

**ORDINANCE NO. O2022-006**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**17.04.385 Private street.**

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

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

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

**17.04.390 Public facilities.**

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

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

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

**18.07.010 Residential zone districts permitted and conditional uses.**

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

**TABLE 18.07.010**

**RESIDENTIAL ZONE DISTRICTS PERMITTED AND CONDITIONAL  
USES**

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

**TABLE 18.07.010**

**RESIDENTIAL ZONE DISTRICTS PERMITTED AND CONDITIONAL  
USES**

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

TABLE 18.07.010

RESIDENTIAL ZONE DISTRICTS PERMITTED AND CONDITIONAL  
USES

RESIDENTIAL DISTRICTS Note: See Figure 18.23.020 for residential uses allowed in the TC town center zone district; and Table 18.27.040 for residential uses allowed in the BD brewery district zone	RSR	SFL	SFM	MFMM	MFH	MHP	Applicable Regulations
Planned unit developments		P	P	P	P	<u>P</u>	18.36
Private clubs and lodges			C	C	C		18.56
Recreational vehicle parks				C			18.56
Schools	C	C	C	C	C	C	18.56
Senior housing facilities, assisted				C	C		18.56
Senior housing facilities, independent				P	P		
Single-family detached dwellings	P	P	P			P	
Single-family detached dwellings existing prior to April 15, 2021				P <sup>4</sup>			
<del>Single-family detached dwellings and duplexes as part of a PUD planned unit development overlay</del>					<del>P<sup>5</sup></del>		<del>18.36</del>
Support facilities	P	P	P	P	P	P	
Temporary expansions of schools, such as portable classrooms	C	C	C	C	C	C	18.56
Townhouses and rowhouses			P <sup>6</sup>	P	P		18.16.050(F)(1)(a)

**TABLE 18.07.010**  
**RESIDENTIAL ZONE DISTRICTS PERMITTED AND CONDITIONAL**  
**USES**

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

**LEGEND**

P = Permitted Use

C = Conditional Use

RSR = Residential/Sensitive Resource

SFL = Single-Family Low Density Residential

SFM = Single-Family Medium Density Residential

MFH = Multifamily Medium Density Residential

MHP = Manufactured Home Park

**Table 18.07.010 Footnotes:**

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

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



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

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

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

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

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

Table 18.07.010 Explanatory Notes:

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

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

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

**18.07.030 Industrial zone districts permitted and conditional uses.**

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

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

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

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

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

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

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

## LEGEND

P = Permitted Use

C = Conditional Use

LI = Light Industrial

HI = Heavy Industrial

ARI = Airport Related Industrial

Table 18.07.030 Explanatory Notes:

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

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

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

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

**18.14.020 Permitted uses.**

Permitted uses in the MFM district are as follows:

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

R. Bed and breakfasts;

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

T. Community gardens;

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

V. Wildlife refuges and forest preserves;

W. Permanent supportive housing, subject to TMC 18.42.150;

X. Transitional housing, subject to TMC 18.42.150.

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

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

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

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

**18.16.020 Permitted uses.**

Permitted uses in the MFH district are as follows:

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

AB. Triplexes;

BC. Fourplexes;

CD. Multifamily dwellings;

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

EF. Support facilities;



FG. Planned unit developments;

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

HI. Adult family homes, residential care facilities;

IJ. Senior housing facilities, independent;

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

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

LM. Townhouses and rowhouses;

MN. Community gardens;

NO. Wildlife refuges and forest preserves;

OP. Permanent supportive housing, subject to TMC 18.42.150;

PQ. Transitional housing, subject to TMC 18.42.150.

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

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

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

**18.34.020 Permitted uses.**

Permitted uses in the ARI district are as follows:

A. Aviation and aviation-related uses;

B. Wholesaling, manufacturing, assembling, repairing, fabricating, or other handling of products and equipment;

C. Warehouse distribution centers, subject to the requirements of TMC 18.42.110;

D. General retail, personal and professional services;

E. Offices;

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

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

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

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

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

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

## **Chapter 18.36**

### **PUD PLANNED UNIT DEVELOPMENT-~~OVERLAY~~**

#### **18.36.010 Intent.**

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

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

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

- ~~1. 1.0 point: Provide enhanced useable parks and open space as a result of the planned unit development. Both the applicant and the city shall agree upon the location, size, and extent of the enhanced useable parks and open space;~~
- ~~2. 1.0 point to 2.0 points: Provide significant public facilities or other public amenities that could not be required by the city for development of the subject property without a planned unit development. Both the applicant and the city~~

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

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

4. 1.0 point: Dedicate a site containing a building, structure, site, object, or district on a register of historic places to the city or a qualifying nonprofit organization capable of restoring and/or maintaining the premises to standards set by Washington State Office of Archaeology and Historic Preservation;

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

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

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

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

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

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

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

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

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

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

#### **18.36.020 Overlay Planned unit development and zoning.**

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

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

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

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

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

#### **18.36.030 Procedure for Initiation—Application—Fee.**

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

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

**18.36.040 ~~Application—Supporting documentation~~Application.**

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

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

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

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

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

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

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

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

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



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

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

G. The location of stormwater facilities;

H. SEPA environmental review;

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

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

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

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

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

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

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

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

- ~~1.—Site boundaries,~~
- ~~2.—Streets bounding or abutting the site,~~
- ~~3.—Proposed buildings, including dimensions, identification of types, and the number of dwelling units in each residential type,~~
- ~~4.—Location and dimension of all common open space,~~
- ~~5.—Location, dimension and design of off street parking facilities showing points of ingress to and egress from the site,~~
- ~~6.—Existing buildings and indication of future use or disposition,~~
- ~~7.—Landscaping plans, and~~
- ~~8.—Proposed land use and densities;~~



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

- ~~1.—Proposed ownership method,~~
- ~~2.—Proposed operation and maintenance of the development and landscaping,~~
- ~~3.—General timetable for development,~~
- ~~4.—Provisions to assure permanence and maintenance of common open space through homes association formation, condominium development, or other means acceptable to the city.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. Zone District.

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

B. Planned unit developments with multiple underlying zone districts.

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

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

D. Uses.

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

E. Setbacks.

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

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

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

H. Structure height. Structure height requirements as established by the underlying zone district shall not be modified by a planned unit development.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**18.36.080 Exemption from zoning requirementsPublic and private streets.**

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

B. Private streets.

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

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

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

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

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

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

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

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

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

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

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

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

#### **18.36.090 Exemption from subdivision requirements****Phasing of planned unit developments.**

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

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

C. Hearing examiner review.

1. Upon receipt of the recommendation from the development review committee, the hearing examiner shall review the phased preliminary planned unit development in accordance with this section as part of a consolidated hearing according to TMC 18.36.100(B).
2. At the hearing, the hearing examiner shall consider and may alter any part of the proposed phased development.
3. The hearing examiner may approve, approve with conditions, or disapprove the phasing plan in a decision as part a consolidated hearing according to TMC 18.36.100(B).

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

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

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

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

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

**18.36.100. Public hearing – Preliminary planned unit development**

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

B. If a project with a preliminary planned unit development requires a public hearing for phasing according to TMC 18.36.090, a land division approval, a

conditional use permit, a variance, and/or another action that requires a hearing, the hearings should be consolidated.

#### **18.36.110 Public hearing – Criteria for decision.**

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

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

#### **18.36.120 Appeal.**

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

#### **18.36.130 Final planned unit development approval.**

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

#### **18.36.140 Minor modifications.**

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

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

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

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

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

**18.36.150 Major Modifications.**

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

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

**18.36.160 Vesting of planned unit developments.**

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

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

**18.36.170 Duration of approval for planned unit developments.**

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

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

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

1. The applicant has pursued submitting the final land division in good faith. Submittal of complete engineering plans and the start of construction for the project prior to the expiration of the approval period time limit shall constitute a good faith effort on the part of the applicant;

2. There have been no amendments to the comprehensive plan, zoning ordinance, development standards or other applicable codes which are inconsistent with the approved preliminary planned unit development, unless such amendments can be incorporated into the existing preliminary planned unit development without



significantly altering the project as originally approved by the hearing examiner; and

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

**18.36.180 Standards – Bond.**

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

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

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

**18.49.020 Permitted uses.**

Permitted uses within the MHP zone district are as follows:

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

**H. Planned unit developments.**

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

**Section 10. Corrections.** The City Clerk and codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

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



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

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

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

CITY OF TUMWATER

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

ATTEST:

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

APPROVED AS TO FORM:

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

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

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