidies to ensure equitable climate adaptation and mitigation.

GHG Reduction Focus Group

Key discussion themes included:

- Multimodal Transportation System Improvements: requested actions ranged from expanding public transit access, enhancing bike accessibility and walkability, reducing car dependence, and increasing EV charging capabilities.
- Sustainable Land Use: participants urged for preservation of green spaces and urban canopies, denser urban development, and elimination of minimum parking requirements.
- Energy: participants suggested measures that would improve energy efficiency in buildings and encourage renewable energy generation and use.

Resilience Focus Group

Participants highlighted several key issues they would like to see addressed in Climate Element policies:

- Equity & Environmental Justice: Building resilience in low-income, historically disadvantaged areas that are disproportionately impacted by climate change.
- Climate Hazards: Actions that will address issues like wildfire smoke, power grid interruptions, and drought.

- Sustainable Practices: Managing water resources for Tumwater's future communities through water conservation methods and integrating and expanding use of renewable energy sources.
- Urban and Land Use Planning: Improving connectivity, walkability, and bike infrastructure, implementing strategies to increase shade and mitigate urban heat islands, and managing Tumwater's projected population growth and housing needs sustainably and equitably.
- Wise Resource Management: Reducing reliance on resource-intensive industries and promoting and supporting sustainable businesses.

Governance Focus Group

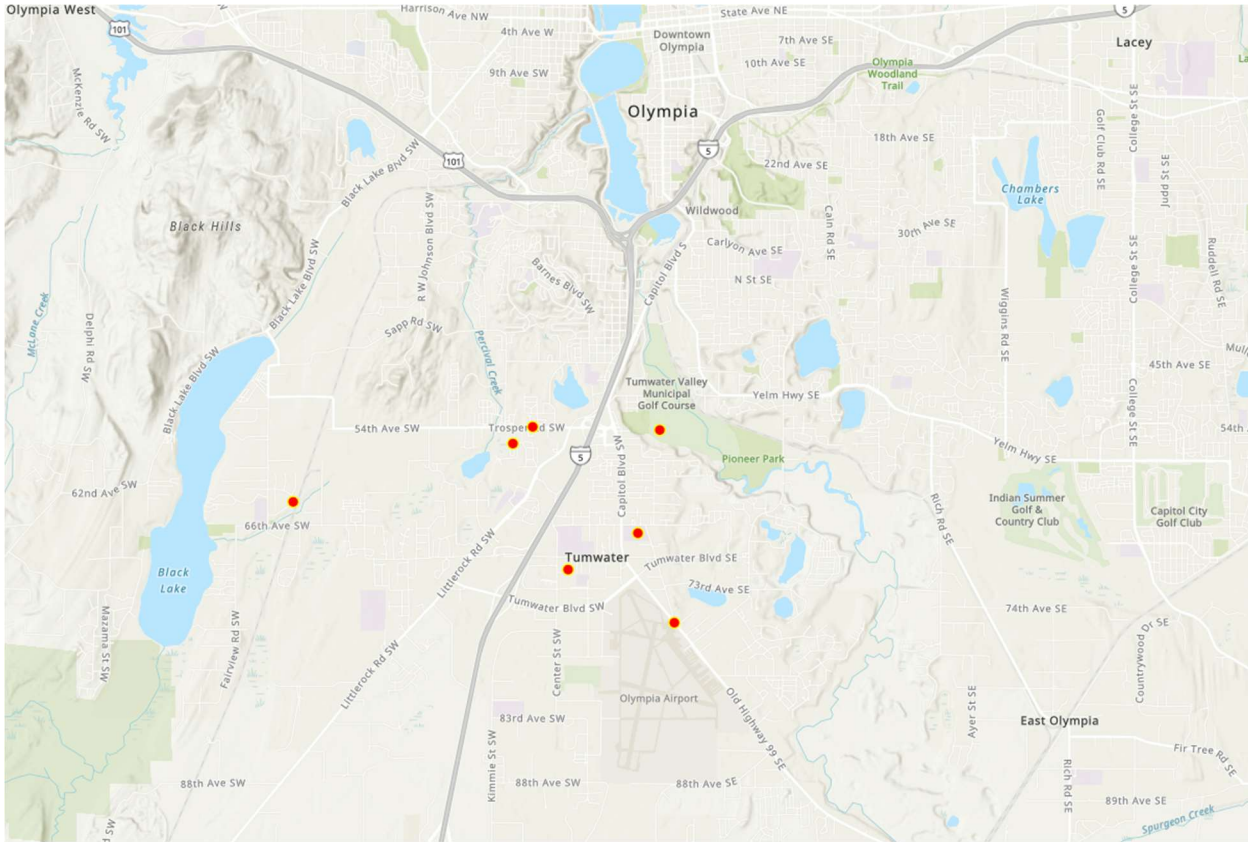
Participants voiced several areas of concern and opportunity regarding City governance:

- Building Public Trust: Participants noted some wariness due to previous perceived failures to address community needs by the City in past efforts, particularly highlighting skepticism of long-term residents.
- Improving Communication: Finding ways to continuously and effectively communicate with diverse age groups and demographics, including targeted outreach to youth and underrepresented groups
- Clarity and Transparency: Present community members with clear cost-benefit analyses of proposed actions and ensure Climate Element development is transparent and accessible.

Virtual Open House

Equity

Click on the map to place a pin on areas you're concerned about in terms of pollution, contamination, and/or inequitable benefits (like tree canopy cover).



What would you like Tumwater to do to address environmental justice issues and ensure that all residents have equal quality of life both before and after climate disasters?
Create programs and incentives that support resident access to clean energy, such as heat pumps, solar, and EV chargers. Include specific carveouts for low-income and elderly populations.
The ability to walk or roll around our community is a transportation method not dependent on income or on the presence of fuels or electricity. Having a fully accessible, walkable community will be resilient as well.
Sidewalks along Trospen Road and nearby streets are incomplete. Many older residents live in this area and need safe walking routes to get to the commercial area to the east.
Provide safe walking and cycling throughout the city. This is important to reduce emissions and pollution. It is also important so that people can move around if fuel becomes scarce or some services are not accessible by car. It is also important that people who need to get to transit can walk safely to reach a bus stop. Transit cannot go everywhere, so that means that people need safe walking routes to and from their home and services and destinations.

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I believe the City is in need of more cooling & heating centers for community members. This summer was relatively cool but investing in at least one other area in a different part of Tumwater to support heating & cooling for community members would be a great idea.

I also really liked an idea I heard at the ASHCO event, which was to find a way to repurpose abandoned parking lots that become heat islands during extreme weather events. If these lots cannot be repurposed right away, maybe trees can be planted in the sidewalk areas that border these lots, to help shade the parking lots somewhat when it's really hot outside. Or, maybe we could consider building simple structures that could provide shade over parts of certain heat islands. An empty parking lot on a busy road that had some sort of shade structure with a bench or two underneath it could help a severity of heat coming from that asphalt and also give passerby a place to sit in the shade on hot days.

My concern is putting warehouses near schools. The Tumwater planning dept. should not allow this. Schools need better air quality nearby, not trucks going to and from large Port of OLY. warehouses.
My concern is water quality. The Port allowed a Coca Cola plant to lease a parcel in Tumwater. My concern is allowing an industrial plant to bottle our water to be shipped out of state. I do not think we have enough scientific evidence that Tumwater has enough available water for the next 20-25 years to do this. The town of Lacey has water restrictions. This is a big deal. Do we have enough water for the next 40 years of growth? We should not allow industry to take our water!

Protect the Davis Meeker Garry Oak!
The Davis Meeker Garry Oak is sacred to several Coastal Salish Tribes, as well as many Tumwater residents. The DMGO is located on the historic Cowlitz Trail (parts of which became Old Highway 99), and is fairly close to the site of the Bush Family Farm. The City of Tumwater needs to protect the DMGO as one of the only visible reminders of the Cowlitz Trail, and our shared history. The DMGO provides important habitat for birds, as well as sequestration of atmospheric carbon. Too many large trees have been removed in Tumwater already.

There are many mobile home parks in Tumwater. Most of us senior citizens do not have the money to add insulation, although we are exposed to the increase in temperatures more rapidly than most stick-built homes. Help us upgrade the mobile homes we live in. Our rent is being increased annually and on a reduced fixed income leaves little money for improvements.

In a wildfire or incident, how would large numbers be able to exit on the present two-lane roads? Are there enough fire stations, equipment & responders? Would the city be able to expedite building permits to rebuild?

GHG

What is your lived experience with climate change? Does it change seasonally?

I don't really know - I try to rely on data.

I wonder, when it gets hot in the summer, or wet in the winter, whether climate change is showing up, or whether it's just local variation.

I have experienced the heat events but fortunately my health has not been impacted. I also have noted the increase in smoke events.

Summer wildfires are much more frequent in this area compared to when I was a kid growing up here. Summers are hotter.

Our rivers and streams are low. We have less rain. Our thick forests are super dry in the summer. We could have a massive forest fire (my sister went through this in another town, her area was wiped out by fire). We must be aware of how much water we remove from the water table. We must not allow industry into our area that will contribute to lowering the water table.

I purchased a portable a/c for my apartment about 4 years ago to help with the heat. But I am not convinced still that it is related to climate change. I believe the earth goes through cycles like this, it just wasn't tracked 100's of years ago. Tracking temperatures has only been happening for the last 150 years or so.

I am noticing longer hotter and drier summers.

Aware of increased heat in summer & more snow days in winter. We are less active in summer due to heat and more careful of road conditions in winter. Have been impacted by smoke from fires in other areas.

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Have you made any changes to your home or routine due to climate change or its effects?
I haven't made any changes, but I was pleased to buy a home with a heat pump since it gets pretty warm during the summer.
We installed a single split heat pump in the back of our house; replaced our old gas water heater with a new heat pump water heater; went from our plug-in hybrid to a full battery electric; put in a 240 charger; and signed up for PSE's community solar and their time of use rate program. We don't eat red meat any more (except for occasional bacon and for meat on pizza); We don't fly for vacations.
Went to ductless system from burning wood for heating house. Electric bill has gone up but overall less work/time to heat house.
Yes, we purchased a window-install AC unit. (heat pump) to prepare for heat events. This was the best choice for us since retrofitting our entire home would be expensive. We also have air filters now.
Yes, I've made many changes, but I've also not been able to make all the changes I'd like to because of budget constraints. I drive an EV, I bike to work in the warmer months, I eat a mostly plant-based diet, I've taken my investments out of fossil fuels, and I'm active in local climate groups.
Air conditioning is more necessary for quality of life than it used to be in this area. I try to commute by bike as much as I can to reduce my personal carbon emissions.
We bought 23 solar panels to our house. Our electric bill is lower now. We travel less, so less Green house gas (GHG) emissions.
I try to recycle as much as possible....but because it is a good thing to do. Not because of climate change.
In the fourteen years I have lived here, I have had to add AC to my home due to summer heat in the last five years. I am sensitive to heat and have to abstain from participating in outdoor activities or un-airconditioned locations on hot days. In my work, I am required to work outdoors but have the flexibility to choose when I can work outdoors. My schedule has had to change due to high heat days.
Have added a portable air conditioner. Have had to adapt a homemade window screen to deter smoke and wear masks outside.

What greenhouse gas mitigation would you like to see improved, enhanced, or created if it doesn't exist now?
Require landlords to implement pollution reduction and safety upgrades on their rental housing. Prevent them from undue increases in rental fees.
Prevent new development in tree areas - protect trees from removal.
I would like to talk more about the buildings portion - how can that be reduced?
More community education and outreach about the issues, and opportunities for individual action, available incentives, household planning for gradual electrification. Education and outreach about consumption emissions. Add building recommissioning to the actions in the regional climate plan. EV group purchasing program.
Time limits on car charging stations, some public stations (city parking lot) have cars parked in them all day even though they are fully charged in less than 2 hours. This leaves limited charging space for others to use.
Stop allowing building of homes and services that are not near already established services and transit. We need to grow with density in order to support efficient transit and allow for non-motorized travel. This is an action in the regional Climate Plan. Spreading out beyond existing services is going to increase emissions and miles driven. It also creates inequitable and unaffordable housing which requires ownership of a car. Lowering emissions means we live closer together and drive much less.
Something that improves the lives of poor and working class people. More bike and ped infrastructure in Tumwater - make it not only safe, but inviting for people to get out of their cars.
Better community planning that reduce sprawl and car-dependency; improved non-motorized transportation options/infrastructure; increased public transit reliability and awareness; higher cost to GHG-emitting modes

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Do we have enough electric charging stations?
 I doubt it.
 We bought an electric vehicle.
 WE NEED MORE ELECTRIC CHARGING STATIONS!
 Any improved mitigation would be appreciated.

Take a look at the committed goals and actions identified in the Thurston County Climate Mitigation Plan. Do you feel there are goals and actions missing? Are the goals and actions identified in the TCMP still what the community wants to commit to?

We continue to float along about the 50% of local reductions that the plan says are supposed to come from afforestation. Creating 37,000 acres of new forest seems totally unrealistic. This requirement doubles if we use the estimates for sequestration TRPC adopted in its white paper, even though the ICLEI methodology they said they were using actually recommends using local sequestration estimates when those are available, which is what the plan does.

We're also going to get a significantly larger reduction from recent State legislation that the plan estimates). We ought to have a plan that's based on facts and realistic estimates, even if that means we have to recognize that we can't make the reductions we need with our local capacities alone.

I feel like there definitely could have been a goal for increasing the amount of space available for walking and biking. I feel like we should invest more money into improving areas of town to be more walkable and bike-able. Improve spaces to be used by modes of transportation that don't burn fossil fuels. I also don't see anything mentioned about improving the structures of our buildings to waste less energy.

Yes - please continue to commit to the TCMP! And take the actions in the Plan. There are plenty of actions to take. Don't think that doing a handful is enough. We need to do almost all of the actions in order to save our planet.

Regulating large polluters in whatever ways the City can

YES, we want to commit to lowering our GHG emissions.

Do we have enough electric vehicle charging stations in Tumwater?
 NO!
 We have an electric car.
 We need more charging stations.

Resilience Mapping: Flooding

No responses

Resilience Mapping: Heat

What has been your experience with extreme heat in Tumwater?

Living here during heat waves and/or heat domes. Many housing units don't have air conditioning, especially rentals.

During the June 2021 heat wave I experienced heavy sweating, heart racing and flushing. It felt like my brain was in a fog and I felt weak and fatigued. I recognized these symptoms as the symptoms of heat exhaustion, and went to the mall to escape the heat for a while. We did not have air conditioning in our home, and as there was almost no wind, opening the windows couldn't help. Our house got hotter than it was outside. I am 71 years old, so such heat is especially dangerous for my health. After this heat wave we contracted to install a heat pump in our house. This has made our life much more comfortable in the last few years, and when the next heat wave comes we will be protected. I was very concerned for my neighbor who lives alone and is much older and quite frail and does not have air conditioning. I have told him that we will check on him in future heat wave, and he can shelter with us. I worry about the health of so many other people who are similarly at risk.

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Have you had access to all of the resources you needed during an extreme heat event? Is there anything you would like to have available to you in the future?

Portable a/c units or heat pumps that I could rent or borrow during heat events

We did not have any air conditioning for the June 2021 heat wave, and suffered for not having what we now consider essential with our changing climate. We have lived in Thurston County for 36 years and never had air conditioning until we installed our heat pump after this heat event. Many of our friends are in the same position. We need a robust program to help our residents have a safe home. I would not want to go to a cooling shelter, and Tumwater's shelter is only available during the daytime and would be very crowded. People need to be able to protect themselves at home.

Governance

What does a resilient Tumwater look like to you?

Great looking plan.

People can walk and cycle safely without needing to own a car. Homes and services are located so that people can access services and schools without driving. There are no homes or businesses in the areas where flooding will happen. A transit system is in place along major corridors. That transit provides access to other communities and helps move people along Tumwater corridors.

Improved transit and non-motorized connectivity; emphasis on density and mixed-use zoning; protection and restoration of our precious natural resources; restoration of derelict properties

A resilient Tumwater would protect the basic needs of the community, including clean water; available housing with limited restrictions for homeowners who want to add ADUs to assist in that effort; encouragement of business growth; and clean and repaired streets.

What do you hope will be true about Tumwater in the future?

I would like to see all the warehouse roofs covered with solar panels. I recommend that be a requirement for all new warehouse construction, otherwise, that is just wasted real estate, missing the opportunity for developing the backbone of a distributive electric grid. Better to do it there than on agricultural land or forested land.

More stringent building codes for renewable electrification across the board. ... EV-ready, etc.

People have their basic needs met and they are happy to live in Tumwater. There are electric vehicles on our streets, but there is not congestion and people who walk and cycle can do so safely.

Improved transit and non-motorized transportation; significant decrease in per capita vehicle miles traveled; higher density housing and mixed-use zoning

That it will be a city that is proud of its beauty and inclusion.

Are there areas within the city you are most concerned about regarding climate change impacts? If so, what are those areas?

Areas near Deschutes River and creeks... all vulnerable to heavier rainfall amounts as the climate changes.

not so much areas, but income-levels

How would you like the city to engage with you around climate change?

Having staff out in the community is good.

What could the City do to improve your trust in it/them?

The City will improve my trust in them by following through to actually take the actions in the Climate Plan. Moving forward with many actions, not just a few. Be open about challenges.



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How would you like to see equity addressed in the climate element?

It is not equitable to zone areas for housing or to place low income housing where the people who live there cannot walk or cycle for their needs. Denser areas of housing mean that fire, utilities, mail, deliveries, police, etc. cost less to provide and can respond more efficiently.

Schools need to be located amongst the population who will attend the school. And those students should be able to walk to school.

This all points to stopping sprawl and developing as a close-knit denser community. That actually is more equitable for everyone.

Reduce future harm

What could the City do to improve your trust in it/them?

No responses

Have you felt distrust or a lack of transparency in any of your interactions with the City?

No responses

Are there current community equity efforts you know about that can be built upon for climate action?

No responses

Are there communities in the city you are particularly concerned about regarding climate change impacts? If so, who are those communities?

Young people who will inherit the world in the condition we leave it.

Poor and working class folks

Tumwater has a significant elderly population who are vulnerable to heat-related illness and many of whom depend on transit or pedestrian routes. Tumwater needs a complete non-motorized network with good tree canopies.

Closing Survey

If you have any questions or comments related to the Comprehensive Plan Update and/or Climate Element for City staff, please provide them below.

What is going to happen to the old brewery project when the Deschutes returns to an estuary, tides reach up the river, and sea level continues to rise?

What are you doing to change business as usual to reduce GHG's, increase HOV's reduce water usage, replant forests that are burning up releasing more carbon into the air?

Appendix C Index of Equity-Focused Actions

Overarching Goals

Goal	CL-1	Ensure environmental justice by providing all members of the Tumwater community with an equitable opportunity to learn about climate impacts, influence policy decisions, and take actions to enhance community resilience.
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Policy	CL-1.1	Conduct intentional outreach with frontline communities to create opportunities for equitable engagement in climate adaptation, mitigation, and education.
Action	CL-1.1.1	Build and support partnerships with existing organizations (i.e. CBOs) that have the capacity and existing relationships needed to convene diverse coalitions of community members and collaboratively empower their communities to develop and implement climate resilience and mitigation actions and work to address underlying disparities that impact these communities.
Action	CL-1.1.2	Create and implement tailored outreach and education initiatives that will empower frontline communities to respond to climate change threats.
Action	CL-1.1.3	Attend pop-up events with existing CBOs and hold focus groups, office hours, and other events to build trust in both group settings and one-on-one with Tumwater's frontline community members.
Action	CL-1.1.4	Conduct outreach and listening sessions in frontline communities to understand existing needs and opportunities and to educate on projected climate impacts.
Policy	CL-1.2	Prioritize the people of Tumwater and their needs, values, and goals in all future planning efforts by developing and implementing all climate-related adaptation and mitigation tasks in collaboration with equitable representation from all Tumwater communities.
Action	CL-1.2.1	Prioritize recruiting frontline community members most impacted by climate change when forming any City of Tumwater working group, committee, or task force on climate-related issues. Strive to form all working groups and committees with equitable representation.
Action	CL-1.2.2	Plan and conduct community engagement activities to ensure all policies and tasks are co-created with the community and to share new plan information upon completion and update throughout implementation.
Policy	CL-1.3	Develop programs and resources to promote equitable financial access to climate resilience and mitigation activities.
Action	CL-1.3.1	Identify funding sources for subsidies for overburdened communities to offset costs associated with climate impacts and mitigation actions. Covered funding could include potential cost increases associated with changing to non-fossil-fuel energy sources, increased energy usage to maintain livable indoor temperatures, and home hardening projects.
Action	CL-1.3.2	Establish and initiate a process to consult with frontline communities to identify ways to equitably distribute climate funding.
Policy	CL-2.2	Develop a program funding strategy to support equitable access to climate mitigation and adaptation programs developed by the City.
Action	CL-3.1.1	Conduct a comprehensive Vulnerability Assessment that considers climate impacts to communities, physical assets, and City operations and services, including impacts from extreme heat and flooding.

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Action	CL-3.1.2	Utilize community outreach efforts (see policies CL-1.1, CL-1.2) to discuss community climate impacts and work with any community groups that desire additional adaptation or mitigation planning beyond existing city efforts.
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GHG Sub-Element

Goal	CL-4	Reduce greenhouse gas emissions from all building types through energy conservation measures prioritizing the deployment of financial resources and programs that help finance or subsidize improvements across Tumwater.
Action	CL-4.2.2	Require energy performance ratings and disclosures for rental dwelling units at times of application so that tenants are informed before making rental decisions.
Action	CL-4.2.6	Require baseline levels of energy efficiency as part of building permit review.
Goal	CL-5	Expand the use of on-site renewable energy technology (e.g., solar photovoltaics, battery storage, etc.) across all building types through providing funds, code changes, and educational programs.
Action	CL-6.1.2	Promote biking, walking, and rolling by investing in accessible and attractive street-level elements per goals included in the Transportation Plan like seating, shaded sidewalks, ADA ramps, enhanced signals and crossings, and protected bike lanes.
Action	CL-6.1.3	Develop a rebate program for community members who wish to buy a bicycle or electric bicycle, with priority for low-income residents or households with greater barriers to vehicles.
Action	CL-6.1.4	Continue support for InterCity Transit's Walk N Roll program that focuses on a walking and bicycling incentive program with safety education for families, in coordination with Tumwater School District.
Action	CL-6.1.5	Reevaluate long term plans, such as the Transportation Plan and Capital Facilities Plan, and update to prioritize non-motorized transportation. Set goals and plans for shifting to non- motorized transportation, like developing car-free corridors in commercial and mixed-use areas to encourage mode shift.
Action	CL-6.2.2	Provide educational resources for community members seeking to install EV chargers at home, with specific incentive support for smaller-scale and multi-family property owners.
Action	CL-6.2.3	Explore more opportunities to expand the city's publicly available EV charging network.
Policy	CL-7.2	Increase efficiency of the transportation system.
Action	CL-7.2.4	Work with Intercity Transit to identify and implement programs that help people move to and from transit, reduce GHG emissions, and use street-level improvements to connect neighborhoods without the population to support fixed routes transit options. Tumwater will engage homeowners' associations

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		for representation and feedback. Expansion of service will include an analysis of climate impacts to ensure the program does not result in an increase in GHG emissions.
Goal	CL-8	Strengthen existing policy and regulations to deploy and enhance natural carbon solutions that are ecosystem-appropriate, store carbon, and offer co-benefits such as pollution reduction, wildlife habitat, and climate resilience.
Action	CL-8.1.1	Adopt and implement a coordinated reforestation and afforestation program guided by the UFMP with goals and policies to support stormwater management. Consider how existing or future tree canopy can support stormwater management and water quality improvements in receiving waters. Include goals for maintaining or increasing canopy in overburdened communities.

Resilience Sub-Element

Goal	CL-9	Ensure that buildings and energy infrastructure can accommodate renewable energy opportunities, keep the community safe, and can withstand and recover from extreme weather and natural hazards worsened by climate change.
Action	CL-9.1.2	Identify potential funding sources to develop and maintain a grant program that will enable affordable housing development projects to bury new power lines and associated infrastructure as required, or to make more resilient to climate impacts where burial is not feasible.
Action	CL-9.5.1	Establish partnerships with all regional energy utilities and develop short- and long-range plans to assess and mitigate the risk of climate hazard impacts on energy generation and transmission infrastructure.
Goal	CL-10	Increase preparedness for acute climate impacts and improve the resilience of Tumwater's people and systems against climate hazards.
Action	CL-10.1.1	Partner with a philanthropic organization or a CBO to build a volunteer network to develop and manage a vulnerable population database that includes community members who require aid and/or check-in calls during and after emergencies. This database can be built on the existing Lifeline Program members.
Action	CL-10.1.2	Transition management of the vulnerable population database to the City and secure long-term funding and staffing to keep the database up to date and oversee its use during emergencies.
Action	CL-10.2.1	Implement the Thurston County Extreme Heat, Emergency Response, and Illness Prevention Plan.

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Action	CL-10.2.3	Assess potential partnerships with CBOs and regional agencies that can serve as resilience hubs that provide resources such as heat pumps and emergency supplies for community members to check out during emergencies.
Action	CL-10.2.4	Explore feasibility of implementing and maintaining a program to distribute portable cooling units and install heat pumps, prioritizing households with residents most vulnerable to extreme temperature events such as renters and low-income seniors.
Policy	CL-10.5	Improve community resilience, health equity, and environmental justice by ensuring that all community members can walk or roll to public green spaces within ½ a mile and connected by sidewalks or protected walkways.
Action	CL-10.5.1	Utilize data from the Trust for Public Land and from community outreach efforts to find any gaps in equitable access to public green spaces.
Action	CL-10.5.2	Engage community members who lack equitable access to green spaces to determine how they would like to improve their access. Options can include better transportation options, addition of new green space, and improved safety of active transportation routes, among others.
Policy	CL-10.8	Develop programs that enable and empower community members to protect themselves from poor air quality.
Action	CL-10.8.1	Collect data to determine how many Tumwater community members are vulnerable to poor air quality and the neighborhoods in which these residents live, using both quantitative and qualitative data from tools like EJScreen and from community outreach efforts. Use collected data to set target thresholds for shelter occupancy and locations and air conditioner/heat pump and air filtration distribution programs.
Action	CL-10.8.2	Establish and maintain a stable funding source to distribute personal protective equipment to populations vulnerable to poor air quality.
Action	CL-10.8.3	Identify facilities that serve high-risk populations to create incentive programs encouraging infrastructure updates for clean indoor air. Updates should include HVAC system improvements.
Policy	CL-10.9	Ensure community members have resources to shelter in place or to adequately reach temporary shelter.
Action	CL-10.9.1	Coordinate with other agencies and jurisdictions to provide more cooling centers with 24-hour capacity. Offer 24-hour capacity for all of Tumwater's heat-vulnerable residents including seniors, low-income, and houseless individuals. Shelter locations should be sited equitably throughout the city, with priority for opening locations near the highest concentrations of heat-vulnerable residents.
Action	CL-10.9.2	Coordinate with local businesses, community centers, and other neighborhood hubs to assess the potential of using these spaces as cooling centers. Provide sites that agree to participate in this program with resources detailing how to set up an equitable and functional cooling center.
Policy	CL-10.10	Increase language accessibility of emergency services, plans, and resources.



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Action	CL-10.10.1	Establish on-call contracts for language interpretation and translation services, including ASL.
Action	CL-10.10.2	Utilize on-call contracts for language services to translate all emergency resources and plans.
Goal	CL-11	Preserve, protect, and sustain cultural sites and resources in alignment with the values and needs of Tribes, traditional stewards, and frontline communities.
Policy	CL-11.1	Enhance partnership between the Tribes and the City, integrating Tribal expertise, opinions, and values into climate planning efforts, projects, and programs.
Action	CL-11.1.1	In collaboration with the Tribes, establish guidelines and standards for incorporating Traditional Ecological Knowledge into City programs and planning efforts to adapt to climate change impacts.
Action	CL-11.1.2	Integrate the Tribal Stewards Curriculum or an alternative approved by Tribal representatives into regular City training schedules.
Policy	CL-11.2	In accordance with Tribal treaty rights, protect, enhance, and restore ecosystems and culturally important consumptive and non-consumptive resources including foods, medicinal plants, places, and materials that could be adversely impacted by climate change.
Action	CL-11.2.1	Work with local partners, especially representatives of the Tribes, to establish and sustain a native plant nursery and seed bank to support long-term ecological restoration and ensure continued access to culturally significant plants.
Action	CL-11.2.2	In collaboration with the Tribes, identify consumptive and non-consumptive resources that will be adversely impacted by climate change.
Action	CL-11.2.3	In collaboration with the Tribes, develop and implement a plan to protect, enhance, restore, and/or preserve cultural resources that have been identified as threatened by climate change.
Policy	CL-11.3	Collaborate with the Tribes to ensure the preservation of archaeological sites and traditional cultural properties that are vulnerable to climate impacts.
Action	CL-11.3.1	Request recommendations from the Tribes for actions the City can take to preserve historic sites and cultural properties.
Action	CL-11.3.2	In collaboration with the Tribes, develop guidelines for protecting, enhancing, and restoring affected historic sites and cultural properties.
Action	CL-12.1.2	Protect and enhance the climate resilience of urban forests by implementing the most recent UFMP. Prioritize implementation of UFMP actions that provide benefits for frontline communities.
Goal	CL-13	Ensure that zoning and development decisions support compact urban development, prevent displacement, and foster system-wide resilience, including a resilient local economy.
Policy	CL-13.1	Develop anti-displacement programs in overburdened communities when increasing densities.



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Action	CL-13.1.1	Review existing anti-displacement and equity decision-making tools and use these to develop guidance specific to Tumwater for future housing and zoning decisions.
Action	CL-13.1.2	Conduct extensive outreach activities in frontline communities at risk of displacement to collaboratively develop a set of anti-displacement strategies.
Action	CL-13.1.3	Review land use maps and Comprehensive Vulnerability Assessment findings to identify regions at high-risk of disaster displacement such as barriers to rebuilding housing in high-risk areas and develop strategies in collaboration with impacted communities to develop solutions.
Action	CL-13.2.4	Form partnerships with organizations that aid workers affected by climate change who are transitioning to new fields of employment to share their services with Tumwater community members.
Policy	CL-13.3	Embed environmental justice in City land use decisions.
Action	CL-13.3.1	Develop an Environmental Justice Audit process, using the State Department of Ecology guidance as well as US EPA guidance to inform Tumwater's audit process.
Action	CL-13.3.2	Conduct a city-wide environmental justice audit prior to amending land use designations.
Goal	CL-14	Ensure that the local transportation system, including infrastructure, routes, and non-motorized travel modes, fosters connectivity and can withstand and recover quickly from climate impacts.
Action	CL-14.1.3	Work with Intercity Transit to expand their transit program that provides evacuation aid to community members who do not or cannot drive, utilizing the vulnerable population database established by CL-10.1.2.
Goal	CL-15	Protect and improve water quality and availability.
Action	CL-16.1.2	Identify relevant stakeholders who can further sustainable, climate-adapted, and equitable food distribution in Tumwater.
Policy	CL-16.3	Expand consistent access to food for Tumwater community members.
Action	CL-16.3.1	Coordinate with the County to expand access to food bank services.
Action	CL-16.3.2	Conduct community outreach to find gaps and barriers in consistent access to nutritious food.