

# STAFF REPORT



Date: February 6, 2024  
To: City Council  
From: Erika Smith-Erickson, Land Use and Housing Planner, and Brad Medrud,  
Planning Manager

## Final Docket for 2023 Annual Housekeeping Amendments (Ordinance No. O2023-012)

During 2022 and 2023, staff gathered information on proposed minor development code housekeeping amendments to the Tumwater Municipal Code to be considered collectively in 2023. TMC 18.60.025(A) establishes a process for minor development code amendments that is similar to the one the City follows for annual Comprehensive Plan amendments.

The Planning Commission recommended that the amendments on the preliminary docket be considered for review and approval as part of the final docket at their July 11, 2023 meeting. The City Council agreed with the Planning Commission recommendation on September 5, 2023.

The final docket contains four amendments that were reviewed by the Planning Commission in the fall of 2023 and expected to be approved by the City Council in February 2024 as Ordinance No. O2023-12. The Planning Commission had a briefing on the final docket on October 24, 2023, and a work session on Ordinance No. O2023-012 on November 14, 2023.

The Planning Commission conducted a public hearing on Ordinance No. O2023-012 on December 12, 2023, heard public testimony, and recommended approval of Ordinance No. O2023-012.

The City Council held a work session on the ordinance on January 9, 2024. The City Council recommended making one change to the proposed Conditional Use Permit criteria for building height increases in the Light Industrial and Heavy Industrial zone districts to minimize shade and shadow impacts on adjacent shadow-sensitive uses to the greatest extent possible.

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## **Summary**

The four proposed amendments are intended to make minor corrections to the City's development regulations.

## **Background**

TMC 18.60.025(A) establishes a process by which the preliminary docket of annual development code housekeeping amendments undergoes an initial review by the Planning Commission for recommendation to the City Council. The City Council made the final determination on which of the proposed amendments would be considered as part of the final docket on September 5, 2023.

After the docket was final, staff reviewed, analyzed the proposed amendments, and came back to the Planning Commission for the final review and recommendation process.

The Planning Commission received a briefing on the final docket of proposed code amendments on October 24, 2023, and held a work session on the final docket November 14, 2023.

The Planning Commission held a public hearing on the final docket of proposed amendments on December 12, 2023. Following the public hearing and deliberations, the Planning Commission recommended that the City Council consider the proposed amendments.

The amendments are a part of the approved 2023 Long Range Planning work program.

## **Development Code Housekeeping Final Docket**

The following is a summary of the four proposed amendments that make up the development code housekeeping final docket.

## 1. Undergrounding Utilities Requirements

Clarify the requirement that new and existing electrical power, telephone, cable television, fiber optics and other transmission lines shall be installed underground, and any deviation or exception would be addressed through TMC Chapter 17.28 *Deviation from Requirements*.

Code Section to be amended:

- TMC 17.12.200 – General Design Standards – Underground utilities.

Proposed amendment language:

### **17.12.200 Underground utilities**

A. Purpose. This section establishes the minimum requirements and procedures for the underground installation and relocation of electrical and communication facilities within the City of Tumwater. It is the policy of the City to require the underground installation of all new and relocated electrical and communication facilities, with certain minor exceptions.

#### B. Applicability.

1. All new facilities shall be installed underground.

2. All existing overhead utilities shall be installed or relocated underground if:

a. Ten or more dwelling units are being created;

b. Frontage improvements are required and the cumulative frontage length where existing overhead utilities exist is over two hundred linear feet for properties in the SFL single-family low density residential, SFM single-family medium density residential, and RSR residential/sensitive resource zone districts or one hundred linear feet for properties in other zone districts; or

c. The existing overhead utility is reconstructed, relocated, replaced, upgraded, or enhanced.

C. Any deviation or exception must be determined pursuant to TMC Chapter 17.28.

~~Electrical power, telephone, cable television, fiber optics and other transmission lines shall be installed underground.~~

## 2. Town Center Mixed Use Subdistrict – First Floor Uses

Clarify the uses that would be allowed on the first floor of commercial and residential developments along main streets in the Town Center Mixed Use subdistrict.

The intent of the Town Center Mixed Use subdistrict is to create a pedestrian environment with first floor land uses that generate pedestrian activity which complement the wide sidewalks,

street trees, pedestrian-level streetlights, street furniture, and mid-block crossings that characterize the pedestrian-oriented streetscape.

As the code is written currently, it is unclear what uses would be allowed in these situations.

Code Section to be amended:

- TMC 18.23.050 – TC Town Center Zone District – Development and design standards – Specific to properties fronting main streets.

Proposed amendment language:

**18.23.050 Development and design standards – Specific to properties fronting main streets.**  
[...]

*E. First Floor Uses in Commercial and Residential Developments.*

1. *Intent. Create a pedestrian environment with first floor land uses that generate pedestrian activity which complement the wide sidewalks, street trees, pedestrian-level street lights, street furniture and mid-block crossings that characterize the pedestrian-oriented streetscape.*

2. *Requirement. For commercial and residential developments, a minimum of twenty percent of the gross floor area on the first floor shall be dedicated to one or more of the following: retail sales, restaurants, personal services, professional services, medical clinics, child day care centers, child mini-day care centers, museums, or art galleries. These uses may be located within mixed use structures or in separate structures within the development. For example, a professional office building may incorporate a restaurant on the first floor, or a building dedicated entirely to professional offices may be constructed adjacent to a single-use restaurant building within the same development.*

*First floor uses required by this section must be externally oriented. “Externally oriented” for the purpose of this regulation shall mean having a public entrance opening directly to the outside and facing the main street. A minimum finished ceiling height of ten feet is required.*

### 3. Manufactured Home Parks – Open Space Requirements

The intent of Ordinance No. O2020-015, which the City Council approved in 2021, was that new or redeveloped manufactured home parks would provide park and open space. TMC 18.49.060(F) Park and Open Space Area states:

*New development in the MHP 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.*

If land division were not required pursuant to TMC 17.12.210, then the requirements of TMC 18.42.130 would apply. TMC 18.42.130(A) states:

*For new residential developments in which the majority of the dwelling units will be multifamily dwellings or roominghouses, or five or more dwelling units as rowhouses or townhomes, and the land is not being divided, a minimum of fifteen percent of the gross site area shall be set aside for park and open space area.*

As the code is written currently, manufactured home parks that are not subject to the land division process under Title 17 Land Division would not be required to provide 15% open space.

Code Section to be amended:

- 18.42.130 – General Land Use Regulations – Park and open space area standards for development without divisions of land.

Proposed amendment language:

**18.42.130 Park and open space area standards for development without divisions of land.**

A. *For new residential developments in which the majority of the dwelling units will be multifamily dwellings or roominghouses, or five or more dwelling units as rowhouses or townhomes, or manufactured home parks with five or more dwelling units, and the land is not being divided, a minimum of fifteen percent of the gross site area shall be set aside for park and open space area.*

[...]

E. *The community development director in consultation with the parks and recreation director may accept a fee in lieu for park and open space area subject to the following:*

1. *The fee in lieu for park and open space area is only allowed where the amount of land required to be set aside for park or open space area in the development is smaller than one acre in size and the development consists of:*

a. *Less than or equal to any combination of sixty dwelling units in multifamily, roominghouses, rowhouses, ~~or townhomes-dwellings~~, or manufactured home park developments;*

[...]

F. *For all new residential developments in which the majority of the dwelling units will be multifamily dwellings or roominghouses, or five or more dwelling units as rowhouses, ~~or townhomes~~, or manufactured home parks with five or more dwelling units, and the land is not being divided, at least fifty percent of the area set aside for park and open space area must be for active recreation, with the remainder set aside for passive recreation. For all nonresidential subdivisions, all the area set aside for park and open space area must be for passive recreation.*

[...]

## 4. Building Heights Over Sixty-Five Feet for Specific Industrial Uses

Establish a conditional use permit process for specific industrial uses that exceed sixty-five feet in the LI Light Industrial and HI Heavy Industrial zone districts.

Prior to the approval of Ordinance No. O2017-006 by the City Council in 2017, “buildings or structures over permitted height restrictions” were allowed subject to conditional use permit approval in the GC General Commercial, MU Mixed Use, LI Light Industrial, and HI Heavy Industrial zone districts. In addition to the general conditional use permit requirements, solar access and articulation conditions had to be addressed.

To partially address the need for taller structures in the LI Light Industrial zone district, the maximum height in the LI Light Industrial zone district was raised by Ordinance No. O2016-037 in 2017 from fifty feet to sixty-five feet.

At their January 9, 2024 work session, the City Council recommended making one change to the proposed Conditional Use Permit criteria for building height increases in the Light Industrial and Heavy Industrial zone districts to minimize shade and shadow impacts on adjacent shadow-sensitive uses to the greatest extent possible.

Code Sections to be amended:

- TMC 18.24.040 – LI Light Industrial Zone District – Conditional uses
- TMC 18.25.040 – HI Heavy Industrial Zone District – Conditional uses
- TMC 18.56.110 – Conditional Use Permits – “B” uses

Proposed amendment language:

**18.24.040 Conditional uses.**

*Conditional uses in the LI district are as follows:*

A. Cemeteries;

[...]

F. Impound yards;

G. The maximum building height may be exceeded upon approval of the hearing examiner for specific uses. Requests for such approval shall be processed in accordance with the conditional use procedure of TMC 18.56 and additional minimum conditions outlined in TMC 18.56.110(B).

**18.25.040 Conditional uses.**

*Conditional uses in the HI district are as follows:*

A. Cemeteries;

[...]

I. Impound yards:-

J. The maximum building height may be exceeded upon approval of the hearing examiner for specific uses. Requests for such approval shall be processed in accordance with the conditional use procedure of TMC 18.56 and additional minimum conditions outlined in TMC 18.56.110(B).

**18.56.110 “B” uses.**

*“Bed and breakfasts”*

A. Minimum Conditions.

1. The bed and breakfast shall have no more than four guest rooms;
2. No cooking facilities shall be provided in the guest rooms;
3. Guest rooms shall not be rented for stays of more than fourteen days at a time;
4. A minimum of one off-street parking space shall be provided per guest room;
5. The scale, bulk, and architectural style of the structure in which the bed and breakfast is located shall not be altered to be incompatible with the surrounding residential neighborhood;
6. Large banquets, weddings, conferences, and similar group gatherings shall not be permitted at bed and breakfasts.

“Building Height Increases in the LI and HI zone districts.”

A. Minimum Conditions.

1. The height increase shall only be to accommodate equipment, structures or buildings that contain special equipment primarily related to manufacture, assembly, processing of goods or products;
2. The functional need for a height increase shall be demonstrated by the applicant;
3. The proposed height increase shall be compatible with the general purpose, goals, objectives and standards of the Comprehensive Plan, the zoning regulations and any other plan, program, map, or regulation of the City;
4. Building heights shall not result in substantial or undue adverse effects on adjacent and abutting property. When a building in excess of the maximum height is proposed adjacent to or abutting a lot with a maximum height less than the subject property, increased setbacks and/or step-backs may be appropriate to reduce adverse effects on adjacent or abutting property;
5. Upper floor step-backs, varied tower heights with separation, and/or other architectural methods shall be integrated into the design to provide a human-scaled building edge along the street with access to sky views. Bulk reduction methods such as

varied building geometry, variety in materials, texture, pattern or color, architectural rooftop elements, and/or other techniques shall be provided;

6. Building(s) shall be designed so that light and glare impacts upon streets, public facilities, and public open spaces are minimized;

7. Building(s) shall be designed so that shade and shadow impacts on adjacent shadow-sensitive uses (e.g., residential, outdoor restaurants, open spaces, and pedestrian areas) are minimized to the greatest extent possible;

8. The maximum building height allowed under this process shall be no more than ninety feet; and

9. 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.

## **Public Approval Process**

Consistent with TMC 18.60.025, the Planning Commission held a briefing on the preliminary docket on June 27, 2023 and a work session on July 11, 2023. At the end of the work session, the Planning Commission recommended that all the items on the preliminary docket go forward as part of the final docket.

The General Government Committee discussed the Planning Commission's recommendation on the items to go forward as part of the final docket at their August 9, 2023 meeting. The General Government Committee agreed with the Planning Commission and added the item to the City Council's consent agenda for their September 5, 2023 meeting. The City Council approved the items to go forward to the final docket on September 5, 2023.

An Environmental Checklist for a non-project action was prepared October 27, 2023, under the State Environmental Policy Act (Chapter 43.21C RCW), pursuant to Chapter 197-11 WAC, and a Determination of Non-Significance was issued on November 17, 2023.

The ordinance was sent to the Washington State Department of Commerce on October 27, 2023 for their required 60-day review before the proposed text amendments are adopted, in accordance with RCW 36.70A.106.

The Planning Commission received a briefing on the final docket of proposed code amendments on October 24, 2023, and held a work session on the final docket November 14, 2023.

A Notice of Public Hearing for the Planning Commission was issued on November 22, 2023, prior to a public hearing. The notice was posted, published as a press release, distributed to interested individuals and entities that have requested such notices, and published in The Olympian.

The Planning Commission held a public hearing on the final docket of proposed amendments on December 12, 2023. Following the public hearing and deliberations, the Planning Commission recommended that the City Council consider the proposed amendments.



The City Council will review the final docket of proposed amendments at a worksession on January 9, 2024. The City Council is scheduled to consider the final docket of proposed amendments on February 6, 2024.

### **Public Notification**

A Notice of Public Hearing for the December 12, 2023, Planning Commission public hearing was issued, posted, mailed to interested parties, and published in The Olympian on November 22, 2023, after the Planning Commission set the public hearing date on November 14, 2023.

### **Planning Commission Conclusions**

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

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

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

The ordinance establishes concise requirements for undergrounding utilities, permitted uses in the Town Center Mixed Use subdistrict, clarify open space requirements for manufactured home parks, and established the review and approval of applications for building heights over sixty-five feet for specific industrial uses in the Light Industrial and Heavy Industrial zone districts.

- b. The ordinance is consistent with Goal 9 of the Growth Management Act which states:

*Retain open space and green space, enhance recreational opportunities, enhance fish and wildlife habitat, increase access to natural resource lands and water, and develop parks and recreation facilities.*

The ordinance establishes concise open space requirements in manufactured home parks that are not subject to the land division process.

2. The proposed amendments are consistent with the Economic Development Plan and Land Use Element of the Comprehensive Plan because the proposed amendments address undergrounding utilities, permitted uses in the Town Center Mixed Use subdistrict, open space requirements for manufactured home parks, and established the review and approval of applications for building heights over sixty-five feet for specific industrial uses in the Light Industrial and Heavy Industrial zone districts.

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

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

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

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

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

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

3. The proposed amendments improve the existing regulations for the undergrounding utilities, permitted uses in the Town Center Mixed Use subdistrict, open space requirements for manufactured home parks, and established the review and approval of applications for building heights over sixty-five feet for specific industrial uses in the Light Industrial and Heavy Industrial zone districts.

- a. Goal LU-2 of the Land Use Element states:

*Ensure development takes place in an orderly and cost-efficient manner in order to best utilize available land and public services, conserve natural resources, protect critical areas, preserve open space, and reduce sprawl.*

- b. Goal LU-7 of the Land Use Element states:

*Encourage retention of open space, parks, trails, and development of recreational opportunities within Tumwater.*

- c. Policy LU-7.4 of the Land Use Element states:

*Provide a variety of open spaces including landscaped buffers, small parks, plazas, and other community areas to balance higher density development and enhance quality of living.*

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

### **Planning Commission Recommendation**

The Planning Commission held a public hearing on December 12, 2023 and recommended approval of Ordinance No. O2023-012.

### **Effects of the Proposed Amendments**

The proposed text amendments would necessitate changes to the Tumwater Municipal Code as shown in Ordinance No. O2023-012.

### **Staff Contacts**

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