

# STAFF REPORT

Date: October 11, 2023

To: General Government Committee

From: Brad Medrud, Planning Manager



## 2025 Comprehensive Plan Periodic Update – Development Code

On a ten-year cycle, the City must conduct a Growth Management Act periodic update of its Comprehensive Plan and related development regulations. For the current cycle, the City is obligated to complete work on the periodic update by June 30, 2025. Work on the periodic update started last fall.

The intent of the General Government Committee meeting on Wednesday, October 11, 2023, is to discuss the state requirements for updating the City's Municipal Code.

### Contents

1. State Required Development Code Updates .....	2
A. Accessory Dwelling Units .....	2
B. Clean Energy Siting .....	3
C. Climate Change .....	4
D. Condominiums and Smaller Residential Units .....	4
E. Critical Area Regulations Update .....	5
F. Design Review Standards .....	5
G. Floodplain Ordinance Update .....	5
H. Impact Fees for Early Learning Facilities .....	6
I. Impact Fees for Bicycle and Pedestrian Facilities .....	6
J. Manufactured Housing .....	7
K. Middle Housing .....	7
L. Organic Materials Management .....	9
M. Parking for Affordable and Multifamily Housing Near Transit .....	9
N. Permit Review Process .....	11
O. Religious Sponsored Housing Density Bonus .....	12

P. Religious Sponsored Temporary Housing .....	12
Q. Residential Density Review .....	13
R. SEPA Catagorical Exemptions .....	13
S. Use of Existing Buildings for Residential Purposes .....	14
2. City Sponsored Development Code Updates.....	15
A. Density Bonus Requirements .....	15
B. General Amendments to Support Comprehensive Plan Update .....	15
C. Inpatient Substance Abuse Facilities in Essential Public Facilities.....	15
Appendix A. Resources and Guidance .....	16
1. City of Tumwater .....	16

## 1. State Required Development Code Updates

### A. Accessory Dwelling Units

Accessory Dwelling Units (EHB 1337)		
Summary	Code to be Amended	Notes
Expand housing options by easing barriers to the construction and use of accessory dwelling units.	Sections throughout Title 18 Zoning, especially TMC 18.42.010 Accessory Dwelling Units	<p>Ensure accessory dwelling unit development regulations address the following state requirements:</p> <ul style="list-style-type: none"> <li>• Impact fees for accessory dwelling units may not be greater than 50% of single-family homes.</li> <li>• Allow two accessory dwelling units per lot.</li> <li>• Maximum size of accessory dwelling units may be no less than 1,000 square feet.</li> <li>• No development or design standards for accessory dwelling units that are more restrictive than on the principal home.</li> <li>• Must allow conversion of existing building to an accessory dwelling unit even if nonconforming.</li> </ul> <p>Actions to implement EHB 1337 are exempt from appeal under SEPA and to the Growth Management Hearings Board.</p> <p>MRSC Article: <a href="#">MRSC – Major Changes to Washington's Housing Laws</a></p>

Accessory Dwelling Units (EHB 1337)		
Summary	Code to be Amended	Notes
		Effective no later than six months after 2025 Comprehensive Plan update deadline (December 31, 2025), or EHB 1337 supersedes City code.

## B. Clean Energy Siting

Reducing Light Pollution Associated with Certain Energy Infrastructure (ESHB 1173)		
Summary	Code to be Amended	Notes
Reduce light pollution associated with wind energy infrastructure.	TMC 18.40.035 Exterior Illumination	The bill includes requirements for installation of FAA-approved light-mitigation systems on both existing and new wind energy facilities.  Effective July 1, 2023.

Clean Energy Siting (E2SHB 1216)		
Summary	Code to be Amended	Notes
New state clean energy siting standards.	Chapter 16.04 Environmental Policy and Title 18 Zoning	Creates a fully coordinated permitting process for clean energy facilities of statewide significance.  The City must enter into an agreement with Ecology to implement this expedited process.  The legislation defines a unique SEPA process.  MRSC Article: <a href="#">MRSC – New Legislation Related to Climate and the Natural Environment</a>  Effective July 23, 2023. All requirements apply to new clean energy facilities permitting after that.

## C. Climate Change

Climate (E2SHB 1170/E2SHB 1181)		
Summary	Code to be Amended	Notes
Improve City response to climate change by updates to the development code in support of new Climate Element.	Sections throughout Title 18 Zoning	<p>Address the following:</p> <ul style="list-style-type: none"> <li>New amended Growth Management Act goals: Climate Change &amp; Resiliency, Transportation, Open Space &amp; Recreation, Environment, Citizen Participation and Coordination.</li> </ul> <p>Add designations for greenspaces and urban forests in zone districts.</p> <p>MRSC Article: <a href="#">MRSC – New Legislation Related to Climate and the Natural Environment</a></p> <p>The City's deadline is June 30, 2025.</p>

## D. Condominiums and Smaller Residential Units

Condominiums and Smaller Residential Units (E2SSB 5258)		
Summary	Code to be Amended	Notes
Increase the supply and affordability of small residential units such as condominium units and townhouses.	<p>Chapter 3.50 Impact Fees</p> <p>Title 17 Land Division</p>	<p>Address the following:</p> <ul style="list-style-type: none"> <li>Impact fee schedule must reflect the proportionate impact of new housing units, including multifamily and condominium units, based on the square footage, number of bedrooms, or trips generated, in the housing unit to produce a proportionally lower impact fee for smaller housing units.</li> <li>Amend short plat regulations procedures for unit lot subdivisions to allow division of a parent lot into separately owned unit lots (unit lot subdivision). Portions of the parent lot not subdivided for individual unit lots would be owned in common by the owners of the individual unit lots, or by a homeowners' association made up of the owners of the individual unit lots.</li> </ul> <p>Impact fee requirements effective no later than six months after 2025 Comprehensive Plan update deadline (December 31, 2025),</p>

		Unit lot subdivision requirements effective July 23, 2023.
--	--	------------------------------------------------------------

## E. Critical Area Regulations Update

Critical Area Regulations Update		
Summary	Code to be Amended	Notes
Update critical areas regulations for wetlands, critical aquifer recharge areas, frequently flooded areas, geologically hazardous areas, and fish wildlife conservation areas.	Title 16 Environment	Guided by the State Department of Commerce Critical Areas Checklist, update Title 16 Environment to reflect current state requirements.  Due by June 30, 2025.

## F. Design Review Standards

Design Review Standards (ESHB 1293)		
Summary	Code to be Amended	Notes
Apply only clear and objective design review standards to the exterior of new development.	Chapter 18.43 Citywide Design Standards	Review all design standards to ensure they meet the bill's definition of 'clear and objective.'  Ensure that the City's design review process is concurrent with the land use permit process and has no more than one public design review meeting.  Effective no later than six months after 2025 Comprehensive Plan update deadline (December 31, 2025)

## G. Floodplain Ordinance Update

Floodplain Ordinance Update		
Summary	Code to be Amended	Notes
Update the City's Floodplain Ordinance to reflect current FEMA and State Department of Ecology standards.	Chapter 18.38 FP Floodplain Overlay	City Staff took part in the Community Assistance Visit (CAV) process with Washington State Department of Ecology in the spring of 2023.

Floodplain Ordinance Update		
Summary	Code to be Amended	Notes
		<p>The primary purpose of the CAV was to review the procedures for administering and enforcing the City's flood damage prevention ordinance. The CAV also provided current information about the National Flood Insurance Program, and discussed items of concern that the City may have with the administration of the local floodplain management program.</p> <p>Chapter 18.38 Floodplain Overlay was reviewed during the CAV. The City's ordinance was overall in fair standing, with minor updates needed to bring the ordinance into compliance with NFIP and State of Washington standards. It was discussed during the CAV that the City will complete all needed updates and adopt a compliant ordinance to close out the CAV.</p>

## H. Impact Fees for Early Learning Facilities

Impact Fees for Early Learning Facilities (SHB 1331)		
Summary	Code to be Amended	Notes
Limits impact fees that may be collected for early learning facilities	Chapter 3.50 Impact Fees	Determine if impact fees for early learning facilities are not more than commercial retail or offices of a similar size.

## I. Impact Fees for Bicycle and Pedestrian Facilities

Impact Fee Study for Bicycle and Pedestrian Facilities (SB 5452)		
Summary	Code to be Amended	Notes
Authorize impact fee revenue to fund improvements to bicycle and pedestrian facilities.	Chapter 3.50 Impact Fees	<p>Ensure impact fee study includes assessment of impacts to bike and pedestrian facilities and includes in impact fee calculation.</p> <p>MRSC Article: <a href="#">MRSC – New Legislation Related to Climate and the Natural Environment</a></p>

## J. Manufactured Housing

Manufactured Housing (SB 5452)		
Summary	Code to be Amended	Notes
Update manufactured housing codes to meet state requirements.	Chapter 18.48 Designated Manufactured Homes – Manufactured Homes – New Manufactured Homes – Mobile Homes – Manufactured Home Parks	Starting in 2019, manufactured housing is regulated the same as site-built housing (RCW 35.21.684 amended in 2019, RCW 35.63.160, RCW 35A.21.312 amended in 2019 and RCW 36.01.225 amended in 2019).  The City may require that manufactured homes: (1) are new, (2) are set on a permanent foundation, and (3) comply with local design standards applicable to other homes in the neighborhood but may not discriminate against consumer choice in housing.

## K. Middle Housing

Middle Housing (E2SHB 1110)		
Summary	Code to be Amended	Notes
Increase middle housing in areas traditionally dedicated to single-family detached housing	Throughout Title 18 Zoning  Title 17 Land Division	Address the following: <ul style="list-style-type: none"> <li>At least two units per lot in residential zones except on lots less than 1,000 square foot), unless higher-density zoning applies.</li> <li>At least four units per lot in residential zones except lots less than 1,000 square foot, unless higher-density zoning applies, if at least one unit is affordable housing.</li> <li>Tumwater does not have any major transit stops that meet the bill's definition. According to the legislation: <i>"Major transit stop" means:</i> (a) A stop on a high-capacity transportation system funded or expanded under the provisions of chapter 81.104 RCW; (b) Commuter rail stops; (c) Stops on rail or fixed guideway systems; or (d) Stops on bus rapid transit routes.</li> <li>Note that the requirements for accessory dwelling units, parking, and transit availability are broader than what is in E2SHB 1110.</li> </ul>

Middle Housing (E2SHB 1110)		
Summary	Code to be Amended	Notes
		<ul style="list-style-type: none"> <li>As an alternative to first two bullets above, meet their density requirements on 75% of City lots that are primarily dedicated to single-family. Also, meet criteria for the other 25%.</li> <li>Meeting the two accessory dwelling unit per lot requirements of EHB 1337 may address some of these requirements.</li> <li>Allow at least six of the nine types of middle housing in residential zones.</li> <li>Allow zero lot line short plats.</li> <li>Limit design review for middle housing to administrative process, and not apply any development standards that do not apply to single-family houses.</li> <li>Limit parking requirements for middle housing to one parking space on lots less than 6,000 square feet and two spaces on lots greater than 6,000 square feet. There is a possibility to submit a transportation safety study to Commerce.</li> <li>Actions on all the above bullets are exempt from appeal under SEPA.</li> <li>There is a possibility for Commerce approval of 'substantially similar' plans and regulations to those required in this bill.</li> <li>There is a possibility for Commerce to give a timeline extension if will result in displacement or overburdened infrastructure. The Capital Facilities Plan update can also be delayed by the City if an extension is granted.</li> <li>Actions to remove parking requirements for infill development in an urban growth area categorically exempt from SEPA.</li> </ul> <p>Common Interest Communities (e.g., condominium or homeowners' associations) cannot prohibit implementation of this bill.</p> <p>MRSC Article: <a href="#">MRSC – Major Changes to Washington's Housing Laws</a></p> <p>MRSC Article: <a href="#">MRSC – Missing Middle Housing</a></p>



Middle Housing (E2SHB 1110)		
Summary	Code to be Amended	Notes
		<p>MAKERS Article: <a href="#">How Washington's Middle Housing Legislation Applies in Your Community – MAKERS architecture and urban design</a></p> <p>Effective no later than six months after 2025 Comprehensive Plan update deadline (December 31, 2025).</p>

## L. Organic Materials Management

Organic Materials Management (ESSHB 1799)		
Summary	Code to be Amended	Notes
Update essential public facilities code to address compost handling to help meet climate commitment goals by reducing the emissions of methane, a potent greenhouse gas, through the diversion of organic materials from landfills.	TMC 18.56.140 Essential Public Facilities	Add compost handling facilities as a category of essential public facilities allowed in the City requiring a conditional use permit.

## M. Parking for Affordable and Multifamily Housing Near Transit

Parking for Affordable and Multifamily Housing Near Transit (E2SHB 1923/SHB 2343)		
Summary	Code to be Amended	Notes
Update parking code to reflect recent state legislation	Chapter TMC 18.50 Parking	<p>(1) For housing units that are affordable to very low-income or extremely low-income individuals and that are located within one-quarter mile of a transit stop that receives transit service at least two times per hour for twelve or more hours per day, minimum residential parking requirements may be no greater than one parking space per bedroom or 0.75 space per unit.</p> <p>The City may establish a requirement for the provision of more than one parking space per bedroom or 0.75 space per unit if the</p>

Parking for Affordable and Multifamily Housing Near Transit (E2SHB 1923/SHB 2343)		
Summary	Code to be Amended	Notes
		<p>jurisdiction has determined a particular housing unit to be in an area with a lack of access to street parking capacity, physical space impediments, or other reasons supported by evidence that would make on-street parking infeasible for the unit.</p> <p>This would affect such developments along the Intercity Transit 12 and 13 lines.</p> <p>(2) For housing units that are specifically for seniors or people with disabilities, which are located within one-quarter mile of a transit stop that receives transit service at least four times per hour for twelve or more hours per day, the City may not impose minimum residential parking requirements for the residents of such housing units.</p> <p>The City may establish parking requirements for staff and visitors of such housing units and consider other special conditions.</p> <p>This would affect developments along the Intercity Transit 13 lines.</p> <p>(3) For market rate multifamily housing units that are located within one-quarter mile of a transit stop that receives transit service from at least one route that provides service at least four times per hour for twelve or more hours per day, minimum residential parking requirements may be no greater than one parking space per bedroom or 0.75 space per unit.</p> <p>The City may establish a requirement for the provision of more than one parking space per bedroom or 0.75 space per unit if it has determined a particular housing unit to be in an area with a lack of access to street parking capacity, physical space impediments, or other reasons supported by evidence that would make on-street parking infeasible for the unit.</p>

Parking for Affordable and Multifamily Housing Near Transit (E2SHB 1923/SHB 2343)		
Summary	Code to be Amended	Notes
		This would affect developments along the Intercity Transit 13 lines.

## N. Permit Review Process

Project Permit Review (2SSB 5290)		
Summary	Code to be Amended	Notes
Merge local permit review processes	Title 14 Development Code Administration	<p>There are new permit review timelines for project permit applications submitted to the City after January 1, 2025:</p> <ul style="list-style-type: none"> <li>For projects that do not require public notice, the final decision must be issued within 65 days of the determination of completeness.</li> <li>For projects that do require public notice, the final decision must be issued within one hundred days of the determination of completeness.</li> <li>For project permits which require both notice and a public hearing, the final decision must be issued within 170 days of the determination of completeness.</li> </ul> <p>Failure to adhere to the established permit review timelines would result in the City refunding an applicant's permit fees on a pro-rated basis — up to a 20% refund depending on the length of the delay.</p> <p>Address the following:</p> <ul style="list-style-type: none"> <li>Review permits to decide what can be excluded from RCW 36.70B timelines.</li> <li>Exclude interior alterations from site plan review.</li> <li>Commerce will have new grant programs for permitting process improvements.</li> <li>Review Title 18 permit procedures for compliance with the bill's amendments to RCW 36.70B.</li> </ul>

Project Permit Review (2SSB 5290)		
Summary	Code to be Amended	Notes
		<p>Update annual report on permit timelines as described in the bill (Commerce to develop report template).</p> <p>MRSC Article: <a href="#">MRSC – 2023 Legislative Updates to Modernize and Streamline Local Project Review</a></p> <p>Effective January 1, 2025, except second bullet is effective July 23, 2023.</p>

## O. Religious Sponsored Housing Density Bonus

Religious Sponsored Housing Density Bonus (SB 1377)		
Summary	Code to be Amended	Notes
Provide an increased density bonus for affordable housing development (either single-family or multifamily) on property owned or controlled by a religious organization, provided certain conditions are met.	Title 18 Zoning	<p>The housing must be affordable for households earning less than 80% of the area median income and must remain affordable for at least 50 years—regardless of whether the religious organization continues to own the property.</p> <p>Supported by the Tumwater Housing Action Plan.</p>

## P. Religious Sponsored Temporary Housing

Religious Sponsored Homeless Housing (ESHB 1754)		
Summary	Code to be Amended	Notes
Review existing regulations on outdoor encampments, safe parking efforts, indoor overnight shelters, and temporary small houses if on property owned or controlled by a religious organization	TMC 18.59.050 Homeless encampments	The legislation limits City requirements on outdoor encampments, safe parking efforts, indoor overnight shelters, and temporary small houses on property owned or controlled by a religious organization.

## Q. Residential Density Review

Review Residential Densities Citywide (E2SHB 1220)		
Summary	Code to be Amended	Notes
Review the minimum and maximum residential densities in all zone districts that allow residential uses to ensure there is adequate capacity for affordable housing for all income groups.	Title 18 Zoning	<p>Identified in the 2019 City Council Housing Affordability Work Plan – Housing Text Implementation and the Tumwater Housing Action Plan.</p> <p>Considered as a 2020 Annual Comprehensive Plan amendment. The City deferred action on the amendment to the 2025 Comprehensive Plan update.</p> <p>E2SHB 1220 contains extensive new requirements for removing barriers to providing affordable housing to all income groups in the City. The City must plan and allow for the development of new housing units affordable to all income groups.</p> <p>Amendments to Comprehensive Plan land use designations text and map and the Zoning Map and Title 18 Zoning would occur simultaneously.</p> <p>Could include reducing the number of Comprehensive Plan land use designations to streamline rezone permit processes.</p>

## R. SEPA Catagorical Exemptions

SEPA (SSB 5818/2SSB 5412)		
Summary	Code to be Amended	Notes
Authorize City adoption of SEPA categorical exemption for project actions that develop housing within a UGA.	Chapter 16.04 Environmental Policy	<p>Adoption of higher categorical exemptions for all housing in UGA. Must follow the specific process to do 'up-front' environmental analysis when adopting.</p> <p>MRSC Article: <a href="#">MRSC – New Legislation Related to Climate and the Natural Environment</a></p> <p>MRSC Article: <a href="#">MRSC – Major Changes to Washington's Housing Laws</a></p>

SEPA (SSB 5818/2SSB 5412)		
Summary	Code to be Amended	Notes
		Effective July 23, 2023.

## S. Use of Existing Buildings for Residential Purposes

Existing Buildings for Residential Use (ESHB 1142)		
Summary	Code to be Amended	Notes
Use of existing commercial, industrial, or institutional buildings for residential purposes.	Title 15 Buildings and Construction  Title 18 Zoning	<p>Addresses the following:</p> <ul style="list-style-type: none"> <li>• In zone districts that allow multifamily residential, allows internal units up to 50% of maximum zoning density.</li> <li>• Does not require more parking for internal units.</li> <li>• Does not impose permitting or development standards beyond those that apply to all residential uses in that zone district.</li> <li>• Makes design standards not applicable to residential conversions in existing buildings.</li> <li>• Allows residential units in all areas of buildings except defined ground floor retail on 'major pedestrian corridors.'</li> </ul> <p>For creation of units within an existing building, need to ensure that the following does not happen:</p> <ul style="list-style-type: none"> <li>• Require unchanged units meet new energy code. The State Building Code Council required to amend the Washington State Energy Code.</li> <li>• Deny building permit due to existing nonconformities.</li> <li>• Require a transportation concurrency study or environmental study.</li> </ul> <p>An existing building is a building that has had a Certificate of Occupancy at least three years prior.</p> <p>Amendments to implement this bill are SEPA exempt.</p>

Existing Buildings for Residential Use (ESHB 1142)		
Summary	Code to be Amended	Notes
		Effective no later than six months after 2025 Comprehensive Plan update deadline (December 31, 2025).

## 2. City Sponsored Development Code Updates

### A. Density Bonus Requirements

Density Bonus Requirements		
Summary	Code to be Amended	Notes
Update the City's density bonus requirements for permanently affordable housing and the transfer of development rights.	Title 18 Zoning	Consider changing the City's current affordable housing requirement bonus to a 1 to 1 instead of 2 to 1.  Remove transfer of development requirement to achieve highest residential densities.

### B. General Amendments to Support Comprehensive Plan Update

General Amendments to Support Comprehensive Plan Update		
Summary	Code to be Amended	Notes
Update development code as needed to support the Comprehensive Plan update process.	Title 17 Land Division  Title 18 Zoning	Specific development code amendments will be identified as the Comprehensive Plan update process proceeds.

### C. Inpatient Substance Abuse Facilities in Essential Public Facilities

Inpatient Substance Abuse Facilities in Essential Public Facilities		
Summary	Code to be Amended	Notes
Update essential public facilities code to address expansion of drug and alcohol treatment facilities.	TMC 18.56.140 Essential Public Facilities	The Planning Commission and City Council started discussions as part of the 2022 Comprehensive Plan Amendments about the expansion of existing inpatient substance abuse facilities. Both the Planning Commission and City Council supported continuing those discussions as part of our state-mandated 2025 Comprehensive Plan update process.

## **Appendix A. Resources and Guidance**

### 1. City of Tumwater

[2025 Comprehensive Plan Update | City of Tumwater, WA](#) contains links to guidance material and information about the update.