

**ORDINANCE NO. O2024-008**

**AN ORDINANCE** of the City Council of the City of Tumwater, Washington, amending Chapter 18.22 of the Tumwater Municipal Code to allow for high intensity mixed use residential uses in the GC General Commercial zone district as more particularly described herein.

**WHEREAS**, it was determined that Chapter 18.22 *GC General Commercial* of the Tumwater Municipal Code should be updated to allow for high intensity mixed use residential developments as permitted uses that preserve the general commercial capacity of the zone district; and

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

**WHEREAS**, the proposed amendments are consistent with the City's Comprehensive Plan; and

**WHEREAS**, the Attorney General *Advisory Memorandum and Recommended Process for Evaluating Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property* (October 2024) was reviewed and utilized by the City in objectively evaluating the proposed amendments; and

**WHEREAS**, this Ordinance was sent to the Washington State Department of Commerce on November 7, 2024, at least sixty days before the proposed code amendments were adopted, in accordance with RCW 36.70A.106; and

**WHEREAS**, on November 8, 2024, the Washington State Department of Commerce notified the City that the requirements for State Agency notification for the proposed amendments had been met, as required by RCW 36.70A.106; and

**WHEREAS**, an Environmental Checklist for a non-project action was prepared under the State Environmental Policy Act (Chapter 43.21C RCW), pursuant to Chapter 197-11 WAC on November 7, 2024, and a Determination of Non-Significance (DNS) was issued on November 22, 2024; and

**WHEREAS**, the Planning Commission had a briefing on the code amendments on November 26, 2024; and

**WHEREAS**, the Planning Commission held a public hearing on the code amendments on December 10, 2024; and

**WHEREAS**, following the public hearing and deliberations, the Planning Commission recommended approval of the code amendments by the City Council; and

**WHEREAS**, the General Government Committee discussed the Planning Commission’s recommendation on the code amendments on January 8, 2025; and

**WHEREAS**, the City Council considered the proposed code amendments on January 25, 2025; and

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

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

**Section 1.** Section TMC 18.22.020, Permitted Uses, of the Tumwater Municipal Code is hereby amended to read as follows:

**18.22.020 Permitted uses.**

Uses permitted in the GC district are as follows:

- A. Professional services;
- B. General retail sales;
- C. General offices;
- D. Appliance equipment repair;
- E. Support facilities;
- F. Parks and open space areas;
- G. Recreational facilities;
- H. Restaurants;
- I. Automobile service stations including car washes;
- J. Post offices;
- K. Motels, hotels;
- L. Planned unit developments (PUD);
- M. Medical clinics;
- N. Child day care center, child mini-day care center;
- O. Adult family homes, residential care facilities;
- P. Group foster homes;

Q. Private clubs and lodges;

R. Family child care home;

S. Mixed use structures;

T. The following multifamily residential:

1. Multifamily residential structures with a minimum density of forty dwelling units per acre that are part of a mixed use development in the same structure or site.

2. Multifamily residential structures consisting of a minimum of three and a maximum of four stories on sites within one-quarter mile of a degree-granting state education facility. A minimum density of fourteen dwelling units per acre shall be provided. Calculation of density is based on the portion of the site devoted to residential and associated uses (e.g., dwelling units; private community clubs; open space; stormwater detention, treatment and infiltration). The following land is excluded from density calculations:

a1. Land that is required to be dedicated for public use as open space, right-of-way, or land on which development is prohibited by TMC Title 16, Environment, and land that is to be used for private roads. Provided, that portion of park and open space areas that consists of stormwater facilities and that is designed for active and/or passive recreational purposes in accordance with the drainage design and erosion control manual for Tumwater shall not be excluded from density calculations.

b2. Land that consists of lots devoted to uses other than residential and associated uses, including but not limited to churches, schools, and support facilities (except for stormwater detention, treatment and infiltration facilities);

U. Personal services;

V. Used motor oil recycling collection point;

W. Parking lots as separate, primary uses are permitted. The proposed parking lot shall exclusively serve specifically identified uses in or adjacent to the district to accommodate shared employee or customer parking or off-site employee parking. The uses served by the lot may change over time;

X. Parking structures;

Y. Park and ride lots;

Z. Museum, library, art gallery;

AA. Recreational vehicle parks;

BB. Riding academies;

CC. Entertainment facilities;

- DD. Nurseries, retail;
- EE. Attached wireless communication facilities, except that it is prohibited to attach a nonaccessory wireless communication antenna on a single-family or two-family dwelling;\*
- FF. Equipment rental and sales facilities;
- GG. Motorsports sales facility, provided outdoor displays or visible storage of vehicles does not cover an area larger than ten percent of the gross floor area of the facility;
- HH. Electric vehicle infrastructure;
- II. Community gardens;
- JJ. Farmers markets;
- KK. Marijuana retailer;
- LL. Motor vehicle sales facilities located west of Interstate 5 and south of Bishop Road subject to the requirements set forth in TMC 18.42.090;
- MM. Breweries, wineries, distilleries;
- NN. Auto repair facilities;
- OO. Churches;
- PP. Temporary expansions of schools, such as portable classrooms;
- QQ. Animal clinics or hospitals;
- RR. Convalescent centers, rest homes, nursing homes;
- SS. Movie theaters, playhouses and similar performance and assembly facilities;
- TT. Senior housing facilities, independent and assisted;
- UU. Taverns, cocktail lounges;
- VV. Food trucks or trailers in accordance with TMC 18.42.120;
- WW. Food truck or trailer courts in accordance with TMC 18.42.120;
- XX. Permanent supportive housing, subject to 18.42.150;
- YY. Transitional housing, subject to TMC 18.42.150;
- ZZ. Emergency housing, subject to TMC 18.42.150;
- AAA. Emergency shelter, subject to TMC 18.42.150;
- BBB. Optometry clinics.

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

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

(Ord. O2022-013, Amended, 10/04/2022; Ord. O2021-019, Amended, 01/18/2022; Ord. O2020-005, Amended, 03/16/2021; Ord. O2019-020, Amended, 11/19/2019; Ord. O2018-025, Amended, 12/18/2018; Ord. O2017-006, Amended, 07/18/2017; Ord. O2016-006, Amended, 06/07/2016; Ord. O2015-001, Amended, 10/20/2015; Ord. O2014-012, Amended, 08/19/2014; Ord. O2013-013, Amended, 10/01/2013; Ord. O2012-003, Amended, 07/17/2012; Ord. O2010-029, Amended, 06/07/2011; Ord. O2010-015, Amended, 09/07/2010; Ord. O2003-001, Amended, 02/18/2003; Ord. O97-019, Amended, 06/17/1997; Ord. O96-022, Amended, 12/17/1996; Ord. O95-035, Added, 12/19/1995)

**Section 2.** Section TMC 18.22.040, Conditional Uses, of the Tumwater Municipal Code is hereby amended to read as follows:

**18.22.040 Conditional uses.**

Conditional uses in the GC district are as follows:

A. Transportation terminals;

~~B. High-rise residential (five stories or more);~~

~~BC.~~ Wireless communication towers;\*

~~CD.~~ Schools;

~~DE.~~ Mini-storage facilities;

~~EF.~~ The following essential public facilities:

1. Emergency communication towers and antennas;\*
2. State education facilities;
3. Large scale state or regional transportation facilities;
4. Prisons, jails and other correctional facilities;
5. Mental health facilities (including but not limited to congregate care facilities; adult residential treatment facilities; evaluation and treatment centers);
6. Inpatient facilities including substance abuse facilities (including but not limited to: intensive inpatient facilities; long-term residential drug treatment facilities; recovery house facilities);

~~FG.~~ Private post-secondary education facilities;

~~GH.~~ Kennels;

~~HI.~~ Campgrounds.

\*Emergency communication towers and antennas and wireless communication facilities are subject to Federal Aviation Administration (FAA) standards and approval if they apply, and furthermore both uses are subject to provisions for wireless communication facilities in TMC Chapter 11.20, Wireless Communication Facilities.

(Ord. O2018-025, Amended, 12/18/2018; Ord. O2017-006, Amended, 07/18/2017; Ord. O2016-037, Amended, 01/03/2017; Ord. O2014-012, Amended, 08/19/2014; Ord. O2008-016, Amended, 09/16/2008; Ord. O2003-001, Amended, 02/18/2003; Ord. O2000-004, Amended, 07/18/2000; Ord. O97-019, Amended, 06/17/1977; Ord. O96-022, Amended, 12/17/1996; Ord. O95-035, Added, 12/19/1996)

**Section 3.** Section TMC 18.22.050, Development Standards, of the Tumwater Municipal Code is hereby amended to read as follows:

**18.22.050 Development standards.**

Development in the GC zone district must meet the following requirements:

- A. Site area: no minimum, except the lot shall be adequate to provide for required parking, yards and landscaping;
- B. Lot coverage, maximum impervious surface: eighty-five percent of the total area of the lot;
- C. Structure height: a maximum height of sixty-five feet; provided, however, that no structure shall penetrate imaginary airspace surfaces as defined by 14 C.F.R. Part 77. A map that provides detailed information on ground and imaginary airspace surface elevations is available for inspection in the community development department. Note: New multifamily or mixed use projects with a total of thirty or more dwelling units that provide thirty percent of those units as permanently affordable housing units would be allowed a maximum building height increase of ten feet, subject to imaginary airspace surface limitations. This would create a new maximum height limit of seventy-five feet. Projects providing permanently affordable housing units by this method would have to meet the requirements of TMC 18.42.140;
- D. Yards.\*
  - 1. Front: no minimum setback,
  - 2. Side: no minimum,
  - 3. Rear: no minimum.

Where any structures or portions of structures are adjacent to any residential zoning district, the minimum structural setback shall be twenty feet. Where structures are constructed over one story, the setback of the structure from the adjacent property line or lines shall be increased by ten feet for every story above

the ground level story of the proposed new building, and shall be screened from view in accordance with TMC Chapter 18.47.

E. Park and Open Space Area. New development in this zone district shall set aside land for park and open space area as specified in TMC 17.12.210 and 18.42.130 and the citywide design guidelines.

F. Mixed Use Development. Mixed use development must include both non-residential and multifamily residential uses that meet the following conditions:

1. Multifamily Residential Development.

a. Density. In the area of the project designated for multifamily residential development, multifamily residential development that is part of a mixed use development in the same structure or on the same project site shall have a minimum density of forty dwelling units per acre.

2. Non-Residential Development.

a. Non-residential uses in a mixed use development in the same structure must occupy twenty-five percent or more of the total square footage of the structure.

b. Non-residential uses in a mixed use development in the same project site must occupy forty percent or more of the total square footage of the project site.

\* See Diagram 18.04.670, Yard Determination Diagram, in TMC 18.04.230, Y definitions.

(Ord. O2020-005, Amended, 03/16/2021; Ord. O2020-015, Amended, 02/16/2021; Ord. O2016-037, Amended, 01/03/2017; Ord. O2011-002, Amended, 03/01/2011; Ord. O2004-009, Amended, 12/07/2004; Ord. O2000-004, Amended, 07/18/2000; Ord. O97-024, Amended, 03/03/1998; Ord. O96-022, Amended, 12/17/1996; Ord. O95-035, Added, 12/19/1995)

**Section 4. Corrections.** The City Clerk and codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

**Section 5. Ratification.** Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

**Section 6. Severability.** The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the ordinance, or the validity of its application to other persons or circumstances.

**Section 7. Effective Date.** This ordinance shall become effective immediately after passage, approval and publication as provided by law.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

CITY OF TUMWATER

\_\_\_\_\_  
Debbie Sullivan, Mayor

ATTEST:

\_\_\_\_\_  
Melody Valiant, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Karen Kirkpatrick, City Attorney

Published:\_\_\_\_\_

Effective Date:\_\_\_\_\_