

Development Code Administration Ordinance No. O2024-005



City Council – December 3, 2024

Background

- In May 2023, Governor Inslee signed into law Senate Bill (SB) 5290 which modified the state requirements for local land use permit review
- The state amendments to the Local Project Review Act, Chapter 36.70B RCW, are intended to increase the timeliness and predictability of local project development application reviews



Background

- The City's development code administration regulations must be updated by December 31, 2024, to address recent changes or state law will preempt the City's development review procedures until City amendments are approved
- The Planning Commission held a public hearing on the ordinance on Tuesday, November 12, 2024, took public testimony and, after deliberations, recommended that the City Council approve the ordinance with conditions
- The General Government Committee had a briefing on the ordinance on November 13, 2024, and recommended that it go forward to the City Council for approval



Scope of the Ordinance

The amendments will primarily modify TMC Title 14 *Development Code Administration* to bring it into compliance with state law and update the City's approval processes, but it also will modify other portions of the Tumwater Municipal Code



New Project Review Process – Permit Types

The amendments would establish the review and approval processes for three new types of land use permit applications:

Type I – Land use permits that are approved administratively by the director of community development and do not require SEPA review

Type II – Land use permits that are approved administratively by the director of community development and require SEPA review

Type III – Land use permits that require a hearing before the hearing examiner

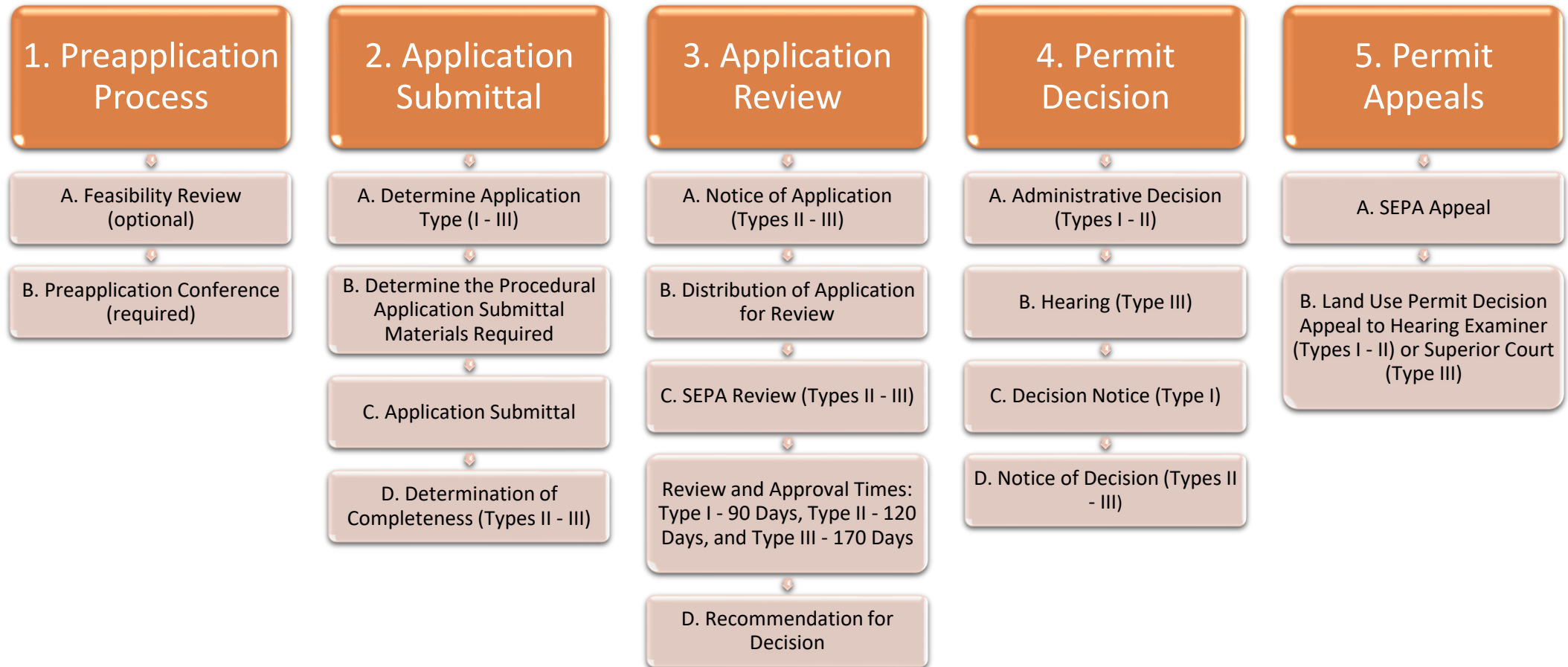


Title 14 Amendments

- The proposed new structure for TMC Title 14 Development Code Administration will replace the entire current structure of the title
- The intent of the proposed new structure is to make TMC Title 14 more intuitive by starting with key general provisions in the first chapter and then moving through the land use permit application, review, approval, and appeal processes



New Project Review Process – Simplified



Chapter 14.10 General Provisions

14.10.010 **Intent.**

14.10.020 **Definitions.**

14.10.030 **Applicability.**

14.10.040 **Time limits.**

14.10.050 **General notice requirements.**

14.10.060 **Determination of a substantially different proposal.**

14.10.070 **Expiration of approvals.**

14.10.080 **Other provisions.**



Chapter 14.10 Definitions – Land Use Permits

- An important change to the current TMC Title 14 is that the definition of “project permit” was amended by SB 5290 in RCW 36.70B.020(4) to remove building permits from the state’s definition of a project permit
- The definition also refers to “*“project permit” or “project permit application” as meaning “...any land use or environmental permit or license required from a local government for a project action”*”



Chapter 14.10 Definitions – Land Use Permits

- “Project permits” are referred to as “land use permits” throughout the ordinance to differentiate such permits from “building permits” and “construction permits,” which are not part of the RCW definition but are addressed elsewhere in the RCW and by the City in TMC Title 15 *Buildings and Construction*
- This is important because it reduces the current scope of permits covered by TMC Title 14



Chapter 14.10 Time Limits

- The most important change made by SB 5290 was to the number of days the City has to review applications before issuing a decision and establishing monetary penalties for when these timelines are not met
- Note that the time limits start the day that an application is determined to be complete and run until the day a final decision is made by the director or hearing examiner
- The time limits also include all required notice and comment periods



Chapter 14.10 Other Amendments

- Public Notice Requirements
- Substantially Different Proposals
- Land Use Permit Expirations
- Land Use Code Interpretations



Chapter 14.12 Land Use Permits

- 14.12.010 Land use permit application procedures and types.
- 14.12.020 Decision and appeal authorities.
- 14.12.030 Land use permit application review periods.



Chapter 14.12 Land Use Permits

Chapter 14.12 establishes the new land use permit application framework for the three types of permits, including

- Examples of permits in each type;
- The recommendation, decision, and appeal authorities for each permit type; and
- Most importantly for addressing the new state regulations, the maximum review periods for each permit type



Land Use Permit Application Types

Table 14.12.010

Land Use Permit Application Types¹

Land Use Permit Application Type	Examples
Type I	<i>Boundary line adjustments, critical area requests for determination of applicability, final plats, home occupation permits, land clearing permits, land use code interpretations, lot consolidations, plat time extensions, preliminary short plats, preliminary SEPA threshold determinations (if EIS is required), reasonable use exemptions, shoreline exemptions, site plan review, sign permits, temporary use permits, and tree permits</i>
Type II	<i>Any Type 1 permits that are not SEPA exempt</i>
Type III	<i>Binding site plans (phased), conditional use permits, planned unit developments, plat alternations with hearing, plat vacations, preliminary plats, replats, shoreline conditional use permits, shoreline substantial development permits, shoreline variances, site-specific rezones not requiring a comprehensive plan amendment, and zoning variances</i>

TMC Table 14.12.010 Explanatory Notes:

¹ *The table is not an exhaustive list of all land use permit application types. For any land use permit application not listed in the table, the director will determine the application type.*

Land Use Permit Decision and Appeal Authority

Table 14.12.020(A)
Decision and Appeal Authority

<i>Land Use Permit Application Type</i>	<i>Recommendation</i>	<i>Hearing Body</i>	<i>Decision Authority</i>	<i>Appeal To (Open or Closed Record Appeal)</i>
<i>Type I</i>	<i>DRC</i>	<i>N/A</i>	<i>DIR</i>	<i>HEX</i>
<i>Type II</i>	<i>DRC</i>	<i>N/A</i>	<i>DIR</i>	<i>HEX</i>
<i>Type III</i>	<i>DIR - site-specific rezones not requiring a comprehensive plan amendment. DRC – All others.¹</i>	<i>HEX</i>	<i>HEX</i>	<i>Superior Court or WA State ELUHO for shoreline permits (closed record)</i>

TMC Table 14.12.020(A) Legend:

CC – City Council

DIR – Director of the Community Development Department

DRC – Development Review Committee

ELUHO – State Environmental and Land Use Hearings Office

HEX – Hearing Examiner

N/A – Not Applicable

PC – Planning Commission

TMC Table 14.12.020(A) Explanatory Notes:

¹ *Decisions on shoreline conditional use permits are issued by the city and the city's decision can be appealed. The city's decision is sent to the State Department of Ecology for further review and approval or disapproval. After the city appeal process and Ecology's review processes are complete, appeals may be made to the ELUHO within twenty-one days of the "date of filing" as defined in RCW 90.58.140(6).*



Land Use Permit Public Notice Requirements

Table 14.12.020(B)

Public Notice Requirements

<i>Land Use Permit Application Type</i>	<i>Determination of Completeness</i>	<i>Notice of Application</i>	<i>Notice of Hearing</i>	<i>Notice of Decision</i>
<i>Type I</i>	<i>No</i>	<i>No</i>	<i>N/A¹</i>	<i>No</i>
<i>Type II</i>	<i>Yes</i>	<i>Yes</i>	<i>N/A¹</i>	<i>Yes</i>
<i>Type III</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>

TMC Table 14.12.020(B) Explanatory Notes:

¹ *If Type I or Type II land use permit application types are appealed, then notice of hearing requirements would apply.*

Land Use Permit Application Review Times

Table 14.12.030

Land Use Permit Application Review Times

<i>Land Use Permit Application Type</i>	<i>Time in Review</i>
<i>Type I</i>	90 days <ul style="list-style-type: none">• Final Plat: 30 days (TMC 17.24.050)
<i>Type II</i>	120 days
<i>Type III</i>	170 days <ul style="list-style-type: none">• Preliminary Plat: 90 days (RCW 58.17.140)

B. *Time Limit Exceptions. The time limits set forth above do not include:*

- 1. Up to the first twenty-eight days after receipt of a land use permit application, during which the city determines whether the application is complete pursuant to TMC 14.14.040.*
- 2. Any period during which the applicant has been requested by the city to correct plans, perform studies, or provide additional information pursuant to TMC 14.14.040(D).*
- 3. Any appeal period. See TMC Chapter 14.18 for appeal procedures.*
- 4. Any extension of time mutually agreed upon by the applicant and the city under TMC 14.10.040.*
- 5. The time required to prepare and issue an environmental impact statement in accordance with SEPA.*

Chapter 14.14 Preapplication and Application Process

- 14.14.010 Feasibility review.
- 14.14.020 Preapplication conference.
- 14.14.030 Land use permit applications.
- 14.14.040 Determination of completeness.

Chapter 14.14 Preapplication and Application Process

- **Feasibility review** is an optional step that allows an applicant to meet with the development review committee to present a proposed project for an initial review to help determine if it could be viable
- **A preapplication conference** requires the applicant to present the proposed project for development review committee for review before the application can be submitted with intent of confirming the submittal requirements and allowing the subsequent land use permit application to be processed expeditiously



Chapter 14.14 Application Submittals

- Significant changes in state law were made to the determination of completeness process
- The City now needs to be able to determine if a land use permit application is “procedurally complete”
- Determination whether an application is procedurally complete has two parts:
 1. A complete definition of the elements that make up a land use permit application that in turn can be modified by each kind of land use permit; and
 2. A determination by the City that what an applicant presents to the City when they submit a land use permit application is complete and ready for further review



Chapter 14.16 Application Review

- 14.16.010 Land use action review and determination of consistency.
- 14.16.020 Initial State Environmental Policy Act analysis.
- 14.16.030 Categorically exempt and planned actions.
- 14.16.040 Referral and review of land use permit applications.
- 14.16.050 Notice of application.



Chapter 14.18 Application Decisions and Appeals

- 14.18.010 Notice of decision.
- 14.18.020 Appeals of administrative approvals.
- 14.18.030 Appeals of State Environmental Policy Act related matters.
- 14.18.040 Notice of open record and appeal hearings.
- 14.18.050 Combined public hearings allowed.

Other Tumwater Municipal Code Amendments

The amendments will also modify portions of the following titles and chapters of the Tumwater Municipal Code:

1. TMC Chapter 2.58 Hearing Examiner
2. TMC Title 11 *Telecommunications and Telecommunications Facilities*
3. TMC Title 13 *Public Services*
4. TMC Title 15 *Buildings and Construction*
5. TMC Title 16 *Environment*
6. TMC Title 17 *Land Division*
7. TMC Title 18 *Zoning*



TMC Title 15 *Buildings and Construction*

Proposed amendments to TMC Title 18 will:

- Update the code references to TMC Title 14
- Add a new section on the certificate of occupancy process from the International Building Code



TMC Tile 18 *Zoning*

Proposed amendments to TMC Title 18 will:

- Update the code references to TMC Title 14
- Add a new chapter, TMC 18.55 *Site Plan Review*, that details the requirements for site plan review and approval, which are not currently part of the Tumwater Municipal Code
- Add a new section TMC Chapter 18.60 *Text Amendments and Rezones* to address the review and approval procedures for comprehensive plan amendments, general area rezones, development regulation amendments, and site-specific rezones required because of a proposed comprehensive plan amendment formerly addressing TMC Title 14



Next Steps

- The Planning Commission conducted a hearing on the ordinance on November 12, 2024, took public testimony, and forwarded a recommendation of approval with conditions to the City Council
- The General Government Committee reviewed the Planning Commission's recommendation at their November 13, 2024, meeting and placed the ordinance on the City Council's December 3, 2024, consideration calendar
- **Planning Commission Recommended Action:** Approve Ordinance No. 02024-005 as conditioned

