



The city is conducting this public meeting using a hybrid model. The public is welcome to attend tonight's meeting in-person at City Hall (Council Chambers), or virtually by using the meeting access link below.

<https://sumnerwa-gov.zoom.us/j/82527384980>

Or One tap mobile :

+12532158782,,82527384980# US (Tacoma)

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

+1 253 215 8782 US (Tacoma)

Webinar ID: 825 2738 4980

CALL TO ORDER

Pledge of Allegiance

Invocation

Roll Call: Bitetto, Bowman, Clerget, Cole, Elfers and Reinke

OATH OF OFFICE

Matthew Kenna (Council)

The following items are distributed to Councilmembers in advance for study and review, and the recommended actions will be accepted in a single motion. Any item may be removed for further discussion if requested by a Councilmember.

CONSENT AGENDA

1. Operations Facility Temporary Construction Easement - Cabrera
2. South Tank Retrofit - Construction Contract Award
3. Resolution No. 1704 - Pierce Conservation District Interlocal Agreement
4. Resolution No. 1703 - Parklet Policy and Program
5. 2025 Legislative Agenda

PUBLIC HEARING

1. Ordinance No. 2905 - 2025/2026 Biennial Budget

REGULAR BUSINESS

1. **Unfinished Business**
2. **Public Comment (Limit 3 minutes)**

Members of the community who wish to give public comment are strongly encouraged to join the meeting via the ZOOM link or by telephone. If you are unable to join the meeting, please submit your public comment in writing via email to the City Clerk at Michellec@sumnerwa.gov no later than 4:00pm on the day of the meeting. Any written comments received will be provided to the City Council

and attached to the meeting minutes. Please contact the City Clerk at 253-299-5590 with any questions.

3. New Business

- a. Ordinance No. 2899 - Battery Energy Storage Systems Code Amendment
- b. Ordinance No. 2900 - Multifamily Residential Infill Code Amendment
- c. Ordinance No. 2901 - Permit Review & Timelines Zoning Code Text Amendment
- d. Ordinance No. 2912 - Amending Sumner Municipal Code 13.08 Utility Billing and 13.20 Sewer Rates
- e. Ordinance No. 2911 - Establishing the 2025 Utility Rates
- f. Ordinance No. 2902 - Group Homes Code Amendment
- g. Ordinance No. 2913 - Significant Industrial User and Industrial Discharge Sewer Fees
- h. Ordinance No. 2914 - Hydrant Use and Deletion of Surcharge Area

4. Reports

- a. Council
- b. City Administrator
- c. Mayor

5. Executive Session

6. Adjournment

This meeting is accessible to persons with disabilities. For individuals who may require special accommodations, please contact the City Clerk at (253) 299-5590, 24 hours in advance.

SUBJECT: Operations Facility Temporary Construction Easement - Cabrera

CATEGORY: Consent

BUDGET IMPACT:

Expenditure Required: \$1,500.00

Within Budget Allocation: Yes

ATTACHMENTS:

1. Temporary Access & Construction Easement - 14403 29th St E

STAFF CONTACT: Alisa O'Haver-Ayala , Deputy Public Works Director

SUMMARY BACKGROUND:

The Operations Facility project includes construction of a new public works facility with approximately 88,000 sf of total building space over 6 buildings on a 6.2 Acre site at 14320 29th Street East. The facility will include an administration building, vehicle storage, fleet washing, and material storage. The project will also include frontage improvements, landscaping, site lighting and stormwater management.

The City needs to acquire a temporary, non-exclusive access and construction easement from the property owner of 14403 29th St E, Digna Cabrera, for the purpose of tying in the driveway approach with the planned road improvements along 29th St E.

COUNCIL COMMITTEE/STUDY SESSION: Public Works Committee

MEETING/STUDY SESSION DATE: 11/5/2024

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

Authorize the Mayor to execute any and all documents necessary to effectuate the temporary construction easement with Digna Cabrera for the Operations Facility project over parcel ending 4025, in a form as approved by the City Attorney.

After recording return document to:

City of Sumner
ATTN: Operations Facility
1104 Maple Street, Suite 260
Sumner, WA 98390

Document Title: Temporary Easement
Reference Number of Related Document: N/A
Grantor: DIGNA C. CABRERA
Grantee: CITY OF SUMNER
Legal Description: PORTION OF SW OF SE 12-20-4
Additional Legal Description is on Page 3 of Document.
Assessor's Tax Parcel Number: 0420124025

TEMPORARY EASEMENT
OPERATIONS FACILITY

The Grantor(s), DIGNA C. CABRERA, a married woman, as her separate property, for and in consideration of TEN AND NO/100 (\$10.00) DOLLARS, and other valuable consideration, conveys and grants unto the CITY OF SUMNER, a Municipal Corporation, and its assigns, Grantee, under the imminent threat of the Grantee's exercise of its right of Eminent Domain, the right, privilege and easement over, upon, and across the hereinafter described lands for the purpose of a *temporary construction easement along the Southerly boundary of parcel to tie in driveway approach with planned road improvements along 29th Street East*;

Said lands being situated in PIERCE County, State of Washington, and described in Exhibit "A" attached hereto, and made a part hereof.

The term of this Temporary Easement shall commence on the date of acceptance of this Temporary Easement by Grantee and shall terminate SIX (6) months from the date of recording, hereinafter the "Term".

TEMPORARY EASEMENT

Dated: 9/17, 20 24

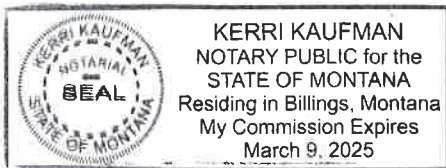
Digna C. Cabrera
Digna C. Cabrera

STATE OF MONTANA)

: SS
County of Yellowstone

On this 17 day of 9 before me personally appeared Digna C. Cabrera to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that she signed and sealed the same as her free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal the day and year last above written.



Kerri Kaufman
Notary Public in and for the State of Washington, residing at Yellowstone, Billings
Montana
My commission expires 9/17/24

Accepted and Approved

City of Sumner

By: _____
Alisa O'Haver-Ayala, P.E., CCM
Public Works Deputy Director
Engineering/City Engineer

Date: _____, 20

TEMPORARY EASEMENT

EXHIBIT A

FULL LEGAL DESCRIPTION OF PARCEL:

BEGINNING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 20 NORTH, RANGE 4 EAST, WILLAMETTE MERIDIAN, IN SUMNER, PIERCE COUNTY, WASHINGTON;
THENCE NORTH ALONG THE CENTER LINE OF THE COUNTY ROAD, 1050 FEET;
THENCE EAST ALONG THE NORTH LINE OF DEMING AVENUE 590 FEET TO THE TRUE POINT OF BEGINNING;
THENCE NORTH 270 FEET;
THENCE EAST 280 FEET;
THENCE SOUTH 270 FEET TO THE NORTH LINE OF DEMING AVENUE;
THENCE WEST 280 FEET TO THE TRUE POINT OF BEGINNING, ALL LINES RUNNING PARALLEL WITH SECTION LINES;

EXCEPT THE EAST ONE ACRE THEREOF.

SITUATE IN THE COUNTY OF PIERCE, STATE OF WASHINGTON.

LEGAL DESCRIPTION OF TEMPORARY EASEMENT IS AS FOLLOWS:

THE SOUTH 10.00 FEET OF THE FOLLOWING DESCRIBED PROPERTY:

LOCATED IN THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 20 NORTH, RANGE 04 EAST, OF THE WILLAMETTE MERIDIAN IN THE COUNTY OF PIERCE, STATE OF WASHINGTON: THE EAST 280 FEET OF THE WEST 870 FEET OF THE NORTH 270 FEET OF THE NORTH 1/2 OF THE NORTH 1/2 OF THE SOUTHWEST QUARTER OF THE SAID SOUTHEAST QUARTER, LESS THE EAST 1.00 ACRE THEREOF.

SITUATE IN THE COUNTY OF PIERCE, STATE OF WASHINGTON.

Grantor's Initials



14403 29th St E
TPN 0420124025

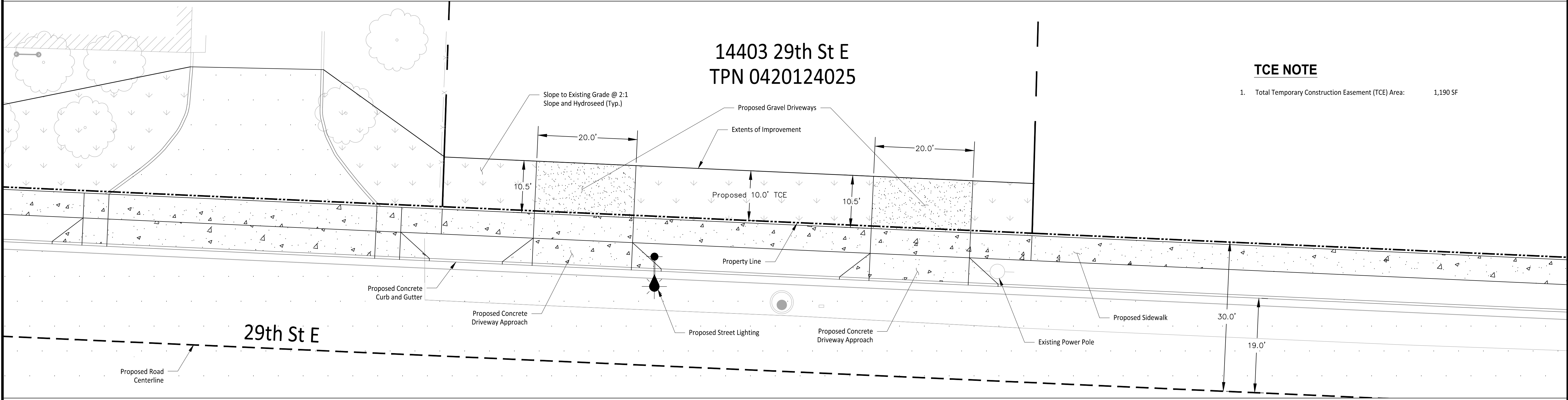
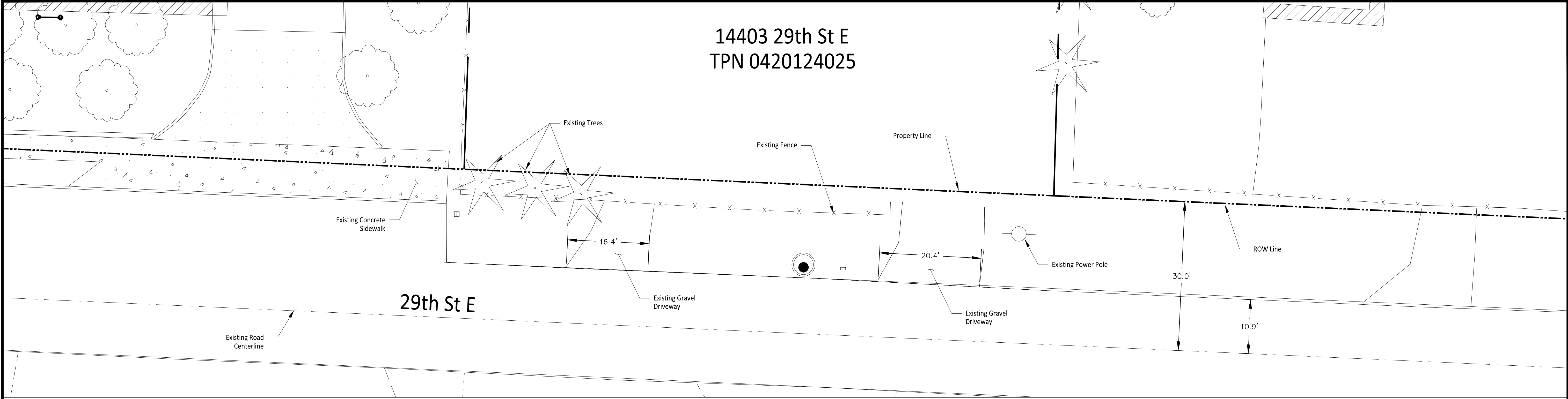
EXISTING FRONTAGE
DETAIL A

14403 29th St E
TPN 0420124025

PROPOSED FRONTAGE
DETAIL B

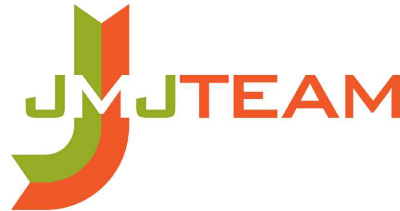
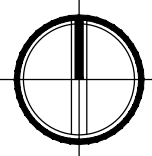
TCE NOTE

1. Total Temporary Construction Easement (TCE) Area: 1,190 SF



DATE: May 07, 2024 FILE: CSPW Frontage Grading Figures

0 10 20 Feet



City of Sumner Public Works Facility
Residential Frontage Improvement
Figure #1
05/07/2024

SUBJECT: South Tank Retrofit - Construction Contract Award

CATEGORY: Consent

BUDGET IMPACT:

Expenditure Required: \$2,400,568.50

Within Budget Allocation: Yes

ATTACHMENTS:

1. CIP 19-10 South Tank Bid Tab
 2. Public Works Contract
-

STAFF CONTACT: Andrew Leach, Associate Engineer

SUMMARY BACKGROUND:

The City's South Tank Reservoir is a 2.0 million gallon water tank that was built in 1972. In March 2021, the City performed an investigation of the condition of the tank and determined the interior and exterior coatings have a limited remaining life span. This project will remove and replace the interior and exterior coatings of the tank. In May 2021, a seismic analysis of the tank was performed, and the analysis recommended that the tank be strengthened with seismic retrofit upgrades. The project will install the recommended upgrades.

Two (2) bids were received on October 29, 2024 for this project. The lowest responsible bidder was submitted by T Bailey, Inc., with a bid amount of \$2,182,335. With a 10% construction contingency, the low bid is \$2,400,568.50. The engineer's estimate for this project was \$1,993,575.00.

The Contractor will have one hundred and forty (140) days to complete the project.

COUNCIL COMMITTEE/STUDY SESSION: Public Works Committee

MEETING/STUDY SESSION DATE: 11/5/2024

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

A motion authorizing the Mayor and City Administrator to execute all necessary contract documents with T Bailey, Inc., in an amount not-to-exceed \$2,400,568.50 for the South Tank Retrofit (CIP19-10), substantially in a form approved by the City Attorney.

Bid Tabulation

	Project Name:		South Tank Retrofit							
	CIP No.:		19-10							
	Bid Opening Date:		October 29, 2024							
	Notes:			Engineer's Estimate		Bidder #1			Bidder #2	
			\$X,XXX.XX							
	Indicates error corrected by PW dept					T Bailey, Inc.		Paso Robles Tank, Inc.		
	Indicates Bidder modified Proposal		\$X,XXX.XX			9627 South Marchs Point Rd.		3883 Wentworth Drive		
	Indicates Revision Due to Duplication		*			Anacortes, WA 98220		Hemet, CA 92545		
			Total (Base Bid + Sch. A)		\$1,993,575.00	Total(Base +Sch.A)	\$2,182,335.00	Total(Base +Sch.A)	\$2,958,690.00	
Bid Item	Bid Item Description		Unit	Quant	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
Base Bid										
1	Mobilization, Demobilization, Site Preparation, and Clean Up		LS	1	\$165,616.44	\$165,616.44	\$50,000.00	\$50,000.00	\$178,000.00	\$178,000.00
2	Site Work		LS	1	\$125,000.00	\$125,000.00	\$297,000.00	\$297,000.00	\$338,000.00	\$338,000.00
3	Structural		LS	1	\$100,000.00	\$100,000.00	\$130,000.00	\$130,000.00	\$50,000.00	\$50,000.00
4	Interior Seal Welding		LS	1	\$370,000.00	\$370,000.00	\$545,000.00	\$545,000.00	\$387,000.00	\$387,000.00
5	Full Containment		LS	1	\$120,000.00	\$120,000.00	\$88,000.00	\$88,000.00	\$132,000.00	\$132,000.00
6	Electrical		LS	1	\$50,000.00	\$50,000.00	\$34,000.00	\$34,000.00	\$65,000.00	\$65,000.00
7	Automatic Control		LS	1	\$25,000.00	\$25,000.00	\$35,000.00	\$35,000.00	\$32,000.00	\$32,000.00
8	As-Builts		LS	1	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00	\$0.00	\$0.00
9	Testing, Startup and Training		LS	1	\$10,000.00	\$10,000.00	\$5,000.00	\$5,000.00	\$18,000.00	\$18,000.00
10	Force Account		LS	1	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00
				Base Bid Subtotal		\$1,020,616.44	Base Bid	\$1,239,000.00	Base Bid	\$1,250,000.00
				9.5% Sales Tax		\$96,958.56	Tax	\$117,705.00	Tax	\$118,750.00
				Base Bid Total		\$1,117,575.00	Base Total	\$1,356,705.00	Base Total	\$1,368,750.00
	Schedule A									
A1	Roof Recoating and other Coating Repair		LS	1	\$215,000.00	\$215,000.00	\$300,000.00	\$300,000.00	\$713,000.00	\$713,000.00
				Schedule A Subtotal		\$215,000.00	A Subtotal	\$300,000.00	A Subtotal	\$713,000.00
				9.5% Sales Tax		\$20,425.00	A Tax	\$28,500.00	A Tax	\$67,735.00
				Schedule A Total		\$235,425.00	A Total	\$328,500.00	A Total	\$780,735.00
	Schedule B									
B1	Interior Coatings		LS	1	\$420,000.00	\$420,000.00	\$384,000.00	\$384,000.00	\$882,000.00	\$882,000.00
B2	Exterior Coatings		LS	1	\$380,000.00	\$380,000.00	\$370,000.00	\$370,000.00	\$570,000.00	\$570,000.00
				Schedule B Subtotal		\$800,000.00	B Subtotal	\$754,000.00	B Subtotal	\$1,452,000.00
				9.5% Sales Tax		\$76,000.00	B Tax	\$71,630.00	B Tax	\$137,940.00
				Schedule B Total		\$876,000.00	B Total	\$825,630.00	B Total	\$1,589,940.00
	Total Cost Base Bid + Schedule B =					\$1,993,575.00		\$2,182,335.00		\$2,958,690.00
	Total Cost Base Bid + Schedule A =					\$1,353,000.00		\$1,685,205.00		\$2,149,485.00
	Prepared by:			Andrew Leach						
			Date:	10/29/2024						

PUBLIC WORKS CONTRACT
between City of Sumner and
T Bailey, Inc.

THIS AGREEMENT, made and entered into this day _____, between the City of Sumner under and by virtue of Title 35 RCW (Cities and towns) as amended and T Bailey, Inc., hereinafter called the Contractor.

WITNESSETH:

That in consideration of the terms and conditions contained herein and attached and made a part of this agreement, the parties hereto covenant and agree as follows:

- I. The Contractor shall do all work and furnish all tools, materials and equipment for

South Tank Retrofit (CIP 19-10) – Base Bid and Schedule B

in accordance with and as described in the (a) attached plans and specifications, (b) the standard specifications of the Washington State Department of Transportation, and (c) all other documents, specifications, provisions and required regulations contained in the Bid Document package provided at bid opening, all of which are considered the “Contract Documents” and are incorporated herein by this reference and made part hereof as if fully set forth in this contract, and, shall perform any changes in the work in accord with the Contract Documents.

The Contractor shall provide and bear the expense of all equipment, work and labor, of any sort whatsoever that may be required for the transfer of materials and for constructing and completing the work provided for in these Contract Documents except those items mentioned therein to be furnished by the City of Sumner.

II. The City of Sumner hereby promises and agrees with the Contractor to employ, and does employ the Contractor to provide the materials and to do and cause to be done the above described work and to complete and finish the same in accord with the attached plans and specifications and the terms and conditions herein contained and hereby contracts to pay for the same according to the attached specifications and the schedule of unit or itemized prices at the time and in the manner upon the conditions provided for in this contract. The Contractor for himself/herself, and for his/her heirs, executors, administrators, successors, and kin, does hereby agree to the full performance of all the covenants herein contained upon the part of the Contractor.

III. **Insurance and Indemnity.** The following insurance and indemnification provisions shall apply to all of the above described work.

The Contractor shall defend, indemnify and hold the Public Entity, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the Public Entity.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the Public Entity, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

A. Insurance Term

The Contractor shall procure and maintain insurance, as required in this Section, without interruption from commencement of the Contractor's work through the term of the contract and for thirty (30) days after the Physical Completion date, unless otherwise indicated herein.

B. No Limitation

The Contractor's maintenance of insurance, its scope of coverage and limits as required herein shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the Public Entity's recourse to any remedy available at law or in equity.

C. Minimum Scope of Insurance

The Contractor's required insurance shall be of the types and coverage as stated below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop gap liability, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide a per project general aggregate limit, using ISO form CG 25 03 05 09 or an equivalent endorsement. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. The Public Entity shall be named as an additional insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the Public Entity using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed

Operations endorsement CG 20 37 10 01 or substitute endorsements providing at least as broad coverage.

3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Builders Risk insurance covering interests of the Public Entity, the Contractor, Subcontractors, and Sub-subcontractors in the work. Builders Risk insurance shall be on a special perils policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including flood, earthquake, theft, vandalism, malicious mischief, and collapse. The Builders Risk insurance shall include coverage for temporary buildings, debris removal, and damage to materials in transit or stored off-site. This Builders Risk insurance covering the work will have a deductible of \$5,000 for each occurrence, which will be the responsibility of the Contractor. Higher deductibles for flood and earthquake perils may be accepted by the Public Entity upon written request by the Contractor and written acceptance by the Public Entity. Any increased deductibles accepted by the Public Entity will remain the responsibility of the Contractor. The Builders Risk insurance shall be maintained until the Public Entity has granted substantial completion of the project. An installation floater may be acceptable in lieu of Builders Risk for renovation projects only if approved in writing by the Public Entity.

D. Minimum Amounts of Insurance

The Contractor shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$2,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and a \$2,000,000 products-completed operations aggregate limit.
3. Builders Risk insurance shall be written in the amount of the completed value of the project with no coinsurance provisions.

E. Public Entity Full Availability of Contractor Limits

If the Contractor maintains higher insurance limits than the minimums shown above, the Public Entity shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this contract or whether any certificate of insurance furnished to the Public Entity evidences limits of liability lower than those maintained by the Contractor.

F. Other Insurance Provision

The Contractor's Automobile Liability, Commercial General Liability and Builders Risk insurance policies are to contain, or be endorsed to contain that they shall be primary insurance as respect the Public Entity. Any insurance, self-insurance, or self-insured pool coverage maintained by the Public Entity shall be excess of the Contractor's insurance and shall not contribute with it.

G. Contractor's Insurance for Other Losses

The Contractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools, Contractor's employee owned tools, machinery, equipment, or motor vehicles owned or rented by the Contractor, or the Contractor's agents, suppliers, contractors or subcontractors as well as to any temporary structures, scaffolding and protective fences.

H. Waiver of Subrogation

The Contractor and the Public Entity waive all rights against each other, any of their Subcontractors, Sub-subcontractors, agents and employees, each of the other, for damages caused by fire or other perils to the extent covered by Builders Risk insurance or other property insurance obtained pursuant to the Insurance Requirements Section of this Contract or other property insurance applicable to the work. The policies shall provide such waivers by endorsement or otherwise.

I. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.

J. Verification of Coverage

The Contractor shall furnish the Public Entity with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsements, evidencing the Automobile Liability and Commercial General Liability insurance of the Contractor before commencement of the work. Before any exposure to loss may occur, the Contractor shall file with the Public Entity a copy of the Builders Risk insurance policy that includes all applicable conditions, exclusions, definitions, terms and endorsements related to this project. Upon request by the Public Entity, the Contractor shall furnish certified copies of all required insurance policies, including endorsements, required in this contract and evidence of all subcontractors' coverage.

K. Subcontractors

The Contractor shall cause each and every Subcontractor to provide insurance coverage that complies with all applicable requirements of the Contractor-provided insurance as set forth herein, except the Contractor shall have sole responsibility for determining the limits of coverage required to be obtained by Subcontractors. The Contractor shall ensure that the Public Entity is an additional insured on each and every Subcontractor's Commercial General liability insurance policy using an endorsement as least as broad as ISO CG 20 10 10 01 for ongoing operations and CG 20 37 10 01 for completed operations.

L. Notice of Cancellation

The Contractor shall provide the Public Entity and all Additional Insureds for this work with written notice of any policy cancellation within two business days of their receipt of such notice.

M. Failure to Maintain Insurance

Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract, upon which the Public Entity may, after giving five business days' notice to the Contractor to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the Public Entity on demand, or at the sole discretion of the Public Entity, offset against funds due the Contractor from the Public Entity.

N. Additional Insurance

All insurance policies, with the exception of Workers Compensation, and of Professional Liability and Builder's Risk (if required by this Contract) shall name the following listed entities as additional insured(s) using the forms or endorsements required herein:

- the Contracting Agency and its officers, elected officials, employees, agents, and volunteers

The above-listed entities shall be additional insured(s) for the full available limits of liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this Contract, and irrespective of whether the Certificate of Insurance provided by the Contractor pursuant to describes limits lower than those maintained by the Contractor.

For Commercial General Liability insurance coverage, the required additional insured endorsements shall be at least as broad as ISO forms CG 20 10 10 01 for ongoing operations and CG 20 37 10 01 for completed operations.

IV. Contractor's Employees – Employment Eligibility Requirements (E-Verify).

The Contractor and any subcontractors shall comply with E-Verify as set forth in Sumner Municipal Code Chapter 3.30. E-Verify is an Internet-based system operated by United States Citizenship and Immigration Services in partnership with the Social Security Administration. E-Verify is free to employers and is available in all 50 states. E-Verify provides an automated link to federal databases to help employers determine employment eligibility of new hires and the validity of their Social Security numbers. The Contractor shall enroll in, participate in and document use of E-Verify as a condition of the award of this contract. The Contractor shall continue participation in E-Verify throughout the course of the Contractor's contractual relationship with the City. If the Contractor uses or employs any subcontractor in the performance of work under this contract, or any subsequent renewals, modifications or extension of this contract, the subcontractor shall register in and participate in E-Verify and certify such

NOTICES TO BE SENT TO: CONTRACTOR: Gene Tanakam President T Bailey, Inc. 9628 South Marchs Point Rd. Anacortes, WA 98221 360-293-0682	NOTICES TO BE SENT TO: CITY OF SUMNER: Andrew Leach, Associate Engineer City of Sumner 1104 Maple Street Sumner, WA 98390 253-299-5711 andrewl@sumnerwa.gov
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PROPOSAL

To: City of Sumner

1. Pursuant to and in compliance with your Advertisement for Bids and the other documents relating thereto, the undersigned Bidder, having familiarized himself with the terms of the project related to those items herein bid, being aware of the local conditions affecting the performance of a Contract covering the items bid, having knowledge of the cost of the work at the place where the work is to be done and having familiarized himself with the Contract Documents, hereby proposes and agrees to perform the work and/or to furnish the equipment, any or all of the labor, materials, tools, expendable equipment and all utility and transportation services necessary to perform a Contract covering any or all of those items herein bid and to complete in a workmanlike manner all work covered by said Contract in connection with the Owner's **South Tank Retrofit, CIP 19-10**, for the amounts stated below.
 - A. BID ITEMS (See Special Provisions and Standard Specifications for description of bid items)

South Tank Retrofit						
Item No.	Estimated Quantity	Unit	Description of Item	Section	Unit Price	Amount
Base Bid						
1	1	LS	Mobilization, Demobilization, Site Preparation, and Cleanup \$ _____ (Words) per Lump Sum	TS Div. 18	\$50,000	\$50,000
2	1	LS	Site Work \$Two hundred ninety seven thousand (Words) per Lump Sum	TS Div. 18	\$297,000	\$297,000
3	1	LS	Structural \$One hundred thirty thousand (Words) per Lump Sum	TS Div. 18	\$130,000	\$130,000
4	1	LS	Interior Seal Welding \$Five hundred forty five thousand (Words) per Lump Sum	TS Div. 18	\$545,000	\$545,000
5	1	LS	Full Containment \$Eighty eight thousand (Words) per Lump Sum	TS Div. 18	\$88,000	\$88,000
6	1	LS	Electrical \$Thirty four thousand (Words) per Lump Sum	TS Div. 18	\$34,000	\$34,000
7	1	LS	Automatic Control \$Thirty five thousand (Words) per Lump Sum	TS Div. 18	\$35,000	\$35,000
8	1	LS	As-Builts \$Five thousand (Words) per Lump Sum	TS Div. 18	\$5,000	\$5,000
9	1	LS	Testing, Startup and Training \$Five thousand (Words) per Lump Sum	TS Div. 18	\$5,000	\$5,000
10	1	LS	Force Account \$Fifty Thousand (Words) per Lump Sum	TS Div. 18	\$50,000.00	\$50,000.00
Subtotal					\$1,239,000	
9.5% Sales Tax (Per W.S. Revenue Rule No. 171)					\$117,705	
Base Bid Total					\$1,356,705	

T BAILEY, INC.

Contractor's Name

Signature

Gene Tanaka, President

South Tank Retrofit						
Item No.	Estimated Quantity	Unit	Description of Item	Section	Unit Price	Amount
Schedule A						
A1	1	LS	Roof Recoating and other Coating Repair <i>\$Three hundred thousand</i> (Words) per Lump Sum	TS Div. 18	<i>\$300,000</i>	<i>\$300,000</i>
Subtotal					<i>\$300,000</i>	
9.5% Sales Tax (Per W.S. Revenue Rule No. 171)					<i>\$28,500</i>	
Schedule A Total					<i>\$328,500</i>	

T BAILEY, INC.

Contractor's Name

Signature

Gene Tanaka, President

South Tank Retrofit						
Item No.	Estimated Quantity	Unit	Description of Item	Section	Unit Price	Amount
Schedule B						
B1	1	LS	Interior Coatings <i>\$Three hundred eighty four thousand</i> (Words) per Lump Sum	TS Div. 18	<i>\$384,000</i>	<i>\$384,000</i>
B2	1	LS	Exterior Coatings <i>\$Three hundred seventy thousand</i> (Words) per Lump Sum	TS Div. 18	<i>\$370,000</i>	<i>\$370,000</i>
Subtotal					<i>\$754,000</i>	
9.5% Sales Tax (Per W.S. Revenue Rule No. 171)					<i>\$71,630</i>	
Schedule B Total					<i>\$825,630</i>	

T BAILEY, INC.

Contractor's Name

Signature

Gene Tanaka, President

Base Bid and Schedule A Total	<i>\$1,685,205</i>
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Contract Award for Base Bid and Schedule B - Total \$2,182,335 (including 9.5% WSST)

EXHIBIT B

CITY OF SUMNER

**CERTIFICATION OF COMPLIANCE WITH SUMNER MUNICIPAL CODE CHAPTER 3.30
“E-VERIFY“**

As the person duly authorized to enter into such commitment for

_____,
T Bailey, Inc.

I hereby certify that the Company or Organization named herein will

(check one box below)

☐ Be in compliance with all of the requirements of City of Sumner Municipal Code Chapter 3.30 for the duration of the contract entered into between the City of Sumner and the Company or Organization.

OR

☐ Hire no employees for the term of the contract between the City and the Company or Organization.

NAME

TITLE

DATE

EXHIBIT C

APPENDIX II TO PART 200---CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the City of Sumner under federal award(s) are subject to the following provisions, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964- 1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, the following language is hereby incorporated into the contract as if fully set forth therein:

Application of Uniform Guidance. If this contract involves the use, in whole or in part, of federal award(s), the following provisions (29 CFR, Subtitle A Part 5, Subpart A, § 5.5, subsections (a)(1) – (a)(10)) shall apply:

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)

(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The City of Sumner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii) (A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the City if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the City. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying

number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the City if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the City, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5

(a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5

(a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph

(a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the City or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the City may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7.. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or sub recipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or sub recipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended- Contracts and sub grants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to

comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

(I) Debarment and Suspension (Executive Orders 12549 and 12689)-A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), "Debarment and Suspension." The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(J) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)-Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

SUBJECT: Resolution No. 1704 - Pierce Conservation District Interlocal Agreement

CATEGORY: Consent

BUDGET IMPACT:

Expenditure Required: \$25,664.31

Within Budget Allocation: Yes

ATTACHMENTS:

1. Resolution No. 1704 - Pierce Conservation District Interlocal Agreement

STAFF CONTACT: Robert Wright, Engineering Specialist

SUMMARY BACKGROUND:

Pierce Conservation District sponsors a crew from the Washington Conservation Corps. This crew has availability to assist the City in planting a portion of Salmon Creek, which this interlocal agreement allows for. The agreement will provide 11 days of working crew time, approximately 600 plants, and Conservation District staff time to coordinate and manage the planting. The total cost of this agreement is \$25,664.31.

COUNCIL COMMITTEE/STUDY SESSION: Public Works Committee

MEETING/STUDY SESSION DATE: 11/5/2024

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

A motion to adopt Resolution No.1704 - Pierce Conservation District ILA, authorizing the Mayor to enter into an interlocal agreement between the City of Sumner and Pierce Conservation District related to Salmon Creek planting in a form as approved by the City Attorney.

RESOLUTION NO. 1704
CITY OF SUMNER, WASHINGTON

A RESOLUTION OF THE CITY OF SUMNER, WASHINGTON, AUTHORIZING THE MAYOR TO ENTER INTO AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF SUMNER AND THE PIERCE CONSERVATION DISTRICT FOR PLANTING AND INVASIVE SPECIES REMOVAL ALONG SALMON CREEK.

WHEREAS, the City of Sumner and the Pierce Conservation District seek to enter into an intergovernmental agreement enabling the City of Sumner to eliminate invasive plants on along the banks of Salmon Creek and replace them with native riparian plants; and

WHEREAS, the City Council has determined it to be in the best interest of the City of Sumner to enter into said intergovernmental agreement; and

WHEREAS, the City of Sumner is authorized, pursuant to Chapter 39.34 RCW, Interlocal Cooperation Act, to enter into such agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON:

Section 1. Authorization. That the City Council hereby approves the Interlocal Agreement between the City of Sumner and the Pierce Conservation District for the purpose of restoring the riparian area along a 450-foot section of Salmon Creek, a copy of which is attached and incorporated by reference, and authorizes the Mayor to sign said agreement on behalf of the City of Sumner substantially in a form as approved by the City Attorney.

Section 2. Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this resolution, including but not limited to the correction of clerical errors; or references to other local, state, or federal laws, codes, rules, or regulations.

Section 3. Effective Date. This resolution shall take effect and be in force immediately upon passage by the City Council.

ADOPTED AND APPROVED this ____ day of _____, 2024.

Attest:

Kathy Hayden, Mayor

Michelle Converse, City Clerk

Approved to as Form:

Andrea Marquez, City Attorney

**INTERLOCAL AGREEMENT
BETWEEN
PIERCE CONSERVATION DISTRICT
AND
CITY OF SUMNER**

THIS AGREEMENT is made and entered into by Pierce Conservation District (District) and the City of Sumner (City).

THE PURPOSE OF THIS AGREEMENT IS TO COMPLETE stream planting on the Salmon Creek in Sumner with the assistance of Pierce Conservation District, including invasive removal, tree planting, material sourcing, and crew management (collectively, the "Project").

THEREFORE IT IS MUTUALLY AGREED THAT:

WHEREAS the City has a number of goals and initiatives to improve the quality of the city's open spaces and ecosystems.

WHEREAS the Pierce Conservation District is a sub-division of state government created to promote the conservation of renewable natural resources in Pierce County.

WHEREAS the City and District are individually unable to address the full scope of natural resource and conservation needs with existing staff and budget.

WHEREAS the City has conveyed its interest in partnering with the District to complete a specific stream planting project and it is mutually agreed that the District will manage, administer and coordinate the project with funding by the City.

1. SCOPE OF SERVICES – A description of the work to be performed and the standards to which it is to be performed are set forth in Exhibit A. The District shall manage and administer the Project's work crews including, without limitation, scheduling, financial tracking, financial oversight, and procurement of materials. Of the estimated 164 crew days the District has available, a minimum of 11 working crew days shall be allocated to the project which the City shall pay for. Under the terms of this agreement, the City may purchase additional days of crew time (either unclaimed days or from other willing partners) but will be financially responsible for a minimum of 11 crew days.
2. BUDGET – An estimated budget and scope of work is included as Exhibit A. Costs to be paid will be those costs identified in the exhibit that are actually incurred by the District as necessary to complete the scope of services. At a minimum, City will pay for 11 Washington Conservation Corps crew days, at \$1,385.00 per day plus 13% indirect for a total rate of \$1,565.00 per day. The District will provide staff time to manage and administer the project as needed.
3. PERIOD OF PERFORMANCE – This agreement shall commence on November 1, 2024, and conclude no later than September 4, 2025, or until terminated by either party with written notification as described below in Section 8.

4. SCHEDULING – The District will work with the City to coordinate scheduling requests related to crew time, material delivery, volunteer coordination, and planting. Efforts will be made to honor all parties’ requests for WCC crew time. However, in the event that one partner may need more/less crew time, need to change their dates with the crew, or have a conflicting request for crew time, all parties are asked to be flexible to the greatest extent possible so as to accommodate any potential scheduling conflicts with other entities in this partnership.

All parties understand that WCC may require reassignment of the crew for things such as disaster and emergency response efforts at any point in the contract period. In such instances, WCC will try to fulfill partner program needs whenever possible.

5. INVOICING – The District will submit one invoice at the end of each quarter if charges have accrued during the prior quarter. Payment shall be submitted to the District within 30 days of receipt by the City.

Invoices will be sent to the attention of:

Robert Wright, Environmental Sustainability Specialist
City of Sumner
1104 Maple St.
Sumner, WA, 98390
(253) 299-5708
robertw@sumnerwa.gov

6. INDEPENDENT CAPACITY – The employees of each party who are engaged in the performance of this agreement shall continue to be employees of that party and shall not be considered for any purpose to be employees of the other party. Each party assumes all risk for itself, its employees, contractors, agents and volunteers for any damages to persons or property, both real and personal, that may occur during the work. Solely for the purpose of enforcing the indemnification provision in Section 9 below, each Party expressly waives its immunity under Title 51 of the Revised Code of Washington.
7. AMENDMENTS – This agreement may be amended by mutual written agreement of the parties. Such amendments shall not be binding unless they are in writing, approved by the governing bodies of each party pursuant to state law, signed by the parties’ signatory to this agreement.
8. TERMINATION – Either party may terminate their part of this agreement upon written notification to the other party 30 days prior to the effective termination date.
9. INDEMNIFICATION – To the fullest extent permitted by law, the District and City shall indemnify, defend, and hold harmless each other, their governing bodies, elected officials, agents and employees, as well as the State of Washington, its officials, agents and employees from and against all claims for injuries or death, losses or suites including attorney fees arising out of or resulting from, and to the extent of, the indemnifying party’s action or inaction in the course of performance of this agreement.
10. DISPUTES – In the event that a dispute arises under this agreement, the District and City will promptly give the other a written request to meet and explanation of problems or concerns arising

in connection with carrying out the scope of work under this Agreement and will meet as needed, but no later than fifteen (15) days after receipt of a written request for a meeting to minimize the same. If the dispute cannot be resolved through preliminary informal discussions, the District and City may by mutual agreement submit the disputed issues to a mediator as jointly agreed upon by both parties.

11. GOVERNANCE – This agreement is entered into pursuant to and under the authority granted Conservation Districts by RCW 89.08.220(9) (the Conservation Districts law) and by RCW 39.34.060 (the Interlocal Cooperation Act). The provisions of this agreement shall be construed to conform to those laws.
12. ALL WRITINGS CONTAINED HEREIN - This agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or to bind any of the parties hereto.

IN WITNESS WHEREOF, the parties have executed the agreement.

Pierce Conservation District

Dana Coggon, Executive Director

Date

City of Sumner

Kathy Hayden, Mayor

Date

EXHIBIT A:

Scope of Work for Invasive Species Management and Riparian Plant Instillation along 450 linear feet of Salmon Creek: This project will begin restoration work on 0.87 acres of riparian area along a 450 foot section of Salmon Creek in Sumner, WA, including an aprox 45-foot buffer on either side of the creek. The District's project manager (Glenn Johnson and/or Ryan Bird) will work with Robert Wright, City of Sumner, to control blackberry, ivy, and other invasive species and to install native riparian plants in areas lacking native plant cover. Project area will include clearing blackberry and other non-native species from major portions of the site, follow up monitoring and treatment, and planting native plants in the cleared areas. Ongoing maintenance and irrigation of plants as budget allows. PCD project manager will plan all aspects of vegetation removal and native plant installation, and will regularly report project progress or issues to Mr. Wright.

Budget for Sumner-PCD ILA for habitat restoration work at Salmon Creek site:

Accounts	Category	Task Description (Unit)	Qty	Rate	Subtotal	Comments
635 Prof Svcs	Labor	WCC Field Crew (per Day)	11.0	\$ 1,385.00	\$ 15,235.00	Estimated minimum no. of days for PCD's Washington Conservation Corps Crew; Ultimate cost to include 13% indirect as noted below (i.e. \$1,565.05 per crew day).
600.1 Salary	Project Management/ Supervision	PCD Project Manager (Hour)	55.0	\$ 65.40	\$ 3,597.00	Estimated 5 hours per crew day for: planning, ordering/procurement, plant management/storage, and/or oversight when crew is on site.
610 Supplies	Plants	Trees and/or Shrubs etc (per Plant)	440.0	\$ 6.00	\$ 2,640.00	Estimated cost for at least 1-year plants in 1 gallon pots, though note that bulk orders and/or younger plants will result in cost reduction (Draft order will be confirmed with Robert Wright prior to ordering). Goal is 680 stems per acre, including existing plants on site.
645 Travel	Other	Mileage (per Mile)	105.6	\$ 0.67	\$ 70.75	For PCD project manage to plan activities and/or oversee a portion of each field day, at 9.6 miles per trip (round trip from/return to PCD; see https://maps.app.goo.gl/t9CTbH7YxUSa7YtG7)
600.1 Salary	Staff Time	PCD Contract/Admin-Assistant (Hour)	12.0	\$ 59.95	\$ 719.40	Admin/Contracts staff time for administering, invoicing, etc. on this contract.
600.1 Salary	Project Management/ Supervision	PCD Program Director Oversight (Hour)	5.5	\$ 81.75	\$ 449.63	Program Director supervision/oversight at 10% of project manager's hours.
				Subtotal	\$ 22,711.78	
				13% Indirect	\$ 2,952.53	
				Total	\$ 25,664.31	

SUBJECT: Resolution No. 1703 - Parklet Policy and Program

CATEGORY: Motion

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Resolution No. 1703 - Parklet Policy and Program

STAFF CONTACT: Ryan Windish, Community Development Director

SUMMARY BACKGROUND:

Resolution No. 1703 would adopt a policy and a program for the distribution, management, licensing and other details associated with city-owned Parklets. The City constructed two “parklets” (small decks for seating in the parking area on the street in front of businesses) for use by eating and drinking establishments in the Historic Central Businesses District (CBD) in 2020, as a response to the need for more outdoor seating at restaurants during the COVID-19 pandemic. The City purchased two (2) more surplus parklets from the Kent Downtown Partnership (KDP) in October 2024. The expanded parklet program was first discussed with the Community Development Committee in July and August and with the Mayor and City Administrator in September. The Parklet Policy and Program has a simplified “Phase 1” approach focusing on rules and process related to the parklets that will be owned by the City. “Phase 2” rules and guidelines can be addressed at a future date if there is demand for changes including businesses desiring to construct their own parklets and/or installing roof structures.

The Parklets have been popular with visitors and patrons to the downtown and bring a vibrancy and interest that adds to the appeal and increases economic activity. In short, people like the parklets and use them.

COUNCIL COMMITTEE/STUDY SESSION: CD Committee

MEETING/STUDY SESSION DATE: 10/29/2024

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

Move to approve a "Do Pass" recommendation to adopt Resolution No. 1703 establishing a Parklet Policy and Program.

**RESOLUTION NO. 1703
CITY OF SUMNER, WASHINGTON**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUMNER,
WASHINGTON, ADOPTING A PARKLET PROGRAM AND POLICY.**

WHEREAS, in 2020, the City constructed two “parklets,” which are small decks for seating in the street parking area in front of a business). The parklets were for use by eating and drinking businesses in the Historic Central Businesses District (CBD), a response to the need for more outdoor seating at restaurants during the COVID-19 pandemic; and

WHEREAS, the Parklet Program has been successful with businesses benefiting from increased outdoor seating, business visibility and promotion; and

WHEREAS, the City benefits from parklets and the additional seating as a result of increased economic activity, improved streetscape and enhanced character and desirability of the area; and

WHEREAS, the City purchased two (2) additional parklets for a total of three (3) that will be available for use by eligible restaurants; and

WHEREAS, the City Council desires to adopt a parklet program with clear policies governing the location, design, and distribution of city-owned parklets by eligible businesses such that city liability exposure is reduced, the parklets are maintained in a safe and attractive condition, and the parklets continue to be a positive addition to downtown.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUMNER,
WASHINGTON DOES RESOLVE AS FOLLOWS:**

Section 1. The City of Sumner Parklet Program and Policy attached hereto as “Exhibit A” and is hereby adopted.

Section 2. Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this resolution, including but not limited to the correction of clerical errors; or references to other local, state, or federal laws, codes, rules, or regulations.

APPROVED AND ADOPTED this 18th day of November 2024.

Mayor Kathy Hayden

ATTEST:

APPROVED AS TO FORM:

Michelle Converse, CMC, City Clerk

Andrea Marquez, City Attorney



Exhibit A:

City of Sumner Parklet Program

Background

The City of Sumner owns three (3) “parklets” that are available for use by restaurants and other eating and drinking establishments in the Historic Central Business District (CBD) downtown. The Parklet Program is two phased with “Phase 1” focused on rules and process related to the parklets that are owned by the City. “Phase 2” rules and guidelines can be addressed at a future date if there is demand for changes including businesses desiring to construct their own parklets and/or installing roof structures.

Program

Below are guideline and criteria for managing the installation, maintenance, leasing, etc. of parklets installed on City streets.

Phase 1 City-owned Parklets:

1. Three (3) city-owned parklets will be available.
2. The number of parklets on Main Street is limited to no more than three (3). No maximum number on side streets provided that parking requirements are met (see below 14(c)(i)).
3. Parklets shall be furnished by the business, at their own expense, with tables and seating such that it fully and safely utilizes the floorspace on the parklet.
4. Roofed structures over parklets will not be allowed. Umbrellas are encouraged.
5. Advertising signage for the business is limited to no more than 2 signs, maximum of 3 square feet each (12”x 36”), which can be attached to the parklet railing.
6. If extending liquor service outdoors; business is responsible for complying with City and State laws and ordinances, including the Washington State Liquor and Cannabis Board (WSLCB).
7. Business is responsible for meeting the requirements of the Tacoma Pierce County Health Department (TPCHD).
8. The parklet shall be located in front of the hosting business. The area of the proposed parklet shall not extend beyond the applicant's street frontage unless written authorization is submitted by the adjacent business or property owner whose street frontage is to be impacted.
9. The business may designate and provides signs indicating that the parklet is for exclusive use by the business and not be open to the public.
10. The parklet shall be maintained and well kept at all times including no litter, garbage, debris, on or around the parklet that would detract from the appearance.
11. No holiday decorations are allowed on the parklet.
12. The business shall maintain the associated planter and plant with blooming plants.
13. The parklet shall be used year around.

14. Permission to use a parklet is contingent upon the applicant executing a license for use, of a Parklet. Continued use is subject to compliance with the terms and conditions of the license.
15. Application Process:
 - a. A Limited Street Use License shall be granted for no more than 3-years with option to renew for an additional 3-years if no other business is interested in using the parklet.
 - b. The business must have Certificate of Insurance showing that there is a “rider” for the parklet to cover up to \$2M in liability.
 - c. The City shall notify all eating and drinking establishments in the Historic Central Business District informing them that they can apply to have a parklet in front of their business. They will have 30 days to apply. The City will review applications for acceptability based on the following criteria:
 - i. Is more than 10 percent of the available on-street parking on the block where the parklet will be located taken up by parklets?
 - ii. Are there any traffic safety concerns or reasons for denial?
 - iii. Will the business use the seating year-around or will it be seasonally?
 - iv. Are there any other structures or elements in the public right-of-way that would impact the proposed location of the parklet such as light poles, street trees, utility boxes, etc.?
 - v. Will the business be able to provide tables and chairs at their own expense?
 - d. If there are more applicants than available parklets, the City will conduct a random drawing of the names of the applicants. Winners of the drawing will have the option to receive a parklet, if they choose to not accept the parklet it goes to the next person drawn.

Phase 2:

Phase 2 of the Parklet Program will be considered if there is a demonstrated demand by business owners. Additional detailed guidelines and policy will be created at that time. Changes to be considered may include:

1. Privately Owned Parklets

Businesses would have the option to build their own parklets so long as they are substantially in the same design as those provided by the city including the use of black railings, all weather decking material. See attached drawings for City parklets and illustration below:



2. The option to do a roofed parklet with a “shed roof” to minimize dripping on the sidewalks (see illustration below)



3. Maximum number of parklets on Main Street (including city-owned parklets) is four (4).

SUBJECT: 2025 Legislative Agenda

CATEGORY: Motion

BUDGET IMPACT:

ATTACHMENTS:

1. 2025 Legislative Agenda

STAFF CONTACT: Carmen Palmer, Communications Director

SUMMARY BACKGROUND:

The Legislative Agenda connects State lawmakers with Sumner. The agenda conveys to State lawmakers feedback on how potential legislation will affect their constituents here. It highlights key items for which the City needs State support, and it tells other jurisdictions and the public what items at the State will most affect the City of Sumner. In past sessions, these agendas helped complete the Traffic Avenue interchange, fund the White River Restoration Habitat project and fund design for the Rivergrove Pedestrian Bridge.

This is a "long" session that will pass the State's biennial budget and likely see a number of bills introduced and debated. In general, Sumner would like to see the State focus on state-wide issues rather than the recent trend to micromanage cities. This year's agenda includes specific needs or concerns in transportation, public safety and funding support for cities. It also connects lawmakers to partner organizations, including the Association of Washington Cities and the Washington Association of Sheriffs and Police Chiefs.

This Agenda gives direction for City staff, City lobbyist Bill Clarke and the Mayor to respond quickly to proposals at the State level that affect the City of Sumner. It also helps Sumner's partners to know the City of Sumner's priorities and concerns for collaborative efforts.

COUNCIL COMMITTEE/STUDY SESSION: Study Session MEETING/STUDY SESSION DATE: 11/4/2024 COMMITTEE RECOMMENDATION:
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STAFF RECOMMENDATIONS/MOTION:

Approve the 2025 Legislative Agenda for distribution to legislators and partners in anticipation of the 2025 State legislative session.

2025 LEGISLATIVE AGENDA

ENHANCE TRANSPORTATION

Fund construction of Rivergrove Pedestrian Bridge (Transportation). This project helps alleviate congestion on SR 162 with multi-modal connections to schools and services. It also provides a lahar evacuation route and mitigates pedestrian issues the State faces with SR 162/410 construction and routes. The State invested in this project's design and PSRC funded \$5 million, half the construction funding needed. Sumner continues to pursue more funding from various sources.

Fund construction of Stewart Road Bridge replacement (Local Capital Projects).

After 30 years, this critical project for transportation, flood protection and treaty rights was fully funded from local, county, state and federal sources, but bids came in higher than expected. Sumner is pursuing additional funding from various sources, including our own transportation impact fees, to meet critical timelines and keep the project on track.

Fund \$1.1 million for City culvert under SR 410/166th interchange. Sumner successfully fixed the SR 410/Traffic Ave interchange, helping relieve the burden on WSDOT, and we'd like to do it again with this interchange. Improving culverts for salmon passage is a critical step in upgrading this second interchange.

Support \$2.5 million for SR 167 implementation plan (WSDOT). The effort to "finish what we started" applies to plans too. Keep SR 167 improvements moving forward before the initial plan falls out of date. When balancing funding needs across the state, SR 167 investments can't be forgotten or raided, and WSDOT evaluated the SR 167 improvements as the most effective projects in the 167/405 project area.

PROVIDE REASONABLE FUNDING, SUPPORT FOR CITIES

Protect against liability expansion; avoid policies that would drive additional claims and litigation, especially in law enforcement, public safety, and human resources. Explore tort reforms to reduce liability and related costs for cities, particularly for traffic-related claims. Recent legislation drove insurance premiums so high that major brokers have completely left the state. (AWC)

Adjust 1% cap on City property tax collection to instead be tied to inflation and population growth factors, with a limit not to exceed 3%. Councils will strive to keep costs and taxes as low as possible, but the 20-year legacy of this financial imbalance is taking its toll with deferred road, facility projects adding up. This adjustment still limits taxes but gives councils the option, if needed, to better align revenue with cost increases for critical services. (AWC)

Fund parks and recreation (RCO). Increase funding for projects through the Recreation & Conservation Office, including Sumner's application to improve the regional Bill Heath Sports Complex, adding turf fields, LED lights and more to expand access for multiple sports. Parks are an underfunded amenity that helps combat climate change and improve communities' physical and mental health.

Avoid imbalanced pressure on cities for broad needs like PFAS. Large societal needs such as testing/regulation of per- and poly-fluoroalkyl substance (PFAS), or "forever chemicals," tend to get pushed to the local level, further straining limited budgets. Even if supportive funding is also provided, cities must manage funding grants and add an unexpected FTE that requires office space, technology and human resources. A more collaborative approach avoids these unintentional pressures.

Update public records laws to reduce frivolous requests intended for personal gain. These requests monopolize staff time, driving up costs for taxpayers and clogging the system, keeping normal records requests from being filled quickly. (AWC)

Protect the Public Works Trust Fund and other shared revenue (AWC)

IMPROVE PUBLIC SAFETY

Improve RCW 13.40.740 to allow juveniles to provide an exculpatory statement

and clarify that juvenile victims and witnesses are not required to consult an attorney before cooperating with law enforcement. Current language from 2021 unnecessarily victimizes juveniles, prohibiting innocent individuals from clearing any suspicion of guilt and keeping witnesses from providing key, timely information. (WASPC)

Pursue an analysis of indigent defense for misdemeanor cases to determine feasible changes.

The State Supreme Court is proposing reduced case load standards that would require 70% more public defenders by July 2025. These goals are untenable; there simply aren't enough attorneys applying for these jobs. (AWC)

Continue to expand options for the Basic Law Enforcement Academy.

It takes Sumner Police 14 months from the date of hire for a new officer to be on the street. Efforts to increase staffing can't rely on recruitment alone. More options for the Academy would help new hires serve quicker. (AWC)

Fund air support and provide \$10 million per year to local law enforcement air support units, currently provided by King, Snohomish, Chelan, and Spokane counties, that agree to assist any agency, including Sumner Police. (WASPC)

INCENTIVIZE AFFORDABLE HOUSING SUPPLY

Avoid sweeping zoning laws that serve no city well. Additional regulations will complicate and slow down growth already coming around transit.

Instead of further regulations, pursue and expand incentives, such as multi-family tax exemptions, that have spurred low-income housing already.



- All legislation should respect local decision-making authority.
- It is difficult to even keep up with the avalanche of bills being introduced and passed each session that change how cities may serve the public. In addition to our Sumner-specific asks, we support the legislative agendas of
 - o Association of Washington Cities (AWC)
 - o Washington Association of Sheriffs and Police Chiefs (WASPC)
 - o South Sound Housing Affordability Partners (SSHA³P)

CONTACT US

Mayor Kathy Hayden

253-299-5790, khayden@sumnerwa.gov

Jason Wilson, City Administrator

253-299-5501, jasonw@sumnerwa.gov

Carmen Palmer, Communications Director

253-299-5503, carmenp@sumnerwa.gov

WHERE IS SUMNER?



WWW.SUMNERWA.GOV

X @CityofSumnerWA

SUBJECT: Ordinance No. 2905 - 2025/2026 Biennial Budget

CATEGORY: Public Hearings

BUDGET IMPACT:

Expenditure Required: Per Ordinance

Within Budget Allocation: N/A

ATTACHMENTS:

1. Ordinance No 2905 2025 2026 Biennial Budget

STAFF CONTACT: Kassandra Raymond, Chief Financial Officer

SUMMARY BACKGROUND:

Under Revised Code of Washington 35A.34, the City is required to hold both a preliminary and a final hearing on the budget. This is the first of the scheduled public hearings; the second will be held December 2, 2024. Adoption of the 2025/2026 Biennial Budget is scheduled for December 9, 2024.

The 2025/2026 Biennial Budget has been made available to the Public via the City's official website and in person at City Hall, 1104 Maple Street.

The 2025/2026 Biennial Budget has been reviewed in City Council Study Session on September 9, 2024, September 16, 2024, September 18, 2024, September 23, 2024, September 30, 2024, October 14, 2024, October 21, 2024, and October 30, 2024. Additionally, a public hearing on ad valorem property tax revenue was held on November 4, 2024.

The 2025/2026 Biennial Budget for all budgeted funds includes \$344,201,154 in regular revenues and beginning fund balance, and \$344,201,154 in appropriated expenditures and ending fund balance.

COUNCIL COMMITTEE/STUDY SESSION: See Summary Background

MEETING/STUDY SESSION DATE:

COMMITTEE RECOMMENDATION: Do-Pass

STAFF RECOMMENDATIONS/MOTION:

Hold Public Hearing for Ordinance No. 2905 2025/2026 Biennial Budget

**ORDINANCE NO. 2905
CITY OF SUMNER, WASHINGTON**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER,
WASHINGTON, ADOPTING THE 2025-2026 BIENNIAL BUDGET.**

WHEREAS, State law, Chapter 35A.33 RCW, requires the City to adopt a budget and provides procedures for the filing of estimates, a preliminary budget, deliberations, public hearings, and final fixing of the budget; and

WHEREAS, a preliminary budget for the fiscal years 2025 through 2026 has been prepared and filed; and

WHEREAS, public hearings were conducted for the purpose of fixing the final budget; and

WHEREAS, the City Council has deliberated and made adjustments and changes, as necessary and proper.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON
DO ORDAIN AS FOLLOWS:**

Section 1. Adoption by Reference. The 2025-2026 Biennial Budget for the City of Sumner, covering the period from January 1, 2025 through December 31, 2026, with regular revenues and beginning fund balances of \$344,201,154 and expenditures and ending fund balance of \$344,201,154, is hereby adopted.

Section 2. Summary of Revenues and Expenditures. The 2025-2026 Biennial Budget sets forth totals of estimated revenues and expenditures by fund and is as follows:

		Beginning Fund		Revenues	Expenditures	Ending Fund
		Balance				Balance
Funds		<i>Adopted</i>		<i>Adopted</i>	<i>Adopted</i>	<i>Adopted</i>
General	001 General	\$ 15,063,770	\$	45,331,653	\$ 46,636,320	\$ 13,759,103
	002 General Fund Reserves	980,824		-	-	980,824
	003 Building Reserves	345,756		200,000	340,000	205,756
	004 Capital Reserves	46,792,851		600,000	-	47,392,851
Spec. Rev.	103 Complete Streets	-		-	-	-
	105 Drug Enforcement	67,062		-	5,000	62,062
	106 Occupancy Tax Fund	337,632		320,000	11,000	646,632
	115 ARPA Fund	258,293		-	50,000	208,293
Debt Svc	200 Debt Service	2,050,121		1,576,840	1,618,400	2,008,561
	221 LID Guarantee	691,569		-	-	691,569
Capital	302 Sidewalk	779,515		1,383,682	1,843,682	319,515
	305 Real Estate Excise Tax	1,933,007		1,600,000	-	3,533,007
	310 Parks & Trails Capital Fund	1,772,306		7,458,910	7,949,410	1,281,806
	320 Street Capital Fund	10,609,786		24,308,166	25,808,846	9,109,106
	325 Facilities Capital Fund	589,173		1,353,000	1,020,000	922,173
Enterprise	401 Water	19,482,216		12,782,361	26,281,363	5,983,214
	402 Wastewater	16,680,743		37,096,804	45,031,513	8,746,034
	403 Utility Bond Reserves	1,731,342		-	-	1,731,342
	408 Stormwater	27,371,780		39,997,724	56,185,434	11,184,071
	410 Cemetery Operations	72,310		1,603,200	1,664,149	11,361
	415 Cemetery Development	693,091		-	490,000	203,091
	440 Animal Control	12,783		2,492,544	2,401,161	104,166
Internal Service	501 Unemployment Insurance	7,326		-	-	7,326
	550 Fleet Operations	71,035		1,624,162	1,669,886	25,311
	551 Technology Services	384,808		3,827,680	4,141,430	71,058
	555 Fleet Replacement	1,106,983		1,902,440	615,000	2,394,423
Fiduciary	601 Cemetery Endowment	1,590,876		37,000	-	1,627,876
	605 Development Impact Fees	6,522,175		500,000	440,302	6,581,873
	611 Firefighter's Pension	32,855		173,000	180,000	25,855
Total All Funds		\$ 158,031,988	\$	186,169,166	\$ 224,382,896	\$ 119,818,259

Section 2. 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 person's circumstances.

Section 3. Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

Section 4. Effective Date. This Ordinance shall become effective five (5) days from and after its passage, approval, and publication as provided by law.

Passed by the City Council and approved by the Mayor of the City of Sumner, Washington, at a regular meeting thereof this 9th day of December, 2024.

Mayor Kathy Hayden

ATTEST:

City Clerk Michelle Converse, CMC

APPROVED AS TO FORM:

City Attorney Andrea Marquez

SUBJECT: Ordinance No. 2899 - Battery Energy Storage Systems Code Amendment

CATEGORY: Ordinance

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. BESS Presentation
2. Staff Report
3. Ordinance No. 2899 - Battery Energy Storage Systems Code Amendment

STAFF CONTACT: Chrissanda Walker, Associate Planner

SUMMARY BACKGROUND:

In 2022, the City issued a zoning code interpretation for a proposed Battery Energy Storage System (BESS) project as a Major Utility Facility Use. The application went through SEPA, and the city recently approved an industrial scale 200-megawatt (MW)/800-megawatt hour (MWh) BESS facility to store electrical energy in the Light-Manufacturing (M-1) zone. The BESS facility will store electricity in lithium batteries arranged in modules on about 8 acres. That project includes a new transmission line through an existing utility corridor which connects to the PSE White River power station to provide critical energy storage to the region, while providing reliability for Puget Sound Energy (PSE) customers. Through the current permitting process, it became clear that these large “grid-scale” BESS should be clearly defined in the zoning code and better regulated to manage potential impacts.

This proposal updates regulations in the zoning code pertaining to Battery Energy Storage Systems (BESS) including (1) a new land use definition and clarifying major and minor utilities (2) regulating BESS facilities as conditional use in the industrial/manufacturing zones and (3) adding a new section under SMC 18.18.060 manufacturing district performance standards to address potential impacts.

In April 2024, staff presented the BESS proposed amendments as an item for discussion with the Planning Commission. The zoning code text amendment application (ZCTA-2024-0007) was then noticed for a public hearing on September 17, 2024. The Planning Commission reviewed the draft Ordinance 2899 and held a public hearing on the proposal on October 3, 2024. The Commission voted unanimously to recommend to the City Council approval of Ordinance No. 2899 as proposed.

The Ordinance was reviewed by the Community Development (CD) Committee on October 29, 2024 and again on November 4, 2024. The CD Committee proposed some updates to the performance standards and recommended Do-pass with the following changes:

1. Specify International Fire Code (IFC) and NFPA 855 compliance language under performance standard #1.
2. Clarify under performance standard #7 that the local fire district's role is in approving a fire safety plan.
3. Add a new performance standard #10 that addresses decommissioning.

COUNCIL COMMITTEE/STUDY SESSION: Special Study Session
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MEETING/STUDY SESSION DATE: 11/4/2024

COMMITTEE RECOMMENDATION: Do pass

STAFF RECOMMENDATIONS/MOTION:

Move to adopt Ordinance No. 2899 amending the zoning code related to Battery Energy Storage Systems.



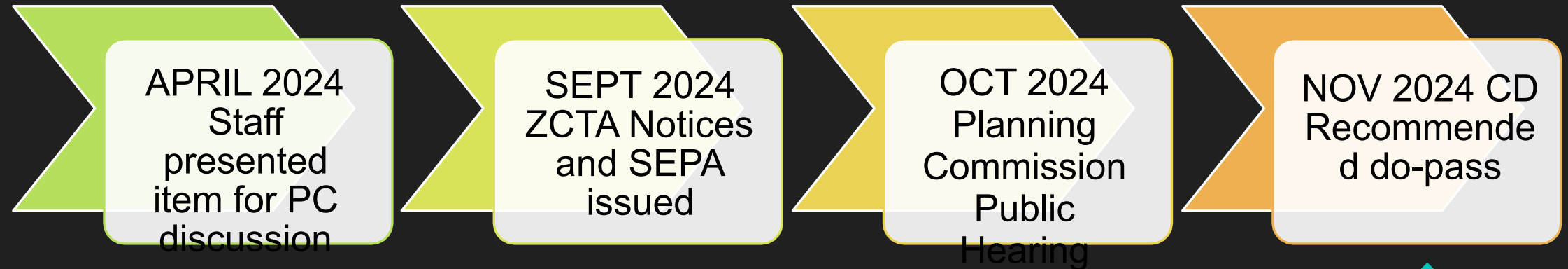
Battery Energy Storage Systems (BESS) – Ordinance 2899

City Council Meeting

Regular meeting

November 18, 2024

Zoning Code Text Amendment Review Process



WHERE WE ARE

Background & information

B.E.S.S stands for: Battery Energy Storage Systems

A BESS is one or more electrochemical device(s) that charges (or collects energy) from the grid or a power plant and then discharges that energy at a later time to provide electricity or other grid services when needed.

- BESS is a land use that can have value at any point on the electric grid.



55 Mwh BESS goes live in Bulgaria <https://www.pv-magazine.com>

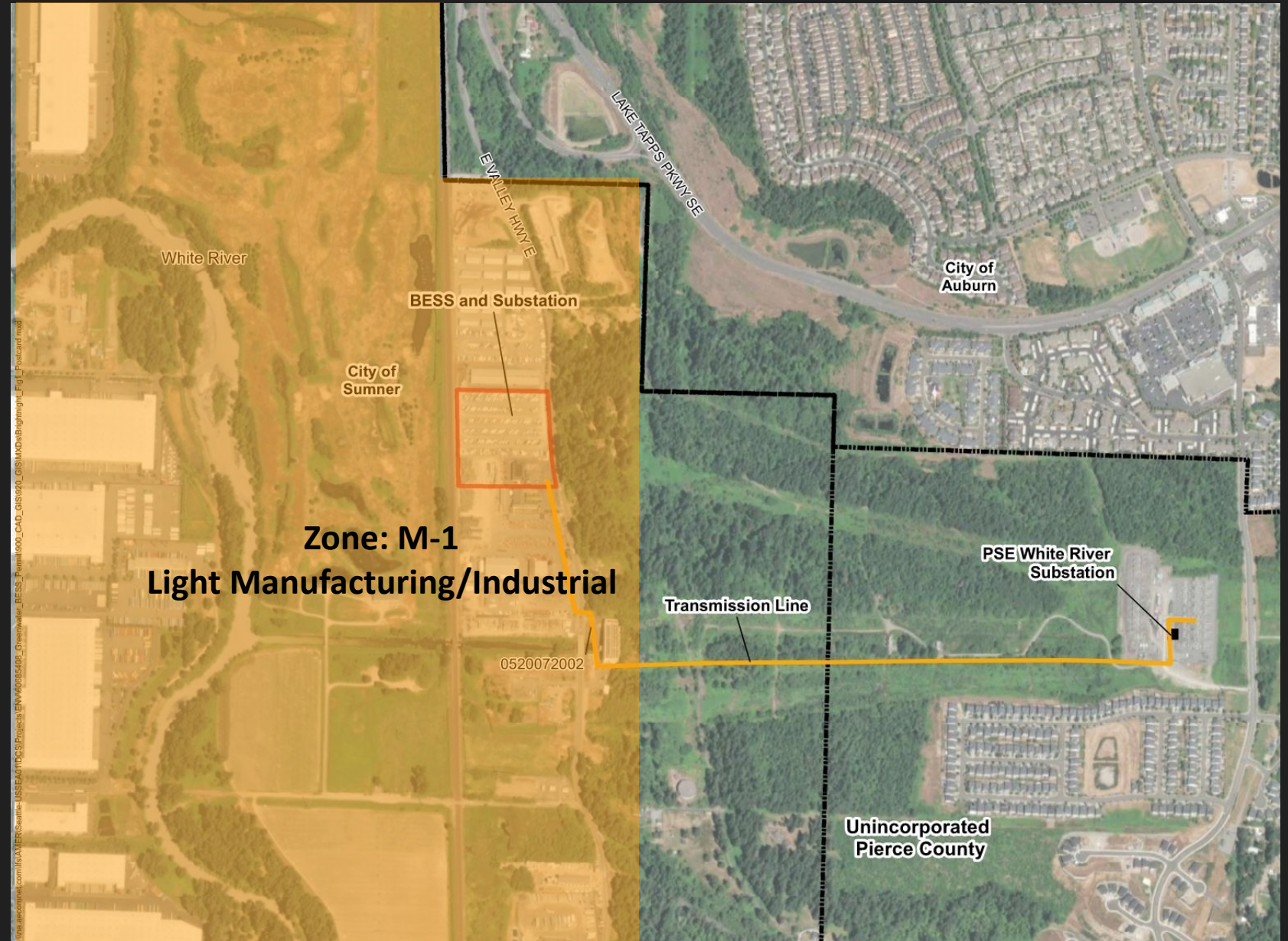
Is Energy Storage a Major Utility?

Yes, generally.

Zoning code interpretations are a tool to fit a new land use type under existing use definitions.

The recent Brightnight project was reviewed under SEPA and a portion of the project required a Hearing Examiner decision.

This project will be underway next year as part of PSE's grid reliability project.



What is driving the growth in BESS?

Communities across the US are experiencing increased utility-scale BESS deployment as part of new energy generation projects, primarily solar and wind.

Localities updating their zoning codes:

- Renton
- King County
- Whatcom County
- San Juan Islands
- Covington
- Kirkland

There are three reasons for the dramatic increase in deployment of grid-connected BESS:

1. **Dramatic expansion of renewable energy creates new value for storage**
2. **The 2022 Inflation Reduction Act included new tax credits for energy storage, providing a substantial incentive that is rapidly pushing battery system investments across the nation.**
3. **Significant cost decrease in battery technology and continued improvement in the technology and its performance**

Unique Risks

- 2021 Washington State Building and Fire Code has been updated with the latest industry standards on energy storage systems.
- Reliance on NFPA 855 standards which sets safety code thresholds for batteries of all types.
- BESS facilities that exceed 600 kWh of energy storage are required to complete hazard mitigation analysis, utilize fire suppression designs, and develop emergency planning
- UL 9540A listed products also required to conduct fire and explosion testing.

Thermal runaway, thermal stability

Different battery chemistries have different thermal runaway risks

Different types of lithium batteries also have significantly different risk profiles

The leading cause of fire and explosion inside a BESS enclosures is the release and ignition of combustible vapors from an overheating battery.

Why is this Ordinance needed?



The City does not have regulations specific to BESS



Support Green Energy uses such as energy storage



Better Regulate Future BESS Proposals

SMC 18.04 New Zoning Definition:

“Battery energy storage systems” or BESS is a facility consisting of any combination of electrochemical storage batteries, battery chargers, controls, power conditioning systems and/or associated electrical equipment, including transmission lines, whether assembled together or separately, capable of storing at least 200 megawatt hours of electrical energy in order **to supply energy at a future time to the electrical grid of a public utility provider(s).**

Overview of Ordinance 2899



Zoning Code Text Amendments for Battery Energy Storage Systems include:

- ❑ Add a land use definition for “Battery Energy Storage Systems (BESS)”
- ❑ Amend related definitions as needed for clarifications.
- ❑ Allow BESS only in M-1/M-2 zones only. (Prohibited in all other zones.)
- ❑ Require a Conditional Use Permit.
- ❑ Prohibit BESS within 1,000 feet of residentially zoned parcels.
- ❑ Require BESS to meet certain performance standards such as screening the site, and other standards for light and glare, noise, vibrations, etc.

BESS Performance Standards

- Add new section under SMC 18.18.060, performance standards for Battery Energy Storage Systems.

These performance standards address:

- ❖ Screening requirements
- ❖ Lighting
- ❖ Limit noise, odor or vibrations
- ❖ Design treatments
- ❖ Emergency Management planning
- ❖ Require demonstrated need



Image source: <https://www.res-group.com/technologies/energy-storage/>

CD Committee Updates to Performance Standards



X. Battery Energy Storage Systems Facilities.

1. Developments shall comply with **the latest adopted Washington State Building and Fire Code to include NFPA 855** requirements and other standards deemed necessary by the City's fire plans reviewer.
2. The site shall be fully screened from adjacent properties except those zoned M-2 by a landscaped buffer at least the width of the required setback with at least a three-foot-high earth berm and at least 50 percent evergreen trees at least six feet in height at planting.
3. Outdoor lighting shall comply with SMC 18.18.060(D).
4. Fencing shall comply with SMC 18.18.060(S).
5. The facility shall not create odor, noise, or vibrations that are readily detectable by the human senses beyond

CD Committee Updates to Performance Standards



...continued

6. Building and equipment surfaces shall have cladding or coating that provides a durable and non-glare surface, such as galvanized metal or powder-coated paint.
7. An emergency management plan shall be developed for each facility in coordination with the local fire district. The **fire district shall approve the fire safety plan** prior to permit issuance.
8. **A qualified third-party inspector shall complete a final electrical inspection of the BESS facility prior to commencement of operations. The costs of the third-party inspection shall be borne by the applicant.**
9. Applicants for a proposed facility shall evaluate the overall distribution of other BESS facilities within the county and city, and demonstrate how the proposed facility avoids placing an undue burden on the city over other cities and on any one neighborhood within the city.
10. **The applicant shall demonstrate financial responsibility for decommissioning in an amount to carry out all contingencies of the decommissioning plan required by WAC 51-54A-1207, including**
 - a. **The range of cleanup activities that would be required for site decommissioning as applicable.**

Thank you

City Council



Any Questions or Comments?



STAFF REPORT

DATE: November 18, 2024
TO: Mayor Hayden and City Council
FROM: Chrissanda Walker, Associate Planner
RE: **Zoning Code Text Amendment - Battery Energy Storage Systems** Ordinance 2899

I. BACKGROUND / WHY THE AMENDMENTS ARE BEING PROPOSED

The City of Sumner recently reviewed and approved an industrial scale Battery Energy Storage System (BESS), a 200Mw/800-megawatt hour (MWh) facility located in the Light-Manufacturing (M-1) zone. The BESS project is designed to provide critical energy storage to the region, while providing reliability for Puget Sound Energy (PSE) customers. The project plans to utilize Tier 1 lithium batteries arranged in modules on about 8 acres. The city worked closely with the fire district in understanding the risks associated with the project's outdoor module design. The technology to be used for this project includes advanced computers equipped on each module unit with sophisticated alarm notification systems. The computers will have the capability of reading data on the performance of each battery cell prior to cell failure to avoid chemical fires. The ongoing development of the emergency management plan and onsite fire safety plan is being monitored. Other components of this BESS project include a new transmission line through the existing utility corridor which connects to the PSE White River power station. The area where the BESS facility and transmission poles are proposed is designated under Sumner's Comprehensive Plan zoning as public and private facilities. Although this BESS project underwent proper planning and conditions to be sited appropriately, it became apparent that large "grid-scale" BESS should be defined in the zoning code and regulated to minimize potential impacts.

BESS are becoming increasingly important as renewable energy sources are added to the energy mix. The increase in demand on the energy grid continue to rise as State mandates incentivizes toward electrification. BESS serves to provide grid efficiency and can reduce peak energy prices by stabilizing power supply. Exact benefits to customers and data on energy reliability should be directed towards utility providers. Policies like the 2022 Inflation Reduction Act included new tax credits for energy storage, providing a substantial incentive that is rapidly pushing battery energy storage system investments across the nation. Coupled with significant cost decreases in battery technology and continued improvement in performance, widespread applications of BESS are seen throughout the country. Typically, BESS are developed as part of utility substations and transmission systems and as part of solar and wind electric generation. The rise in deployment of BESS is driving communities to quickly react and to update zoning codes, regulations and permit processes to better address the growing technology and application. BESS is a land use that can have value at any point on the electric grid including residential zones. Through this Ordinance, Sumner can be clear on where these uses fit within the community.

Under Sumner's current Zoning Code, the land use type "major utility facility," includes "electrical substation" as an outright permitted use in M-1 and M-2 zones. In 2022, Sumner made a zoning code interpretation for BESS as "other associated uses" under the land use "major utility facility" as defined in Sumner Municipal Code (SMC) 18.04.1065. The interpretation was similar to the permitting approach in Pierce County, and consistent with State definitions.

While BESS can fit under land use definitions like "major utility" or "associated electrical facilities" of large energy plants for example, they contain unique characteristics relative to other storage land uses and presents unique considerations in addressing risks and emergency events. Therefore, there is a need for zoning regulations specific to BESS. Under Sumner's Comprehensive plan update, streamlining green energy industries and climate action

planning has become a priority. Ordinance No. 2899 adds to the Zoning Code a definition for large-scale BESS and stipulates it as allowed in the Manufacturing Districts (M-1 and M-2) only through a conditional use permit. Based on the definition, the use shall have the ability to store up to a minimum of 200-megawatt-hour of energy and supplies it to the electrical grid of a public utility provider. This sets the floor for BESS land uses allowed in Sumner. Through consulting other jurisdictions, many communities have existing regulations for other common energy storage land uses along with environmental protection ordinances to protect the environment and humans from exposure to environmental hazards. These regulatory lenses can be relied upon when addressing battery energy storage as another energy storage land use. To address the unique risks of BESS, projects are reviewed against the 2021 adopted cycle of the International Fire Code.

Fire is the primary safety risk associated with BESS and concerns battery chemistry, including the predominant lithium-based batteries, which carry different levels of risk of thermal runaway or thermal stability. Continued technical advancements in battery chemistry and energy storage designs create ever-changing safety standards. To be consistent with industry safety standards, Ordinance No. 2899 refers to the latest adopted International Fire Code (IFC) and the National Fire Prevention Association (NFPA) standard 855. The NFPA 855 sets safety thresholds for batteries of all types. Under this standard, operators of facilities with total energy storage exceeding 600 kWh must complete a hazard mitigation analysis, utilize fire suppression designs and equipment, conduct fire and explosion testing in accordance with UL 9540A, develop emergency planning, and conduct annual training of maintenance staff.

Ordinance No. 2899 requires coordination with the local fire district because it is critical in BESS emergency management planning. During plan review projects would meet code required hazard mitigation on chemical failures and require a fire safety plan specific to the site of a BESS. The fire safety plan will address fire response and identify at what levels an evacuation would be necessary. Under this zoning code amendment, a BESS use will be allowed only through a Conditional Use permit only in the industrial zones and would no longer be considered "major utility" where such uses are outright permitted in commercial and residential zones through a Conditional Use permit. Furthermore, Ordinance No. 2899 establishes performance standards that put into place necessary safeguards and standards that address potential impacts.

In April 2024, City staff presented a memo to the Planning Commission introducing the proposed zoning code amendment for discussion. On October 3, 2024, staff presented an updated summary of the proposal in more detail and explained the proposed zoning code amendments before the Planning Commission. A public hearing was held during the Planning Commission meeting on October 3, 2024, where public comments were heard, and the Planning Commission voted to recommend to the Council approval of Ordinance 2899.

A staff memo in response to public comments was prepared and presented to the CD Committee on October 29, 2024. Staff provided an overview of the ordinance, and several questions were raised by the Committee regarding overall health risks and pollution concerns related to BESS. A special meeting with the CD Committee was later held on November 4, 2024, for staff to better explain why these amendments are being proposed and how the ordinance places new zoning regulations on BESS. The CD Committee raised additional questions for staff to address at the Council meeting with revisions to the performance standards related to decommissioning of batteries at BESS sites. With anticipated additions to the proposed standards, the CD Committee recommended a "Do-Pass" on Ordinance 2899. These changes are explained in section III of this report.

II. DESCRIPTION OF PROPOSAL

The Ordinance defines large scale BESS in the municipal zoning code and designates BESS as allowed through Conditional Use in the Manufacturing Districts (M-1 and M-2). A new section is added to the manufacturing districts under SMC 18.18 to include new performance standards for BESS facilities such as: screening requirements, lighting, fencing and noise standards, and siting criteria consistent with the current code criterion for Essential Public Facilities. Key provisions in the Ordinance are summarized below.

A. Zones allowed

The proposal will allow BESS as a conditional use in all manufacturing zoning districts, prohibited within 1,000 feet of residentially zoned lands. BESS facilities will also be prohibited in commercial and mixed-use zones.

B. Definitions

The existing zoning code includes definitions for "major utility facility" and "minor utility facility" that is not clearly inclusive of battery energy storage. Changes proposed include clarification of BESS as not a major utility facility and adding a new section to add a definition of BESS based on industry definitions

and standards. Major utility facilities are necessary, can be public or private and can be co-located with other land uses, BESS will be subject to siting criteria.

C. Performance Standards

The proposal amends section 18.18.060 in the zoning code to include new standards that will address impacts such as aesthetics, lighting, noise and odor. These performance standards are similar to what is expected of other industrial uses. This new section is established more specifically to BESS such as siting criteria and requiring facilities to develop a necessary emergency management plan with the local fire district. Through continued industry research and Committee recommendations, these performance standards have been revised as described further below.

III. DESCRIPTION OF THE ORDINANCE REVISIONS

Section 5 of Ordinance No. 2899 has been revised since it was presented to the CD Committee on November 4, 2024. These changes address concerns of safety and decommissioning of a BESS project site. These revisions were discussed with but not reviewed by the CD Committee prior to the Council meeting on this Ordinance. The changes are explained below and highlighted to indicate new language:

1. BESS Safety Compliance
Developments shall comply with the latest adopted Washington State Building and Fire Code to include NFPA 855 requirements and other standards deemed necessary by the City's fire plans reviewer.
2. Require a landscape buffer
The site shall be fully screened from adjacent properties except those zoned M-2 by a landscaped buffer at least the width of the required setback with at least a three-foot-high earth berm and at least 50 percent evergreen trees at least six feet in height at planting.
3. Outdoor lighting standard
Outdoor lighting shall comply with SMC 18.18.060(D).
4. Fencing Standard
Fencing shall comply with SMC 18.18.060(S).
5. Odor, noise and vibration
The facility shall not create odor, noise, or vibrations that are readily detectable by the human senses beyond the boundaries of the site.
6. BESS design standards
Building and equipment surfaces shall have cladding or coating that provides a durable and non-glare surface, such as galvanized metal or powder-coated paint.
7. Emergency Management & Fire Safety Plan
An emergency management plan shall be developed for each facility in coordination with the local fire district. The fire district shall approve the fire safety plan prior to permit issuance.
8. Require third-party inspections
A qualified third-party inspector shall complete a final electrical inspection of the BESS facility prior to commencement of operations. The costs of the third-party inspection shall be borne by the applicant.
9. Siting Criteria
Applicants for a proposed facility shall evaluate the overall distribution of other BESS facilities within the county and city, and demonstrate how the proposed facility avoids placing an undue burden on the city over other cities and on any one neighborhood within the city.
10. Decommissioning
The applicant shall demonstrate financial responsibility for decommissioning in an amount to carry out all contingencies of the decommissioning plan required by WAC 51-54A-1207, including
a. The range of cleanup activities that would be required for site decommissioning as applicable.

IV. ANALYSIS

This proposal zones is consistent with the intent and policies of the Comprehensive Plan, specifically the policies discussed below.

Community Value: Foresight

"The City plans ahead for its future. Through comprehensive planning, utility and infrastructure planning, coordination with neighboring jurisdictions, and capital facilities programs, the City is able to ensure it has the resources for future needs. The City uses this foresight to maintain its vision of the future. We communicate regularly and determine if we are achieving the vision we desire."

As emerging technologies in renewable and clean energy grow, the City can maintain the value of foresight to address utility infrastructure and better define these land uses in the manufacturing/industrial area.

Land Use Element

Goal 1 "Provide for orderly development within the Sumner community."

Policy 1.1 Ensure that appropriate transitions so that more intensive uses do not adversely impact adjacent uses.

1.1.1 Maintain the design guidelines and ordinances to achieve compatible and attractive new residential, commercial, and industrial uses.

The proposed amendment to specify BESS as a conditional use in the manufacturing/industrial center is consistent with these land use element goals and policies:

Utilities Element

Goal 2 "Plan and allow for regional and local improvements to electric facilities and coordinate service plans for facility development."

Policy 2.1 Make decisions with respect to electric utility facilities so that safe, adequate and efficient availability of electrical service in other jurisdictions is not negatively affected.

Policy 2.2 Accommodate additions and improvements to electric utilities in a manner consistent with the needs and resources of Sumner as well as other jurisdictions. In addition, the City recognizes that decisions regarding utility corridors and facilities cannot be made solely on the basis of local considerations if multi-jurisdictional or regional interests would be affected.

Policy 2.3 Encourage Puget Sound Energy to make additions to and improvements of electric utility facilities that provide adequate capacity for future planned growth.

Policy 2.4 Recognize the need for electric utility facilities that are sufficient to support economic development.

Policy 2.7 Encourage the joint use of utility corridors, provided that such joint use is consistent with limitations as may be prescribed by applicable law and prudent utility practice.

The proposed zoning code amendment meets the intent of the Utility Element by encouraging planned development of utility facilities, specifically BESS projects that may need additions and improvements of transmission lines in a manner consistent with the needs and resources of Sumner as well as other jurisdictions.

Environment Element

Policy 1.1 Protect air quality from adverse impacts

1.1.2 Require air quality impact analysis for major new developments which could adversely impact the air quality levels in the vicinity.

1.1.3 Work with other agencies to educate the public about air quality impacts.

1.1.4 Work with other agencies to monitor air quality within the planning area.

- Policy 2.1 Encourage a reduction in noise impacts associated with human activity
 - 1.2.1 Require new developments which could generate substantial levels of noise or could expose people to substantial levels of noise from existing noise generators to submit an analysis of potential noise impacts and propose mitigation.
 - 1.2.2 Maintain the noise ordinance to address various noise sources and require mitigation of noise impacts if they are sufficient to cause environmental health problems or will exceed recognized health standards.
- Policy 1.6 Encourage the efficient use of energy as a means of practicing environmental stewardship.

The proposed zoning code amendments establish performance standards that will meet the goals of the Environment Element, consistent with the policies above.

Capital Facilities and Public Services Element

- Policy 1.3 Through the inter-local agreement with East Pierce Fire and Rescue, provide and maintain suppression, prevention, education, and medical response, including advanced life support (ALS) response system. Refer to the EPFR capital facilities plan for a complete list of levels of service and planning assumptions.
 - 1.3.1 East Pierce Fire & Rescue shall strive to maintain sufficient personnel and equipment, strategically located such that the first-due response units arrive at fire and emergency medical incidents in urban areas served by staffed fire stations (as characterized by the City of Sumner) within 5 minutes to the 90th percentile.
 - 1.3.2 East Pierce Fire & Rescue shall strive to maintain sufficient personnel and equipment, strategically located to provide a minimum acceptable (effective) response force capable of arriving at emergency incidents within 10 minutes to the 90th percentile. "Sufficient personnel" is further defined in the EPFR Capital Facilities Plan.

The proposed zoning code amendment acknowledges the inter-local agreement with East Pierce Fire and Rescue and the need to equip the local fire district with an emergency management plan. As technology improves and best science is made available for battery energy storage, fire-fighting training and response is critical and an integral section of an emergency management plan.

Economic Development and Employment

- Goal 5 *Improve the resiliency of the local Sumner economy to climate change and reduce its carbon emissions where practicable.*
- Policy 5.1 As part of the Sumner Emergency Management Plan, identify potential measure that could support a sustainable economic recovery after a disaster.
- Policy 5.2. Support local businesses' efforts to bolster climate preparedness and continuity of operations by connecting them with programs that increase resiliency, such as onsite renewable energy generation, energy storage, and back-up power.

Conclusion:

Sumner's Comprehensive Plan provides a general policy basis for orderly development of new utility land uses and green energy technology. The proposed updates to designate Battery Energy Storage Systems as a conditional use in the manufacturing districts is consistent with the Land Use Element for proper siting and allows for the city to ensure intensive uses like BESS remain located within the manufacturing center and does not adversely impact adjacent land uses. Proposed code amendments will further adopt performance standards that address BESS in terms of screening, noise and aesthetics. These performance standards satisfy the policies of the Environment Element, by regulating new developments which could generate substantial levels of noise under a conditional use permit thus subject to additional requirements. The proposed zoning code amendments are consistent with the Economic Development, Capital Facilities and Public Service Elements, creating opportunities to strengthen partnerships with the local fire district through a required emergency

management plan. This supports the overall goals and policies of community resiliency and emergency management preparedness. The proposed changes would also encourage green energy development and the expansion of utility facilities in Sumner consistent with the Utilities Element and thereby supporting economic development and the needs of the community. While this proposal generally advances the City Value of Foresight to include new industries, the proposed zoning code change ensures that a proposed BESS facility shall demonstrate a need and avoids placing undue burden on the city on the distribution of such uses.

V. SEPA ENVIRONMENTAL REVIEW

A SEPA environmental checklist and analysis of the proposed amendment has been completed. A Determination of Non-Significance was issued on September 11, 2024.

VI. PUBLIC & AGENCY COMMENTS

A Notice of intent to adopt amendment was sent to the Department of Commerce on September 18, 2024, with an expedited review granted. The Washington State Growth Management notice to state agency requirements in RCW 36.70A.106 has been satisfied. No other state agencies provided comment.

Prior to the Planning Commission public hearing held on October 3, 2024, there were four (4) public comment letters received during the public comment period and three (3) public testimonies heard at the public hearing. Staff prepared a memo summarizing comment responses and provided copies of the public comments to the CD Committee on October 29, 2024. See Exhibit B for the staff memo detailing the comments and response.

VII. CD COMMITTEE RECOMMENDATION

Move to adopt Ordinance 2899 as proposed and revised on November 12, 2024.

VIII. EXHIBITS

- A. Ordinance No. 2899-REVISED
- B. Staff Memo-Response to Public Comments

ORDINANCE 2899
CITY OF SUMNER, WASHINGTON

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, AMENDING THE ZONING CODE PERTAINING TO BATTERY ENERGY STORAGE SYSTEMS INCLUDING DEFINITIONS AND LAND USE REQUIREMENTS AND AMENDING CHAPTERS: 18.04 DEFINITIONS; 18.18 MANUFACTURING DISTRICTS; AND SECTIONS: 18.04.0162; 18.04.1070; 18.18.020; 18.18.060 AND ADDING A NEW SECTION 18.04.0163 “BATTERY ENERGY STORAGE SYSTEMS (BESS).”

WHEREAS, technological progress and innovation have fueled a surge in the development of battery storage facilities, widely known as BESS (Battery Energy Storage Systems), marking a significant leap forward in renewable energy storage solutions; and

WHEREAS, BESS can offer benefits compared to other energy storage solutions, such as improved efficiency and adaptability, quicker reaction times for energizing equipment or devices, and overall reduced expenses; and

WHEREAS, the intent of the City, by making these modifications is to ensure that this new technology is clearly defined and allowed in the municipal code, and that all large, grid-scale, BESS facilities are processed through a Conditional Use Permit to better address potential impacts to the surrounding area, including the heightened risk of fire and environmental contamination, and to provide a flexible process for permitting facilities improvements as technology changes or operational needs change.

WHEREAS, the proposed zoning code text amendments were forwarded on September 18, 2024, to the Washington State Department of Commerce for the agency’s required 60-day review per the Growth Management Act; and

WHEREAS, after study sessions regarding the amendments proposed by this ordinance, the Planning Commission held a public hearing on October 3, 2024, and recommend that the City Council adopt the amendments; and

WHEREAS, the City Council Community Development Committee reviewed the proposed amendments on October 29, 2024 and on November 4, 2024 and recommend a do-pass by the City Council; and

WHEREAS, the City Council finds the proposed amendments to be consistent with the Sumner Comprehensive Plan and the Sumner Municipal Code criteria for Zoning Code amendments.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Amended Section. Sumner Municipal Code Section 18.04.0162 is hereby amended as follows:

18.04.0162 Battery storage, distribution, and processing business.

“Battery ~~storage~~, distribution, and processing business” means a retail or wholesale business engaged in any one or more of the following activities: importation of prepared batteries from either a foreign or domestic source; repackaging, relabeling, or other cosmetic alteration of batteries; shipping, reselling, or otherwise distributing batteries to retail or wholesale customers; minor additions of fluids to batteries to restore their electrical properties; storage of batteries incidental to on-site retail or wholesale operations, related office activities.

Section 2. New Section. Sumner Municipal Code Section 18.04 Definitions is hereby amended to add a new definition, as follows:

18.04.0163 Battery Energy Storage Systems (BESS)

“Battery energy storage systems” or BESS is a facility consisting of any combination of electrochemical storage batteries, battery chargers, controls, power conditioning systems and/or associated electrical equipment, including transmission lines, whether assembled together or separately, capable of storing at least 200 megawatt hours of electrical energy in order to supply energy at a future time to the electrical grid of a public utility provider(s).

Section 3. Amended Section. Sumner Municipal Code Sections 18.04.1065 and 18.04.1070 are hereby amended as follows:

18.04.1065 Utility facility, major.

“Major utility facility” is a facility for providing service to an area including, ~~but not limited to:~~

- A. Telephone exchanges;
- B. Electrical switching substations;
- C. Natural gas gate stations and regulating stations;
- D. Propane, compressed natural gas and liquefied natural gas storage tanks serving multiple lots or uses from which fuel is directly distributed to individual users, but does not include the storage and distribution by truck or rail transport;
- E. Natural gas transmission pipelines;
- F. Sewage Wastewater treatment plant; and
- G. Utility facilities that are not minor utility facilities.

For the purposes of this title, “major utility facility” does not include utility lines, distribution pipelines, and other related facilities commonly found in street rights-of-way, “Battery Energy Storage Systems,” or uses included in the definition of “public facilities.” or “essential public facilities.”

18.04.1070 Utility facility, minor.

“Minor utility facility” means:

- A. Natural gas distribution lines, not located in a street right-of-way.
- B. Developments within the confines of any electric substation, telephone exchange buildings, reservoir, pump station, well and similar.
- C. Electrical facilities, lines, equipment or appurtenances with an associated voltage of 55,000 volts or less.
- D. Upgrade of existing electrical transmission lines in commercial and industrial districts.
- E. Detention ponds and other similar tracts dedicated to the city.
- F. Wastewater pump or lift stations.

For the purposes of this title, “minor utility facility” does not include utility lines, distribution pipelines, and other related facilities commonly found in street rights-of-way, or uses included

in the definition of “public facilities:” “Battery Energy Storage Systems,” or “essential public facilities.”

Section 4. Amended Section. That Sumner Municipal Code 18.18 “Manufacturing Districts (M-1, M-2),” 18.18.020 “Principal, Administrative, and Conditional Uses,” is hereby amended to read as follows:

“18.18.020 Principal, administrative, and conditional uses.”

A. The following table details permitted and conditionally permitted uses in the manufacturing districts. Where a “P” is indicated, the respective use in the same row is permitted in the zone classifications in the same column. Where an “A” is indicated or SMC 18.48.020(B) applies, the respective use in the same row is allowed through an administrative use permit. An administrative use permit shall be required and in full force and effect in order to establish said administrative uses. Where a “CUP” is indicated, the respective use in the same row is conditionally permitted in the zone classification in the same column. A conditional use permit shall be required and in full force and effect in order to establish said conditional uses. Where “--” is indicated, the respective use is not allowed. Where a “1” or “2” is indicated, there are different or supplemental regulations for that particular use within the Sumner manufacturing/industrial core overlay (MICO) pursuant to the notes at the bottom of this table.

		M-1	M-2	MICO (M-1/M-2)
1.	Accessory parks and recreation facilities for use by on-site employees	P	P	P
	[...]			
6.	Battery storage , distribution, and processing business	P	P	P
	[...]			
19.	Food manufacturing, processing or package plants, excluding slaughtering facilities	CUP ¹	P	CUP ¹ /P
	[...]			
72.	Essential public facilities not otherwise listed above	CUP	CUP	CUP
<u>73.</u>	<u>Battery Energy Storage Systems⁹</u>	<u>CUP¹</u>	<u>CUP¹</u>	<u>CUP¹</u>

¹Prohibited within 1,000 feet of residentially zoned lands.
[...]

⁸See performance standards in SMC 18.18.060(W).

⁹See performance standards in SMC 18.18.060(X).

Section 5. Amended section. That Sumner Municipal Code section 18.18.060 Performance Standards is hereby amended to add new performance standards for Battery Energy Storage Systems, as follows:

18.18.060 Performance Standards.

The following special requirements and performance standards shall apply to properties located in the manufacturing districts:
[...]

X. Battery Energy Storage Systems Facilities.

1. Developments shall comply with by the latest adopted Washington State Buildgin and Fire Code to include NFPA 855 requirements and other standards deemed necessary by the City's fire plans reviewer.
2. The site shall be fully screened from adjacent properties except those zoned M-2 by a landscaped buffer at least the width of the required setback with at least a three-foot-high earth berm and at least 50 percent evergreen trees at least six feet in height at planting.
3. Outdoor lighting shall comply with SMC 18.18.060(D).
4. Fencing shall comply with SMC 18.18.060(S).
5. The facility shall not create odor, noise, or vibrations that are readily detectable by the human senses beyond the boundaries of the site.
6. Building and equipment surfaces shall have cladding or coating that provides a durable and non-glare surface, such as galvanized metal or powder-coated paint.
7. An emergency management plan shall be developed for each facility in coordination with the local fire district. The fire district shall approve the fire safety plan prior to permit issuance.
8. A qualified third-party inspector shall complete a final electrical inspection of the BESS facility prior to commencement of operations. The costs of the third-party inspection shall be borne by the applicant.
9. Applicants for a proposed facility shall evaluate the overall distribution of other BESS facilities within the county and city, and demonstrate how the proposed facility avoids placing an undue burden on the city over other cities and on any one neighborhood within the city.
10. The applicant shall demonstrate financial responsibility for decommissioning in an amount to carry out all contingencies of the decommissioning plan required by WAC 51-54A-1207, including:
 - a. The range of cleanup activities that would be required for site decommissioning as applicable.

Section 6. Severability. If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. If the provisions of this ordinance are found to be inconsistent with other provisions of the Sumner Municipal Code, this ordinance is deemed to control.

Section 7. Effective date. This ordinance shall take effect five (5) days from the date of publication in the City’s official newspaper.

Section 8. Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

Passed by the City Council and approved by the Mayor of the City of Sumner, Washington, at a regular meeting thereof this 18th day of November 2024.

Mayor Kathy Hayden

ATTEST:

APPROVED AS TO FORM:

City Clerk Michelle Converse, CMC

Andrea Marquez, City Attorney

First Reading:
Date Adopted:
Date of Publication:
Effective Date:

SUBJECT: Ordinance No. 2900 - Multifamily Residential Infill Code Amendment

CATEGORY: Ordinance

BUDGET IMPACT:

ATTACHMENTS:

1. Presentation - Multifamily Residential Infill
2. Multifamily Residential Infill Regulations - Staff Report
3. Ordinance No. 2900 - Multifamily Residential Infill Code Amendment

STAFF CONTACT: Ryan Windish, Community Development Director

SUMMARY BACKGROUND: This item is a proposed zoning code amendment related to infill housing development and regulations. The State House of Representatives passed Bill 1042 creating regulations for allowing Multifamily Residential Infill of existing commercial and multifamily developments. This bill requires cities to review their current land use codes and make necessary changes to be compliant with the State. The proposed amendments to the Sumner Municipal Code will update regulations to allow infill additions to existing commercial and multifamily developments. These changes include:

- Creates definitions for “multifamily dwelling” and “multifamily residential infill”
 - Sets scope for what multifamily residential infill unit developments can and can not include
 - Provides permitting and code exemptions for multifamily residential infill units
 - Updates in zones that currently allow commercial and multifamily developments to permit existing commercial and multifamily structures allowance for multifamily residential infill units
-

COUNCIL COMMITTEE/STUDY SESSION: CD Committee

MEETING/STUDY SESSION DATE: 10/29/2024
--

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

Move to adopt Ordinance No. 2900 adopting amendments to the Zoning Code.



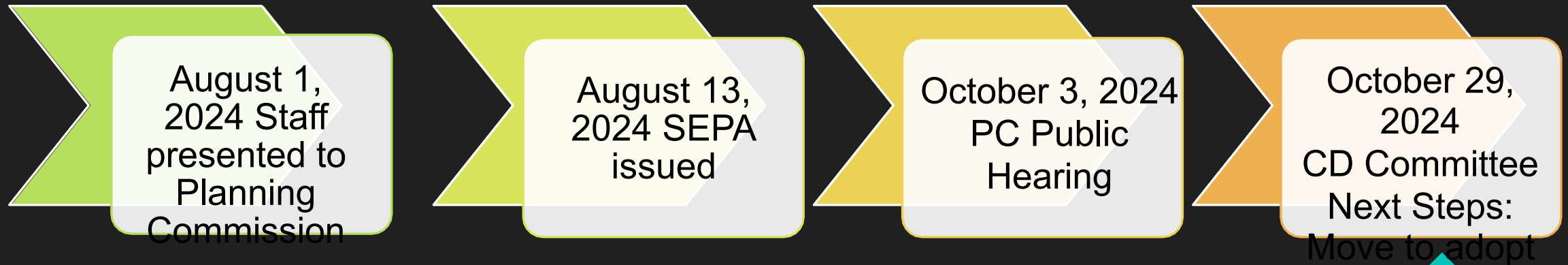
Multi-Family Residential Infill(MRI) Developments– Ordinance 2900

City Council

Regular meeting

November 18, 2024

Zoning Code Amendment Review Process



WHERE WE ARE

Why are these amendments being proposed?



State Legislature Requires it

- House Bill # 1042



- Part of a series of State legislation to address housing
- Provides options for utilizing existing buildings



Provide clear direction of what MRI is and where and how it can be proposed

Zoning Code Definitions



New Section: A new section under definitions, 18.04.0722 “Multifamily Dwellings” and 18.04.0723 “Multifamily residential Infill dwellings (MRI)” are hereby added to the Sumner Municipal Code to read as follows:

□ **18.04.0722 Multifamily dwellings.**

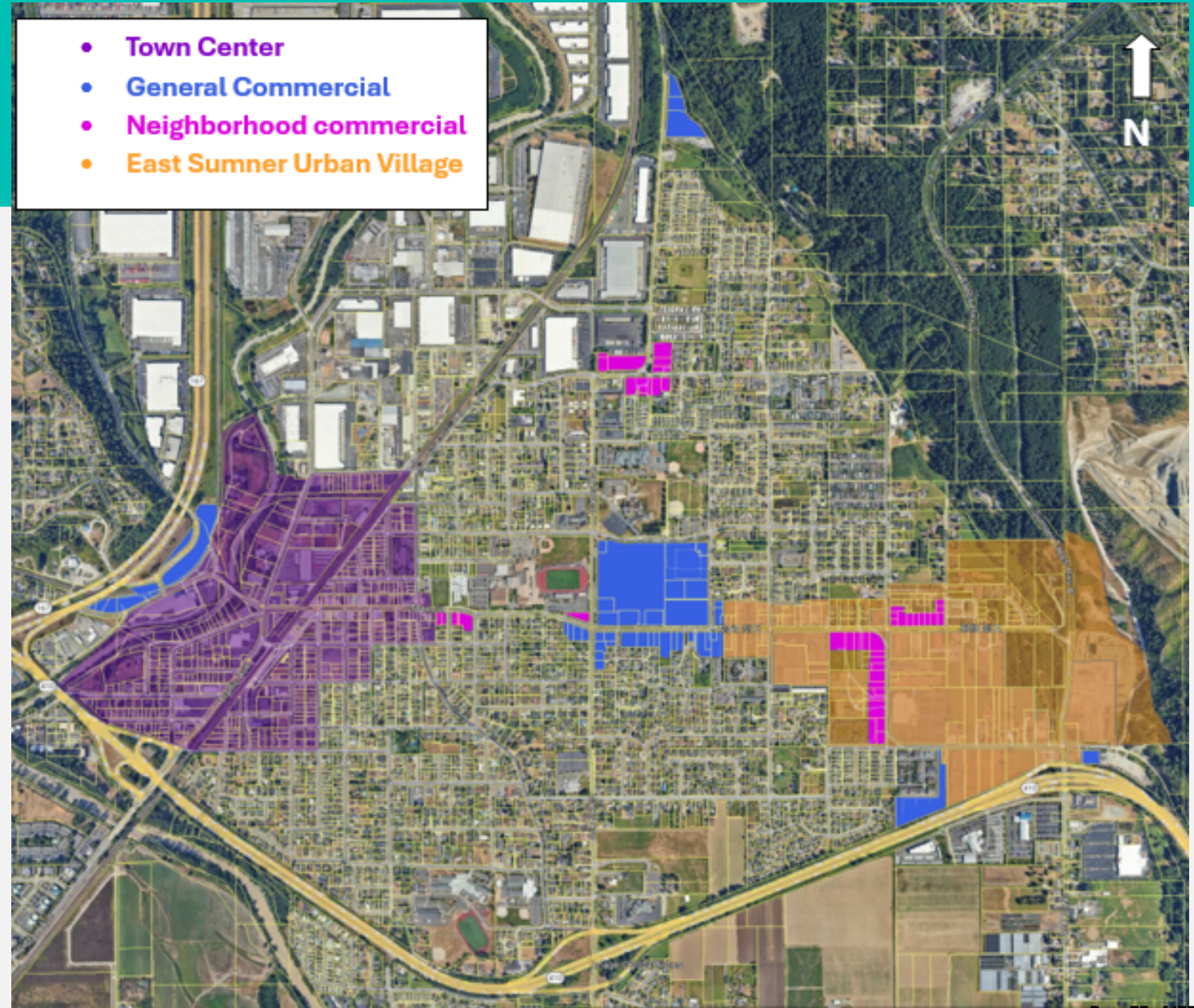
“Multifamily dwelling” means a type of housing contained in a single structure with three or more dwelling units. Examples of multifamily dwellings include, but are not limited to, ground-level or multi-level triplexes, fourplexes, Senior housing and Multifamily Residential Infill (MRI) dwellings as may be permitted pursuant to SMC 18.16.040.E.

□ **18.04.0723 Multifamily residential Infill dwellings (MRI).**

“Multifamily residential infill dwelling” (MRI) means a type of multifamily housing exclusively permitted within commercial and mixed-use districts as may be permitted pursuant to, including but not limited to, the standards of SMC 18.16.040.E.

Zoning Districts Allowed

- Town Center
- Neighborhood Commercial
- General Commercial Zones
- East Sumner Urban Village



Summary of Ordinance 2900



Overview of proposed zoning code amendments.

An MRI must comply with the following:

- Must be an existing commercial, multifamily or mixed-use building in applicable zone
- Can increase up to 50% beyond zones allowed density
- Must be within existing building footprint and only include interior work
- Can't occur in areas where commercial is required
- Record a covenant on the title
- Meet building codes for scope of work

Staff Recommendations

to City Council



Move to adopt Ordinance No. 2900 amending the zoning code pertaining to Multi-Family Infill Development





STAFF REPORT

DATE: November 18, 2024
TO: City Council
FROM: Community Development and Larson Consulting
RE: **Zoning Code Text Amendment – Multifamily Residential Infill development regulations Ordinance No. 2900**
File #CTA-2024-0005

I. BACKGROUND / WHY THE AMENDMENTS ARE BEING PROPOSED

The State House of Representatives passed Bill 1042 creating regulations for allowing Multifamily Residential Infill of existing commercial and multifamily developments. This bill requires Cities to review their current land use codes and make necessary changes for compliance with the State.

II. SUMMARY OF PROPOSAL

The proposed amendments to Sumner Municipal Code will update regulations to allow infill additions to existing commercial and multifamily developments. These changes include:

- Creates definitions for “multifamily dwelling” and “multifamily residential infill”.
- Sets scope for what multifamily residential infill unit developments can and cant include
- Provides permitting and code exemptions for multifamily residential infill units
- Updates zones currently allowing commercial and multifamily developments to permit existing commercial and multifamily structures to allow multifamily residential infill units

III. ANALYSIS

Sumner code requires that proposals to amend the Zoning Code include an explanation of how the proposed amendment implements the comprehensive plan (SMC 18.56.149(2)). Relevant sections and policies related to the proposed text amendment are presented below.

Land Use Sub-Element

Goal 1. Provide for orderly development within the Sumner community.

1.2 Encourage infill development on vacant properties with existing public services

and public utilities, and new development in areas with existing or planned public facilities.

1.7 Ensure new development is consistent with the policies of this Plan through implementation of regulations, programs, and project specific review

PERMIT PROCESS SUB-ELEMENT

Goal 1. Develop and implement a permit process for land use and other local government approvals which is timely and fair to all affected parties.

1.2 Review development regulations to ensure they are necessary and directly related to implementation of the Comprehensive Plan and other state and federal mandates.

1.2.1 Eliminate duplicative, unnecessary, and unclear regulations.

1.2.2 Provide procedures to process permits in a timely fashion

1.3 Provide resources, staffing and procedures sufficient to ensure development permit review is adequate to achieve consistency with adopted City policies and regulations within reasonable timeframes.

1.5 Encourage in the community a continuous commitment to maintaining Sumner's character and quality of place, including land conservation and stewardship, wise management of streetscapes and public viewsheds, property maintenance, and historic preservation.

COMMUNITY CHARACTER ELEMENT

1.5 Encourage in the community a continuous commitment to maintaining Sumner's character and quality of place, including land conservation and stewardship, wise management of streetscapes and public viewsheds, property maintenance, and historic preservation.

5.1 In reviewing plans and development proposals, consider both long- and short-term environmental impacts and encourage design which complements the area's natural and cultural features. Natural and significant cultural features should be integrated into the design of the community.

HOUSING ELEMENT

2.1 Strive to meet the City's fair share of housing needs by planning that 25% of the growth population allocation is satisfied through affordable housing.

2.1.1 Develop a housing strategy to implement fair share objectives. It shall include an inventory of affordable housing, an analysis of Sumner's fair share as compared to surrounding cities, and a phased approach to meet the community's fair share housing allocation. Milestone dates and interim objectives shall be established to allow for progress in meeting the overall fair share targets. The housing strategy should be completed by December 2017.

2.2 Plan for an adequate supply of land in appropriate land use designations and zoning categories to accommodate projected household growth.

2.2.1 Through the Comprehensive Plan, Zoning Code, and Subdivision code, and Design Guidelines allow for a variety of housing types and lot configurations including multi-family housing, mixed use development, cluster development, zero-lot line and similar subdivisions, planned unit development, and non-traditional housing forms such as adult family homes.

2.2.2 Allow for a variety of lot sizes in low density residential districts including a percentage of lots larger and smaller than the minimum lot size.

2.3 Encourage a variety of housing available to all economic segments of the community.

2.3.1 Review the Zoning Code, Subdivision Code, Building Codes, and other development-control ordinances to identify and remove excessive, duplicative, or unnecessary regulations. The analysis shall consider in particular lot width, access widths, street improvement standards, parking, common service lines as well as other issues.

2.3.2 Review the City's administrative procedures and streamline the permit process for affordable housing developments.

2.3.3 Consider implementing strategies such as an inclusionary housing program, minimum densities, density bonuses, adaptive re-use, and others to promote affordable housing.

CONCLUSION:

The amendments would bring Sumner's land use code into compliance with the State requirements for multifamily residential infill units and be consistent with Sumner's Comprehensive plan policies.

IV. PUBLIC & AGENCY COMMENTS

This proposed zoning code text amendment has not received any public comments to date. Any comments received will be included in the exhibits section.

V. SEPA ENVIRONMENTAL REVIEW

SEPA environmental review has been completed for this proposed amendment under SEPA-2024-0013.

VI. CD COMMITTEE RECOMMENDATION:

On October 29, 2024 CD committee considered the Planning Commission recommendation and recommends a "Do-Pass". Move to adopt Ordinance 2900 as proposed.

VII. EXHIBITS

A. Ordinance No. 2900

**ORDINANCE NO. 2900
CITY OF SUMNER, WASHINGTON**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, AMENDING THE FOLLOWING SECTIONS OF SMC CHAPTERS 18.04, 18.16, 18.24, 18.26, 18.29 AND 18.30 RELATING TO MULTIFAMILY RESIDENTIAL INFILL DEVELOPMENTS (MRI).

WHEREAS, the Washington State Legislature enacted House Bill 1042 with the intent to incentivize the use of the existing inventory of buildings for multifamily housing.

WHEREAS, the new law requires jurisdictions to allow Multifamily Residential Infill developments; and

WHEREAS, infill development is the process of developing vacant parcels or under-utilized buildings within existing developed urban areas; and

WHEREAS, Sumner’s Municipal Code currently does not address Multifamily Residential Infill developments; and

WHEREAS, after study sessions regarding the amendments proposed by this ordinance, the Planning Commission recommend that the City Council adopt the amendments; and

WHEREAS, the City Council Community Development Committee reviewed the proposed amendments on October 29, 2024 and recommended approval by the City Council; and

WHEREAS, the proposed amendments were forwarded on August 6, 2024 to the Washington State Department of Commerce for the agency’s required 60-day review per the Growth Management Act; and

WHEREAS, the City Council finds the proposed amendments to be consistent with the Sumner Comprehensive Plan and the Sumner Municipal Code criteria for Zoning Code amendments.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. New Section. Sumner Municipal Code Chapter 18.04, Definitions, is amended to add new sections, 18.04.0722 “Multifamily Dwellings” and 18.04.0723 “Multifamily residential Infill dwellings (MRI)” to read as follows:
[...]

18.04.0722 Multifamily dwellings.

“Multifamily dwelling” means a type of housing contained in a single structure with three or more dwelling units. Examples of multifamily dwellings include, but are not limited to, ground-level or multi-level triplexes, fourplexes, senior housing, and Multifamily Residential Infill (MRI) dwellings as may be permitted pursuant to SMC 18.16.040.F.

18.04.0723 Multifamily residential Infill dwellings (MRI).

“Multifamily residential infill dwelling” (MRI) means a multifamily dwelling exclusively allowed within commercial and mixed-use districts and permitted according to the standards of SMC 18.16.040.F and other sections.

[...]

Section 2. Amended Section. The Sumner Municipal Code Section, 18.16.020 “Principle and conditional uses” is amended to read as follows:

18.16.020 Principal and conditional uses.

[...]

34a.	Multifamily dwellings ² , rooming houses and boarding houses, senior apartments, retirement homes, assisted living facilities, continuing care communities, board and care homes, hospices, or nursing homes subject to the standards and locations as applicable in SMC 18.16.040	P	P	—
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[...]

²~~Reserved~~ Including Multifamily Residential Infill (MRI) dwellings as may be permitted pursuant to SMC 18.16.040.F.

[...]

Section 3. Amended Section. The Sumner Municipal Code section, 18.16.040 “Residential uses” is amended to read as follows:

18.16.040 Residential uses

[...]

F. Multifamily Residential Infill (MRI) uses in commercial and mixed-use buildings. MRI development shall comply with the following standards and exemptions:

1. MRI standards:

- a. Prior to any MRI construction or development activities, the property owner shall apply for and receive City approved building permit(s) for MRI development. A building permit will only be approved upon written determination by the city that a MRI proposal complies with the MRI standards in this subsection and any other applicable code;
- b. All MRI development shall only be located within the current building envelope of an existing commercial or mixed-use building that received a certificate of occupancy a minimum of three (3) years prior to MRI permit application;

- c. The maximum density of the zone may be increased up to 50% with MRI development as long as the increased density of the development does not violate applicable health and safety standards, including building code and fire code standards. Notwithstanding other density provisions in code, at no time shall a development be permitted to exceed 50% of the base density amount allowed in the applicable zone;
 - d. MRI development may not be located within spaces that are dedicated or required by this code for commercial development;
 - e. MRI development may not be located within spaces of the current building envelope that will remain dedicated or required for parking by this code after construction of the permitted MRI development;
 - f. Except as expressly exempted under this section, construction of new MRI dwelling units shall comply with all applicable land use codes, regulations, and policies and all current building code standards and requirements, including but not limited to energy code requirements;
 - g. No exterior building alterations and/or updates that require a permit shall be submitted or reviewed as part of an MRI building permit. If non-MRI development (e.g. footprint expansions) needing a permit is submitted concurrently with a MRI permit application, it must be submitted in a separate application from the MRI development application;
 - h. All exterior building alterations, footprint expansions, updates and/or general site improvements (e.g. voluntary parking expansions, etc.) that require a permit shall be reviewed for compliance with all applicable codes, regulations and policies, including those referenced in subsection (2), effective at the time an application is determined complete;
 - i. Development of the existing building and areas outside the existing building within the proposed MRI project site shall comply with all applicable life safety standards;
 - j. Building footprint expansion proposals containing existing MRI units may only be allowed in compliance with all applicable codes, requirements and policies at the time an application is determined complete; said expansions shall not be processed under the MRI standards and Code Compliance Exemptions, SMC 18.16.040.F;
 - k. As a condition of MRI approval and as reviewed and approved by the City, landowners shall record with the Pierce County Auditor a notice on title identifying the MRI units within the building and the density amount assigned to the proposed MRI development;
 - l. In the event a land use code requirement, regulation, or policy conflicts with MRI standards or exemptions, the MRI standard or exemption within SMC 18.16.040.F shall control; and,
 - m. MRI permit applications shall be reviewed and processed as a Type I permit decision under SMC Chapter 18.56.
2. MRI Code Compliance Exemptions: MRI development permits shall be exempt from the following SMC code standards/requirements. Only improvements that are located within the current building envelope of an existing commercial or mixed-use building are exempt,

- a. Parking standards under SMC 18.16, 18.29 and 18.42.
- b. Design and Development Guidelines under SMC Chapter 18.40.
- c. Updated energy code requirements under SMC Chapter 15.20 for dwelling units located within the existing building footprint that are unchanged by the MRI development.
- d. Nonconforming use provisions under SMC Chapter 18.46.
- e. Transportation concurrency under SMC Chapter 17.28.
- f. SEPA review (Washington State Environmental Policy Act) under SMC Title 16.

[...]

Section 4. Amended Section. The Sumner Municipal Code section, 18.24.060 “Property development standards in a PDR,” is amended to read as follows:

[...]

- 3. Multifamily Residential Infill (MRI) proposed consistent with the SMC 18.24 allowances for senior housing in the NC, ESUV/NC, GC and ESUV/GC Districts shall comply with SMC18.16.040.F.

[...]

Section 5. Amended Section. The Sumner Municipal Code section, 18.26.090 “Property development standards,” is amended to read as follows:

[...]

D. Density Standards.

- 1. In planned mixed-use developments which involve residential uses, the basic density in terms of dwelling units per net acre for the various zone districts are as provided in this title.
- 2. Multifamily Residential Infill (MRI) dwelling unit density in a PMUD may be increased pursuant to provisions of SMC 18.16.040.F. If an applicant is not proposing MRI development within a PMUD, the hearing examiner may recommend and the city council may authorize a dwelling unit density in a PMUD of not more than 50 percent greater than that permitted by the underlying zone; provided, that the following criteria are met:
 - a. All residential units meet the design requirements for one or more of the following LEED or Built Green Certifications: LEED Homes; LEED Neighborhood; Built Green Single-Family Homes; Built Green Multifamily; or Built Green Community.
 - b. The project creates or rehabilitates a minimum 10 percent or two dwelling units, whichever is greater, of total proposed dwelling units that meet the definition of “senior housing” as provided in chapter 18.04 SMC.
 - c. In the case of a required PMUD, the density bonus does not result in an increase of the overall allowed number of dwelling units per subsection (D)(3) of this section.

d. If the development is within the NC, GC, or TCC districts, the applicant agrees and covenants, on a form provided by the director, that the applicant will not seek and the city shall not permit additional multifamily density increases under the MRI provisions of SMC 18.16.040.F for the parcels containing the planned mixed use development. Prior to the city issuing certificate of occupancy, the applicant shall record on title the executed form with the Pierce County Auditor.

[...]

Section 6. Amended Section. The Sumner Municipal Code section, 18.29.030, “Principal uses,” is amended to read as follows:

18.29.030 Principal uses.

Permitted uses in the Town Center districts are as follows:

[...]

L. Multifamily dwellings (including Multifamily Residential Infill (MRI) dwellings pursuant to SMC 18.16.040.F.; rooming houses and boarding houses; senior apartments, retirement homes, and continuing care communities; assisted living facilities, board and care homes, hospices, or nursing homes.

[...]

Section 7. Amended Section. The Sumner Municipal Code section, 18.29.060, “Performance standards,” is amended to read as follows:

18.29.060 Performance standards.

[...]

B. Expansion of Specified Existing Uses. Existing ~~residential~~ single family dwellings lawfully constructed as of the effective date of this title may be maintained as follows:

[...]

I. Multifamily Residential Infill (MRI) housing proposed in the Town Center Code (TCC) district shall:

1. Comply with SMC 18.16.040.F.;

Section 8. Amended Section. The Sumner Municipal Code sections, 18.30.030 “Principal and conditional uses” is amended to read as follows:

18.30.030 Principal and conditional uses.

[...]

23.	Multifamily dwellings, including apartments, subject to density maximums in SMC 18.30.080(B) , locations as applicable in SMC 18.30.0490 ,and multifamily residential infill provisions in SMC 18.16.040(F).	P	P
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[...]

Section 9. Amended Section. The Sumner Municipal Code section, 18.29.060, “Performance standards,” is amended to read as follows:

18.30.090 Performance standards.

[...]

C. Expansion of Specified Existing Uses. Existing ~~residential~~ single family dwellings lawfully constructed as of the effective date of this title may be maintained as follows:

[...]

I. Multifamily Residential Infill (MRI) housing proposed in the East Sumner Urban Village District (ESUV) district shall:

1. Comply with SMC 18.16.040.F.;

Section 10. Severability. If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. If the provisions of this ordinance are found to be inconsistent with other provisions of the Sumner Municipal Code, this ordinance is deemed to control.

Section 11. Effective date. This ordinance shall take effect February 1, 2025.

Section 12. Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

Passed by the City Council and approved by the Mayor of the City of Sumner, Washington, at a regular meeting thereof this ____ day of _____

Mayor Kathy Hayden

ATTEST:

APPROVED AS TO FORM:

City Clerk Michelle Converse, CMC

Andrea Marquez, City Attorney

First Reading:
Date Adopted:
Date of Publication:
Effective Date:

SUBJECT: Ordinance No. 2901 - Permit Review & Timelines Zoning Code Text Amendment

CATEGORY: Ordinance

BUDGET IMPACT:

ATTACHMENTS:

1. Presentation slides - Permit Timelines and Process
2. Staff Report- Permit Timelines and Process updates
3. Ordinance No. 2901 - Permit Review & Timelines Zoning Code Text Amendment

STAFF CONTACT: Ryan Windish, Community Development Director

SUMMARY BACKGROUND: The item being presented for City Council action are the zoning code text amendments to SMC Title 18.56 and 18.04 to update regulations related to land use permit review timelines and permit processes. In 2023, State House Bills 5290 and 1293 were passed to require the following changes:

- Updating the time requirements for each type of land use permit
- Limiting Design Commission review to one required meeting for any project
- Format changes to Sumner's land use code to include flow charts in permit type descriptions
- Creates definitions for site plan and interior alterations
- Creates a consolidated permit review option
- Remove pre-application review requirements
- Clarifies what constitutes a complete application
- Outlines permit re-submission and non-responsive applications
- Sets up a corrections review meeting process

Ordinance No. 2901 proposes necessary changes for further compliance with the State permit process requirements.

COUNCIL COMMITTEE/STUDY SESSION: CD Committee MEETING/STUDY SESSION DATE: 10/29/2024 COMMITTEE RECOMMENDATION: Do-Pass
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STAFF RECOMMENDATIONS/MOTION:

Motion to adopt Ordinance 2901 as proposed.



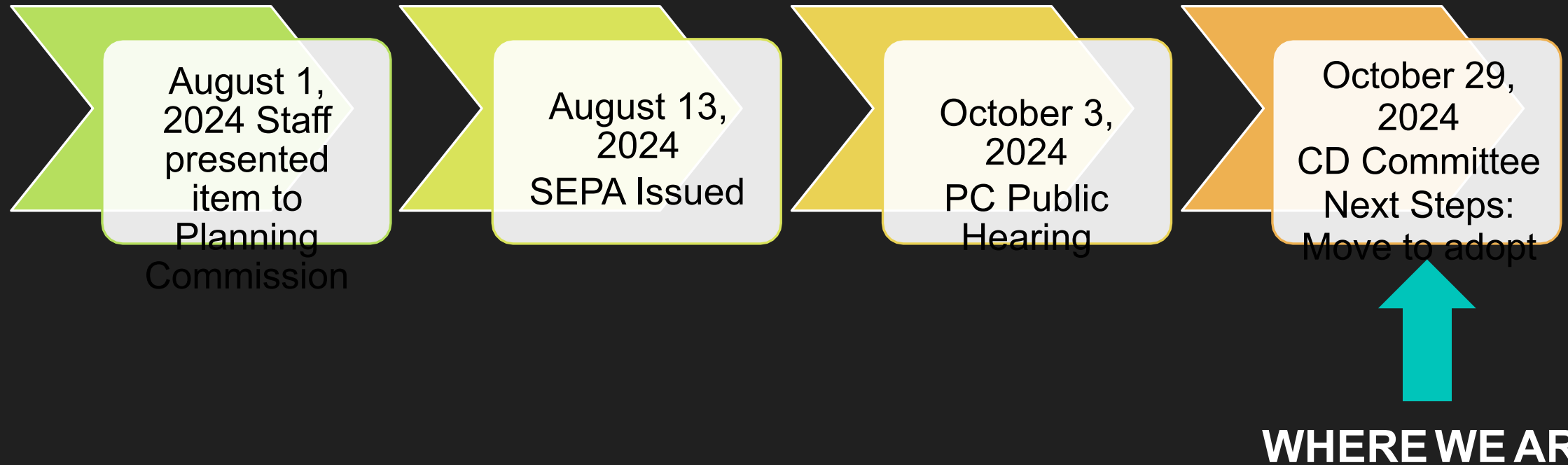
Permit Process & Timelines Code Update – Ordinance 2901

City Council

Regular meeting

November 18, 2024

Zoning Code Amendment Review Process



Why are these amendments being proposed?



State Legislature Requires it

- House Bill #1293 and 5290



- Part of a series of State legislation to address land use permit processes and timelines
- Aims to expedite permit process and set consistent standards



Create clear permit and land use permit processes

Overview of Ordinance 2901



The proposed amendments to SMC Title 18.56 and 18.04 Zoning Code will update regulations related to land use permit timelines and processes.

These changes include:



- Updates to the time requirements for each type of land use permit
- Limiting Design Commission review to one required meeting for any project
- Format changes to Sumner's land use code to include flow charts in permit type descriptions
- Creates definitions for site plan and interior alterations
- Creates a consolidated permit review option
- Removes pre-application requirements
- Clarifies what constitutes a complete application
- Outlines permit resubmission and non responsive applications
- Sets up a corrections review meeting process

Zoning Code Definitions – changes to make permit processes more clear

Add new section 18.04.0527 Interior alteration.

“Interior alteration” means the modification of interior space(s) within an existing building, which expressly excludes modifications that: alter building height; alter the exterior building footprint; alter existing building parking facilities; or, alter any exterior building features or finishes that would typically require a permit.

[...]

Amend section 18.04.0832 Project permit.

“Project permit” or “land use permit” or “project permit application” means any land use or environmental permit or license required from a local government for a project action, including, but not limited to, ~~building permits~~, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical areas ordinances, and site-specific rezones ~~authorized by a comprehensive plan or subarea plan, which do not require a comprehensive plan amendment~~ Project permit or project permit application excludes but excludes the adoption or amendment of a comprehensive plan, subarea plan, or development regulations, except as otherwise specifically included in the section. (Ord. 1762 § 7, 1996)

[...]

Add new section 18.04.0944 Site Plan.

“Site plan” means a plan, to scale, showing uses and structures proposed for a parcel of land. It includes lot lines, streets, building sites, open space, buildings, major landscape features, both natural and man-made, and the locations of proposed utility features.

Land use Framework Changes



In summary, this Ordinance 2901 would make modifications to the following sections of Sumner's Procedures for Land Use Permits in SMC 18.56:

- **18.56.020 Land use decision framework.**
- **18.56.030 Land use permits required.**
- **18.56.040 Preliminary site plan review**
- **18.56.050 Land use permit applications.**
- **18.56.140 Design commission requested review.**
- **18.56.145 Design commission mandatory review.**
- **18.56.185 Timing of land use decisions.**
- **18.56.240 Timing requirements for shoreline permits**

Staff Recommendations

to City Council



Move to adopt Ordinance No. 2901 amending the zoning code pertaining to Permit Process and Timelines as proposed



STAFF REPORT

DATE: November 18, 2024
TO: CITY COUNCIL
FROM: Community Development and Larson Consulting
RE: **Zoning Code Text Amendment – Ordinance No. 2901 Permit Review and Timelines.**
File #CTA-2024-0004

I. BACKGROUND / WHY THE AMENDMENTS ARE BEING PROPOSED

The State House of Representatives passed bills 5290 and 1293 related to land use permit timelines and processes. These bills require Cities to review their current land use codes and make necessary changes for compliance with the State.

II. SUMMARY OF PROPOSAL

The proposed amendments to Sumner Municipal Code Title 18.56 and 18.04 Zoning Code will update regulations related to land use permit timelines and processes. These changes include:

- Updates to the time requirements for each type of land use permit
- Limiting Design Commission review to one required meeting for any project
- Format changes to Sumners land use code to include flow charts in permit type descriptions
- Creates definitions for site plan and interior alterations
- Creates a consolidated permit review option
- Removes pre-application requirements
- Clarifies what constitutes a complete application
- Outlines permit resubmission and non-responsive applications
- Sets up a corrections review meeting process

III. ANALYSIS

Sumner code requires that proposals to amend the Zoning Code include an explanation of how the proposed amendment implements the comprehensive plan (SMC 18.56.149(2)). Relevant sections and policies related to the proposed text amendment are presented below.

Land Use Sub-Element

Goal 1. Provide for orderly development within the Sumner community.

1.7 Ensure new development is consistent with the policies of this Plan through implementation of regulations, programs, and project specific review

PERMIT PROCESS SUB-ELEMENT

Goal 1. Develop and implement a permit process for land use and other local government approvals which is timely and fair to all affected parties.

1.2 Review development regulations to ensure they are necessary and directly relate to implementation of the Comprehensive Plan and other state and federal mandates.

1.2.1 Eliminate duplicative, unnecessary, and unclear regulations.

1.2.2 Provide procedures to process permits in a timely fashion

1.3 Provide resources, staffing and procedures sufficient to ensure development permit review is adequate to achieve consistency with adopted City policies and regulations within reasonable timeframes.

COMMUNITY CHARACTER ELEMENT

1.5 Encourage in the community a continuous commitment to maintaining Sumner's character and quality of place, including land conservation and stewardship, wise management of streetscapes and public viewsheds, property maintenance, and historic preservation.

5.1 In reviewing plans and development proposals, consider both long and short term environmental impacts and encourage design which complements the area's natural and cultural features. Natural and significant cultural features should be integrated into the design of the community.

CONCLUSION:

The amendments would bring Sumner's land use code into compliance with the State requirements for permit timelines and processes.

IV. PUBLIC & AGENCY COMMENTS

This proposed zoning code text amendment has not received any public comments to date. Any comments received will be included in the exhibits section.

V. SEPA ENVIRONMENTAL REVIEW

SEPA environmental review has been completed under SEPA-2024-0012.

VI. CD COMMITTEE RECOMMENDATION

Do-pass and move to adopt Ordinance 2901 as proposed

VII. EXHIBITS & REFERENCES

A. Ordinance No. 2901

**ORDINANCE NO. 2901
CITY OF SUMNER, WASHINGTON**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, REPEALING EXHIBITS IN SMC CHAPTER 18.56, AMENDING NEW SECTIONS TO SMC CHAPTER 18.04 AND 18.56 AND ADDING NEW SECTIONS TO CHAPTER 18.56 ALL RELATING TO PERMIT PROCESSING AND TIMELINES.

WHEREAS, The Washington State Legislature enacted two measures, HB 1293 and SB 5290, requiring jurisdictions to implement new permit processes and permit timelines; and

WHEREAS, Sumner’s Municipal Code does not currently comply with the provisions contained in the two house bills; and

WHEREAS, on August 1, 2024 the Planning Commission held a study session and public hearing regarding amendments to the Sumner Municipal Code to bring the code in compliance with the new state legislation; and

WHEREAS, on October 3, 2024 the Planning Commission recommended adoption by the City Council of the proposed regulation updates set forth in this ordinance; and

WHEREAS, the proposed amendments were forwarded on August 6, 2024 to the Washington State Department of Commerce for the agency’s required 60-day review per the Growth Management Act; and

WHEREAS, the City Council finds the proposed amendments to be consistent with the Sumner Comprehensive Plan and the Sumner Municipal Code criteria for Zoning Code amendments.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. New Section. Sumner Municipal code Chapter 18.04, Definitions, is amended to add a new section , 18.04.0527 “Interior Alterations” and 18.04.0944 “Site Plan” to read as follows:
[...]

18.04.0527 Interior alteration.

“Interior alteration” means construction activities that modify interior space(s) within an existing building. The term excludes modifications that alter building height, alter the exterior building footprint, alter existing building parking facilities, or, alter any exterior building features or finishes.
[...]

18.04.0944 Site Plan.

“Site plan” means a plan, to scale, showing uses and structures proposed for a parcel of land. It includes, but is not limited to, lot lines, streets, building sites, open space, buildings, parking areas, major landscape features, both natural and man-made, and the locations of proposed utility features.

[...]

Section 2. Amended Section. The Sumner Municipal Code section, 18.04.0832 “Project permit” is amended to read as follows:

18.04.0832 Project permit.

“Project permit” or “land use permit” or “project permit application” means any land use or environmental permit or license required from a local government for a project action, including, but not limited to, ~~building permits~~, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical areas ordinances, and site-specific rezones ~~authorized by a comprehensive plan or subarea plan, which do not require a comprehensive plan amendment~~ Project permit or project permit application excludes but excludes the adoption or amendment of a comprehensive plan, subarea plan, or development regulations, except as otherwise specifically included in the section.

[...]

Section 3. Amended Section. The Sumner Municipal code section 18.56.020 “Land use decision framework” is amended to read as follows:

18.56.020 Land use decision framework.

A. Land use decisions are classified into seven categories based on the amount of discretion and level of impact associated with each decision. Procedures for the seven categories are distinguished according to who makes the decision, the type and amount of public notice required, whether appeal opportunities are provided, which parties have standing for an appeal, and the venue of the appeal. For two of the seven types of decisions, there are additional subtypes which distinguish the venue for an appeal or further review of a decision. Land use decisions are categorized by type in ~~Exhibit 18.56.020A030~~. Exhibits provided are for reference only; in the case of a discrepancy, the text of the code controls.

B. Type I decisions are made by the director and are appealable only through the judicial system. They require the exercise of little or no discretion. ~~Refer to Example Type 1 Exhibit 18.56.020B~~flow chart.:

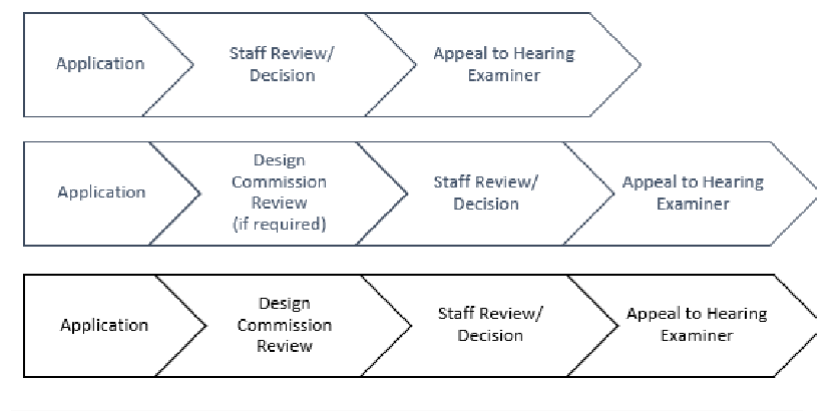


C. Type II decisions are discretionary decisions made by the director following public notice. Type II decisions are not subject to an administrative appeal. These decisions relate to procedural

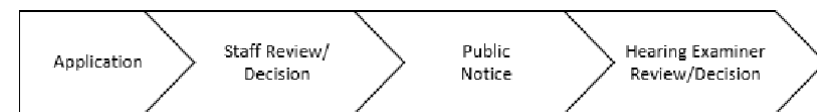
and substantive compliance with the State Environmental Policy Act and certain wetland determinations according to SMC 16.46.130. ~~Refer to Exhibit 18.56.020C~~ Example Type II flow chart.:



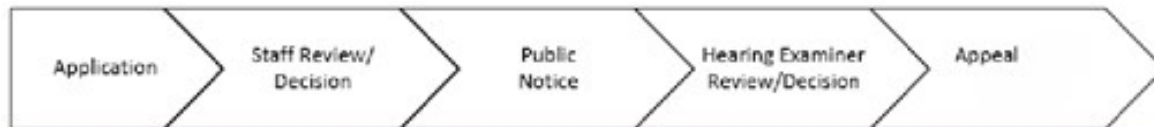
D. Type III decisions are discretionary decisions made by the director with an opportunity for an appeal and open record hearing by the applicant to the hearing examiner. Except for Type III.d decisions, there is no public comment period prior to the decision, and appeals from the hearing examiner's decision shall be made through the judicial system. Certain Type III decisions involving design issues may include advisory review by the design commission. ~~Refer to Exhibits 18.56.020D, E, and F~~ Example Type III flow charts.:



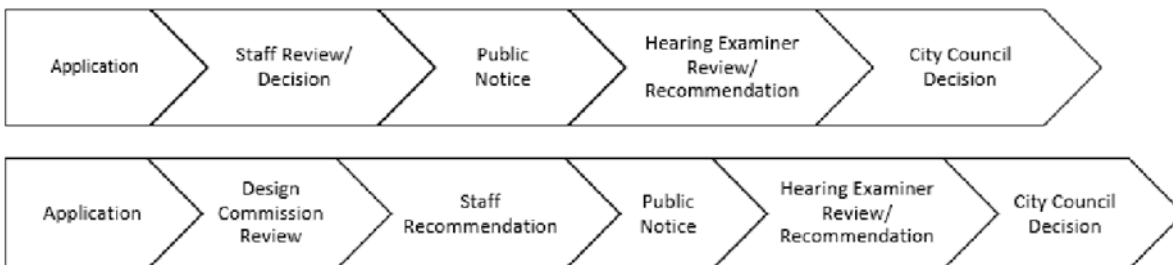
E. Type IV decisions are discretionary decisions made by the hearing examiner following a recommendation from city staff and an open record pre decision hearing. No administrative appeal is provided, and any appeal from the hearing examiner's decision shall be made through the judicial system. ~~Refer to Exhibit 18.56.020G~~ Example Type IV flow chart.:



F. Type V decisions are discretionary decisions made by the hearing examiner following a recommendation from staff and an open record pre decision hearing. Type V decisions are appealable only through the judicial system. ~~Refer to Exhibit 18.56.020H~~ Example Type V flow chart.:



G. Type VI decisions are discretionary decisions made by the hearing examiner following a recommendation from staff and an open record predecision hearing. Type VI decisions are appealable only through the judicial system. Certain Type VI decisions involving design issues require advisory review by the design commission. Refer to Exhibits 18.56.020I and J, Example Type VI flow charts.:



H. Type VII decisions are legislative decisions made by the city council in its capacity to establish policy and create legislation. The city council will generally seek broad public participation and review by the planning commission or other advisory groups on these decisions. Refer to Exhibit 18.56.020K Example Type VII flow chart.:



I. Optional Consolidated Review: Consistent with the requirements of RCW 36.70B.060, the city offers an optional integrated and consolidated review process. If an applicant submits a project permit application that involves two or more of the land use decision processes set forth in SMC 18.56, the applicant may, at the time of the application submittal, elect to have the project permit applications processed collectively under the highest numbered process required for any of the project permit applications submitted. If no such election is made at the time of application, each project permit application will be processed individually under each of the procedures and timelines in SMC 18.56.030. If the application is processed under the individual procedure option, the highest numbered land use decision type procedure will be processed prior to and separately from the subsequent lower numbered land use decision procedure(s). Consolidated review shall not be permitted where a variance or shoreline variance must be granted in order to allow the development to proceed.

Section 3. Amended Section. The Sumner Municipal Code section 18.56.030 “Land use permits required” is amended to read as follows:

18.56.030 Land use permits required.

A. Except as provide in subsection M, Land use permits may be composed of one or more classifications of land use decisions. A land use permit shall be required for all projects requiring one or more of these decisions.

B. The following decisions are Type I decisions which require no public notice and are appealable only through the judicial system, except shoreline permits may be appealed per SMC 18.56.182:

[...]

11. Signs

[...]

I. The following decisions are Type V decisions which require a public hearing and decision by the hearing examiner, and are appealable only through the judicial system:

[...]

5. Shoreline substantial development¹ permits and shoreline variances¹; provided, that supplemental procedures for shoreline decisions are provided in SMC 18.56.150;

6. Planned residential development per SMC 18.24.070.

[...]

J. The following decisions are Type VI.a decisions which require a public hearing and decision by the hearing examiner and are appealable only through the judicial system:

1. Amendments to the zoning map;

2., ~~including changes~~ Amendments into overlay districts mapping;

3. Amendments to and shoreline environment redesignations, except those initiated by the city to implement new policies.

K. The following decisions are Type VI.b decisions which require a public hearing and decision by the hearing examiner following review by the design commission pursuant to SMC 18.56.145 and are appealable only through the judicial system: Applications for development subject to the thresholds of SMC 18.40.020(D).

1. Planned Mixed-use Development.

[...]

M. Interior alterations of a legal structure are exempt from land use review if the interior alterations do not result in:

1. Modification of the existing site layout;

2. Modification of the current use;
3. Expansion of the existing building footprint;
4. Additional sleeping quarters or bedrooms;
5. The need for additional parking as required by city parking standards;
6. Nonconformity with federal emergency management agency substantial improvement thresholds; or
7. An increase in the total square footage or valuation of the structure thereby requiring upgraded fire access or fire suppression systems.

Nothing in this section exempts interior alterations from otherwise applicable requirements, including but not limited to, building, plumbing, mechanical, or electrical codes.

Footnote 1: Shoreline substantial development permit, variances, and conditional uses have additional requirements to comply with the State Shoreline Management Act.

Section 4. Amended Section. The Sumner Municipal Code section 18.56.040 “Preliminary site plan review” is amended to read as follows:

18.56.040 Preliminary site plan review

Prior to submitting a complete application for a land use permit, an applicant for a project involving a Type II or Type III.c decision shall submit the necessary materials for preliminary site plan review, unless waived by the director. For all other land use permits, the applicant may Preapplication meetings are not a requirement for the submission of a project permit application. However, in order to streamline application development efforts and promote more efficient city review processes, all applicants are encouraged to request preliminary site plan review by city departments. The preliminary site plan review shall be conducted according to procedures established by the director.

Section 5. Amended Section. The Sumner Municipal Code section 18.56.050 “Land use permit applications” is amended to read as follows:

18.56.050 Land use permit applications.

[...]

H. Within 28 calendar days of receiving a land use permit application, the director shall determine if the application is complete and ~~mail~~ provide a written determination of completeness identifying whether or not the procedural submission requirements have been met. In the event the application is determined to be an incomplete application, the city shall outline the specific requirements and/or corrections needed for a complete application, and include notice of the deadline for responding identified in subsection I. if the application is incomplete. If the director does not provide a written determination of completeness within the 28 calendar days, the application shall be deemed procedurally complete on the 29th calendar day after receiving a project permit application by 5:00 p.m. of the twenty-eighth day. If additional information is needed to make the application complete, the applicant shall provide the information within 60 calendar days of the written determination of incomplete application request. Within 14 calendar days after an applicant has submitted the ~~information~~-requested

information following a determination of incomplete application, the director shall provide a written determination notifying ~~notify~~ the applicant whether the application is complete or remains an incomplete application and identifying what additional information is necessary for a complete application. An application is complete for purposes of this section when it (i) meets the procedural submission ~~submittal~~ requirements of Section F above, (ii) contains the documents and information identified in the applicable checklist established by the director in pursuant to subsection E of this section, and (iii) is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The need for additional information or studies not included in the director's submission requirements, provided pursuant to subsection E of this section, shall not be a basis for a determination of incomplete application. The ~~Any~~ determination of completeness shall not preclude the director from requesting additional information or studies either at the time of the notice of completeness or, subsequently, if new information is required to complete review of the application or substantial changes in the permit applications are proposed. A determination under this section that an application is complete for purposes of continued processing is not a determination that the application is vested.

I. If an applicant is non-responsive for more than 60 consecutive calendar days after the Director has provided a written determination of completeness that additional information is required to further process the application, the director may: ~~An application may be deemed abandoned and void if the applicant has failed without reasonable justification to supply all required data within 60 days of a written request for it; provided, that the director may extend the period for such submission if it is determined that the delay was not the fault of the applicant or a good faith effort is being made to comply with the request.~~

1. Deem the application abandoned and close the application on the 61st calendar day. Upon abandonment and closure of an application, a new project application must be submitted in order to receive project review; or,
2. Add a minimum of 30 calendar days to the time period for the city to issue a final decision. If the applicant is non-response during the extension period, the application may be determined abandoned and closed on the day following the extension period.

For the purposes of this subsection, "non-responsive" means that an applicant is not making demonstrable progress providing additional requested information to the city, or that there is no ongoing meaningful communication from the applicant with the city on the applicant's ability or willingness to provide the additional information.

Section 6. Amended Section. The Sumner Municipal Code section 18.56.140 "Design commission requested review" is amended to read as follows:

18.56.140 Design commission requested review.

A. Whenever a proposal involves a Type III.b decision, the applicant at any time prior to issuance of the building permit may request review of the proposal by the design commission. A proposal may be reviewed prior to or concurrent with other project permits. Unless otherwise requested by the applicant in writing, the Design Review process shall not include more than one meeting before the design commission.

[...]

Section 7. Amended Section. The Sumner Municipal Code section 18.56.145 “Design commission mandatory review” is amended to read as follows:

18.56.145 Design commission mandatory review.

A. Whenever a proposal involves a Type III.c or VI.b decision, the proposal shall be reviewed by the design commission, which may be reviewed prior to or concurrent with other project permits. Unless otherwise requested by the applicant in writing, the Design Review process shall not include more than one meeting before the design commission.

[...]

Section 8. Amended Section. The Sumner Municipal Code section 18.56.185 “Timing of land use decisions” is amended to read as follows:

18.56.185 Timing of land use decisions.

[...]

C. Except as otherwise provided in this section or otherwise agreed to by the applicant, pursuant to RCW 36.70B.080 notice of final decision for land use decisions on applications filed on or after January 1, 2025 ~~April 1, 1996~~, shall be made within the decision timeframes detailed below ~~120 days starting from the date an application is complete under SMC 18.56.050. To in determining the number of days that have elapsed after the notice of complete an application is complete~~ consistent with RCW 36.70B.090, periods for pending plan corrections, environmental impact statement preparation, and submission of additional information, temporary suspension of review requested in writing by the applicant, and administrative appeals shall be excluded, consistent with RCW 36.70B.080. Pursuant to RCW 36.70B.140, the following exclusions shall also apply to these time requirements: Except as noted in 18.56.185(D), and unless the applicant provides the City with a written request to extend the decision timeline, the director shall issue a land use decision within the following calendar days

1. Type I decisions - 65

2. Type II decisions - 100 (except as otherwise provided in this section for SEPA).

3. Type III decisions - 100

4. Type IV decisions - 170

5. Type V decisions - 170

6. Type VI decisions - 170

7. Type VII decisions - no decision timeline.

~~1. Type VI decisions where the director shall issue his or her decision within 120 days and the hearing examiner shall issue his or her decision within 90 days of the issuance of the director's decision as that time is calculated in RCW 36.70B.140.~~

~~2. Type VII decisions where there shall be no time limit. (Ord. 1762 § 2 (part), 1996)~~

D. The number of days shall be calculated by counting every calendar day and excluding the following time periods:

1. Any period between the date of the city's written notice to the applicant that additional information is required to further process the application and the day when responsive information is received by the city;

2. Any period between the date an administrative appeal is filed and the date the administrative appeal is resolved and any additional time period provided by the administrative appeal.

3. Any applicable Decision Timeline Adjustment pursuant to 18.56.185(E).

E. Decision Timeline Adjustments

1. Change of Scope: The timelines in subsection C shall start over if an applicant proposes a change in use that adds or removes commercial or residential elements from the original land use application that would make the application fail to meet the determination of procedural completeness for the new use. In the event the director makes such determination, the director shall provide the applicant a determination of completeness for an incomplete application pursuant to the procedures of 18.56.050.

2. Requests for Extension or Temporary Suspension: Applicants may request an extension or temporary suspension of a final decision timeframe as follows:

a) The applicant may provide a written request for extension of the review decision timeline for a maximum of 60 calendar days. If approved, the extension of the time for issuance of a final decision may be increased by the director in minimum 15-day increments; or,

b) The applicant may provide a written request to temporarily suspend review of the project permit application for more than 60 days until the applicant provides written notice to the City that the applicant would like to resume processing. If approved, the timeframes in subsection C for issuance of a final decision may be increased by the director in minimum 30-day increments.

F. The following land use applications shall be exempt from the decision timelines of 18.56.185(C):

1. Street vacations, or other approvals relating to the use of public areas or facilities.
2. Applications for those lot line adjustments and building and other construction permits, or similar administrative approvals, that are categorically exempt from environmental review under chapter 43.21C RCW, or for which environmental review has been completed in connection with other project permits.

G. Corrections Review Meeting (CRM): Within 14 calendar days following the City's second project permit application review request for additional information and/or corrections, an applicant may request, in writing, a Corrections Review Meeting (CRM) with applicable city staff. If the CRM does not resolve the issues and the City later completes a third review of a complete resubmittal that again results in a request(s) for additional information and/or correction(s), the City shall take final action to approve or deny the application, unless otherwise agreed to by the applicant and the director.

Section 9. Repealer. The exhibits contained in Chapter 18.56 are repealed in their entirety as follows:

Exhibit 18.56.020A

~~Land Use Decision Framework~~

~~(The term "nonappealable" refers to the status of an administrative appeal as contrasted to a judicial appeal which remains an option in all cases.)~~

~~Type I~~

~~(Nonappealable staff decisions)~~

~~Uses permitted outright~~

~~Temporary uses in permitted zones~~

~~Lot line adjustments~~

~~Manufactured home for resident during construction of single-family residence~~

~~Temporary structure containing office and retail uses during the life of a building permit~~

~~Minor revisions to an approved preliminary plat~~

~~Resource, wildlife, hazard area determinations~~

Type II

(Comment period followed by staff decision with no appeal)

Determination of significance (DS)

Determination of nonsignificance (DNS)

SEPA conditions

Certain wetland determinations according to SMC 16.46.130

Type III.a

No notice staff decision appealable to hearing examiner)

Short subdivisions

Permit revocation/suspension

RWHA approvals

Permit renewal

Code interpretation

Caretaker's quarters

Continuing care quarters

Final subdivisions

Type III.b

(Voluntary design commission review and hearing examiner appeal of staff decision. No council appeal)

Signs

Minor exterior renovations

Accessory units in residential zones

Minor permit amendments

Type III.c

(Mandatory design commission review and hearing examiner appeal of staff decision. No council appeal)

Multifamily

New commercial

Construction in neighborhood centers

Industrial parks

Type IV

(Public notice and hearing examiner decision. No council appeal)

Variances

Shoreline variance¹

Shoreline substantial development permit¹

Special exception

Reasonable use exception

Type V

(Public notice and hearing examiner decision. No council appeal)

Conditional uses

Shoreline conditional uses¹

Preliminary subdivisions

Binding site plans

Type VI.a

(Public notice and hearing examiner recommendation. City council decision)

Zoning map amendment

Type VI.b

(Public notice, design commission review, hearing examiner recommendation and city council decision)

Planned community

Type VII

(City council legislative decision following broad public notice and planning commission recommendation)

-Zoning code text amendment

-Comprehensive plan amendment

1. ~~Shoreline substantial development permits, variances and conditional uses have additional requirements to comply with the State Shoreline Management Act.~~

~~Exhibit 18.56.020B~~

~~Exhibit 18.56.020C~~

~~Exhibit 18.56.020D~~

~~Exhibit 18.56.020E~~

~~Exhibit 18.56.020F~~

~~Exhibit 18.56.020G~~

~~Exhibit 18.56.020H~~

~~Exhibit 18.56.020I~~

~~Exhibit 18.56.020J~~

~~Exhibit 18.56.020K~~

Section 10. Severability. If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. If the provisions of this ordinance are found to be inconsistent with other provisions of the Sumner Municipal Code, this ordinance is deemed to control.

Section 11. Effective date. This ordinance shall take effect five (5) days from the date of publication in the City's official newspaper.

Section 12. Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

Passed by the City Council and approved by the Mayor of the City of Sumner, Washington, at a regular meeting thereof this ____ day of _____

Mayor Kathy Hayden

ATTEST:

APPROVED AS TO FORM:

City Clerk Michelle Converse, CMC

Andrea Marquez, City Attorney

First Reading:

Date Adopted:

Date of Publication:

Effective Date:

SUBJECT: Ordinance No. 2912 - Amending Sumner Municipal Code 13.08 Utility Billing and 13.20 Sewer Rates

CATEGORY: Ordinance

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Ordinance No. 2912 - Amending Sumner Municipal Code Chapter

STAFF CONTACT: Jeff Steffens, Administrative Services Director

SUMMARY BACKGROUND:

As part of the Utility Rate study, staff reviewed our current utility billing process to determine if improvements could be made to increase equity and transparency for customers and create efficiencies for staff. To help accomplish those goals, four individual changes are proposed. First, to establish new water consumption billing tiers for single-family residential accounts. Second, to create a definition of a multifamily account. Third, to move sewer only accounts located outside of city limits to a flat rate. Lastly, establish a utility discount program for low income or disabled residents which will be based off of Pierce County Tax Assessor's property tax records.

COUNCIL COMMITTEE/STUDY SESSION: Study Session
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MEETING/STUDY SESSION DATE: 10/28/2024
--

COMMITTEE RECOMMENDATION:

STAFF RECOMMENDATIONS/MOTION:

Approve Ordinance No. 2912 - Amending Sumner Municipal Code 13.08 Utility Billing and 13.20 Sewer Rates

**ORDINANCE NO. 2912
CITY OF SUMNER, WASHINGTON**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER,
WASHINGTON, AMENDING SMC 13.08 UTILITY BILLING AND 13.20 SEWER
RATES.**

WHEREAS, the City conducts a biennial rate study for its water, sewer and stormwater utilities; and

WHEREAS, this years' study included a phase to review and update changes to the City's utility billing process; and

WHEREAS, the City desires to make changes to increase equity and transparency for its customers while also creating efficiencies for staff.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUMNER,
WASHINGTON, DO ORDAIN AS FOLLOWS:**

Section 1. Amendment to City Code. Sumner Municipal Code Chapter 13 is hereby amended as follows:

13.08.005 Definitions

For the purposes of this chapter, unless the context indicates otherwise the words and phrases used in the chapter are defined as follows:

- A. "Residential Account" means any utility account that provides service to a property where people live.
- B. "Non-Residential Account" means any utility account that provides service to a property that is not used as a place to live.
- C. "Single Family Account" means a residential account where a single dwelling unit is connected to a water meter.
- D. "Multifamily Accounts" means a residential account where more then one dwelling unit is connected to a single water meter.

13.08.070 Discount Program

A. Low income seniors and people with disabilities who are receiving discounted property tax rates through the Pierce County Tax Assessor's Office are eligible for discounted utility rates.

B. Staff will obtain a list of eligible accounts and automatically apply a discounted rate of 25% of water, sewer and storm water base fees on January 1st and July 1st annually.

C. Should customers notify staff that they have become eligible for a discount between those review periods, the discounted rates will be applied once verified.

D. No prior adjustments for discounts will be made unless due to staff error.

13.20.040 Monthly sewer service rates.

The monthly rate for each property/building connected to the city's sewer system, effective January 1, 2011, shall be as follows, unless otherwise required by this chapter:

A. Each single-family residence connected to the sewer system shall pay the minimum monthly rate plus the volume charge for each 100 cubic feet of water used each month above 500 cubic feet as measured by the water meter. Said rates and charges are presented in the Sumner utility rate and fee schedule available at City Hall and the city's website. The monthly sewer consumption rate shall be based on the average winter usage using the months of mid-November through mid-May. The June billing will be based on this average winter usage and will remain the amount billed until the following June billing when it will be recalculated based on the previous six-month average.

B. Each multifamily ~~dwelling unit building (e.g., duplexes, accessory dwelling units, multi-unit apartment buildings, etc.)~~ connected to the sewer system shall pay the minimum monthly rate per each dwelling unit plus the volume charge for each 100 cubic feet of water used each month above 400 cubic feet times the number of dwelling units as measured by the water meter. The monthly sewer consumption rate shall be based on the average winter usage using the months of mid-November through mid-May. The June billing will be based on this average winter usage and will remain the amount billed until the following June billing when it will be recalculated based on the previous six-month average.

C. All nonresidential customers (commercial, industrial, institutional, etc.) connected to the sewer system shall pay the minimum monthly rate per each equivalent residential unit (ERU), as defined in SMC 13.16.030, assigned to it plus the volume charge for each 100 cubic feet of water used each month above 500 cubic feet times the number of ERUs as measured by the water meter. There will be no winter averaging for these customers.

D. Rates for sewer service outside the city limits shall be ~~set as a flat rate as adopted by the Utility Billing Fee Schedule.~~ ~~the rates for service within the city limits, plus an additional 25 percent.~~

~~E. Where a customer is connected to the sewer system but is connected to a water system not operated by the city of Sumner, the water system administrator shall deliver copies of billings or meter readings showing water consumption and the consumption period to the city of Sumner finance department at such intervals as to allow proper and timely billing by the city of Sumner for sewer charges as set forth herein.~~

F. ~~E.~~ If a single-family residential customer relocates to a new single-family house inside the city sewer service area, the previously established consumption average will be applied to the new address until the average is recalculated. A residential customer (either single-family or multifamily) who does not have three complete, consecutive bills at the time of recalculation of the consumption average will be assigned the system average of 700 cubic feet for their classification. Closing or partial bills will not be included in the calculation of the consumption average.

G. ~~F.~~ There will be no adjustments to residential sewer bills using the winter averaging for the intentional use of water such as irrigation, the filling of swimming pools, ponds, hot tubs or similar activities during the winter months of mid-November through mid-May when the averaging is determined. (Ord. 2529 § 2 (part), 2015; Ord. 2356 § 3 (part), 2011; Ord. 2333 § 1 (part), 2010; Ord. 2234 § 1, 2007; Ord. 2048 § 1, 2003; Ord. 2032 § 1 (part), 2002)

Section 2. 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 person's circumstances.

Section 3. Effective date. This ordinance shall be effective January 1, 2025.

Section 4. Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

Passed by the City Council and approved by the Mayor of the City of Sumner, Washington, at a regular meeting thereof this 18th [day](#) of November [2024](#).

Mayor Kathy Hayden

ATTEST:

APPROVED AS TO FORM:

Michelle Converse, City Clerk

City Attorney Andrea Marquez

SUBJECT: Ordinance No. 2911 - Establishing the 2025 Utility Rates

CATEGORY: Ordinance

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Ordinance No. 2911 - Establishing the 2025 Utility Rates

STAFF CONTACT: Jeff Steffens, Administrative Services Director

SUMMARY BACKGROUND:

In 2023, the City participated in a two-year utility rate study. As part of the process, we reviewed our fiscal policies, historical operating costs, anticipated capital improvements, and current utility customer data to determine a revenue requirement to operate the City's Water, Sewer and Stormwater utilities in 2024 and 2025. To cover that revenue requirement, a rate increase was required in both 2024 and 2025. The proposed 2025 increase of 4.0% for the water utility, 4.5% for the sewer utility and 6.0% for the stormwater utility would become effective January 1, 2025.

Per Sumner Municipal Code the City will begin its next two-year utility rate study process in 2025.

COUNCIL COMMITTEE/STUDY SESSION: Study Session
--

MEETING/STUDY SESSION DATE: 10/28/2024
--

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

A motion to adopt Ordinance No. 2911 - establishing the 2025 water, sewer and stormwater utility rates

**ORDINANCE NO. 2911
CITY OF SUMNER, WASHINGTON**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER,
WASHINGTON AMENDING THE WATER, SEWER, AND STORM UTILITY RATES.**

WHEREAS, the Sumner City Council approved the execution of an agreement to conduct a utility rate study for the City utilities in 2024; and

WHEREAS, the utility rate study update determined the water, sewer and storm utilities were generating insufficient revenues to cover the annual operating and capital costs; and

WHEREAS, the Sumner City Council has determined that increases in these utility rates are necessary in order to maintain the financial health of the City of Sumner's utility operations; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON,
DO ORDAIN AS FOLLOWS:**

Section 1. Fee Schedule Amended. The City's Utility Rates as set forth in the Sumner Utility Rate and Fee Schedule are hereby amended to reflect effective January 1, 2025, an increase in rates for the water utility of 4.0%, for the sewer utility of 4.5% and for the stormwater utility 6.0%. The Table attached as Exhibit A reflects the proposed rates.

Section 2. Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this resolution, including but not limited to the correction of clerical errors; or references to other local, state, or federal laws, codes, rules, or regulations.

Section 3. Severability. If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction; such decision shall not affect the validity of the remaining portions of this ordinance. If the provisions of this ordinance are found to be inconsistent with other provisions of the Sumner Municipal Code, the provisions of this ordinance shall control.

Section 4. Effective Date. This Ordinance shall become effective on January 1st, 2025.

Passed by the City Council and approved by the Mayor of the City of Sumner, Washington at a regular meeting thereof this 18th day of November, 2024.

Mayor Kathy Hayden

ATTEST:

APPROVED AS TO FORM:

City Clerk Michelle Converse, CMC

Andrea Marquez, City Attorney

First Reading:

Date Adopted:

Date of Publication:

Effective Date:

Exhibit "A"

Sumner Utility Rate and Fee Schedule

Low Income Senior Citizen/Persons with Disabilities Discount Program: Customers that qualify for the Pierce County Property Tax Exemptions receive 25% off all base rates for water/sewer/stormwater

Monthly Water Rates		Prior To 1/1/25	Effective 1/1/25
Monthly Rate = Base + Consumption + Fire Flow (If Applicable)			
15% Surcharge for all charges outside city limits			
Monthly Domestic Meter Base Rate (Irrigation meters pay 50% base rates)	Meter Size	Monthly Cost	Monthly Cost
	3/4"	\$28.00	\$29.12
	1"	\$67.81	\$70.52
	1 1/2"	\$135.61	\$141.03
	2"	\$216.90	\$225.58
	3"	\$406.75	\$423.02
	4"	\$677.84	\$704.95
	6"	\$1,390.63	\$1,446.26
	8"	\$2,169.15	\$2,255.92
Consumption Rate	Multi-Family & Non-Residential	Cost per CCF	Cost per CCF
per 100 cubic feet (CCF)	1 - 10 CCF	\$2.45	\$2.55
	10 - 20 CCF	\$3.22	\$3.35
	20 CCF & above	\$3.85	\$4.00
	Single-Family		
	1-5 CCF	N/A	\$2.16
	6-16 CCF	N/A	\$3.24
	Above 16 CCF	N/A	\$4.31
Fire Flow	Building Size	Cost per 1000 SF	Cost per 1000 SF
(for all buildings 5,000 sq. ft. or more)	Per 1000 sq ft of floor area	\$1.86	\$1.93
Monthly Sewer Rates¹		Prior To 1/1/25	Effective 1/1/25
Inside City Limits: Monthly Rate = Base + Consumption over 5 CCF			
Outside City Limits: monthly base rate only, no Consumption			
Monthly Base Rate (inside city limits)	Property Type	Monthly Cost	Monthly Cost
	Single family residential	\$65.24	\$69.10
	Multi-family (per dwelling unit)	\$55.65	\$55.28
	All other customers	\$65.24	\$69.10
Monthly Base Rate (outside city limits)	Property Type	Monthly Cost	Monthly Cost
	Residential	N/A	\$98.81
Consumption Rate (inside city limits)	Consumption Per Month	Cost per CCF	Cost per CCF
	above ccf included in base	\$9.61	\$10.04
1. High strength wastes with be billed by agreement on a case-by-case basis using actual treatment costs			
Monthly Stormwater Rates		Prior To 1/1/25	Effective 1/1/25
Single Family Residential Parcel = 1 Equivalent Service Unit (ESU)			
All other properties based on site impervious surface (1 ESU = 3100 sq ft)			
Monthly Rate	Impervious Equivalents	Cost per ESU	Cost per ESU
	All ESU's	\$18.36	\$19.46
System Development Charges (SDCs) by Utility		Prior To 1/1/25	Effective 1/1/25
		Cost	Cost
Water SDC ^{1,2,3}	Per Meter Equivalent (ME)	\$7,956.23	\$7,956.23
Sewer SDC	Per Equivalent Residential Unit (ERU)	\$5,904.54	\$5,904.54
Stormwater SDC	Per Equivalent Service Unit (ESU)	\$2,707.41	\$2,707.41
Water Meter Equivalents			
Water Meter Size (Inches)	Meter Equivalents (ME) Assigned	Total Cost	Total Cost
3/4"	1	\$7,956.23	\$7,956.23
1"	2.5	\$19,890.57	\$19,890.57
1.5"	5	\$39,781.14	\$39,781.14
2"	8	\$63,649.82	\$63,649.82
3"	15	\$119,343.41	\$119,343.41
4"	25	\$198,905.68	\$198,905.68
6"	50	\$397,811.35	\$397,811.35
8"	80	\$636,498.16	\$636,498.16
1. Single family dwelling and first unit per building for multi-family per meter size; Every other unit per building in multi-family dwellings as 3/4 of an ME			
2. System development charges for connections for industrial zoned and interchange commercial zoned parcels shall be based on 3.5 ERUs per acre with the number of acres calculated from the total parcel area. In the event the amount of water needed by the industrial customer should exceed 3.5 ERUs per acre, the city shall calculate and charge the SDC based on actual anticipated water use. SMC 13.24.230 (C)			
3. Outside the city limits, permit and system development charges for service shall be 25 percent higher per SMC 13.24.230			
Transportation Impact Fees (TIFs)		Prior To 1/1/25	Effective 1/1/25
Adopted Fee Per New P.M. Peak Hour Trip	Transportation District	Cost	Cost
	Citywide*	N/A	\$7,683.01
	1	\$2,370.25	N/A
	2	\$3,778.31	N/A
	3	\$4,169.23	N/A
1. Prior to 2025, the City had 3 transportation districts for assessing TIFs. Effective 1/1/2025, the districts were eliminated and fees are now charged the same citywide.			

Prepared by:

Date:

SUBJECT: Ordinance No. 2902 - Group Homes Code Amendment

CATEGORY: Ordinance

BUDGET IMPACT:

ATTACHMENTS:

1. Presentation slides - Group Homes
2. Staff Report- Group Home Certification
3. Ordinance No. 2902 - Group Homes Code Amendment

STAFF CONTACT: Chrissanda Walker, Associate Planner

SUMMARY BACKGROUND:

This item is presented to City Council for action to address the licensing and certification requirements of Group Homes, which includes adult family homes and recovery residences, with less than 8 residents, in a residential dwelling used as a home for unrelated persons seeking medical or psychological treatment, supervision, training or other support services. These are listed as Essential Public Facilities. The proposed Zoning Code Text Amendment will require Group Homes Licensure by the state and any recovery residences to meet certification and registration requirements consistent with RCW 41.05.760. The additional registration and licensing requirements are necessary for the safety and security of the residents of Group Homes, and address the operations of these facilities such that it has minimal impact on the surrounding neighborhoods.

Staff presented the proposal to the Planning Commission at the public hearing held on October 3, 2024 and sponsored an amendment to the draft ordinance language that addresses discontinuation of Group Home facilities. The draft ordinance and proposed amendment were voted by the Planning Commission 5 out 5 to recommend approval by the City Council, amending the zoning code to require licenses and state certification of Group Homes in Sumner. This item was presented to the CD Committee on October 29, 2024.

COUNCIL COMMITTEE/STUDY SESSION: CD Committee MEETING/STUDY SESSION DATE: 10/29/2024 COMMITTEE RECOMMENDATION: Do-Pass
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STAFF RECOMMENDATIONS/MOTION:

Move to adopt Ordinance 2902 as proposed.



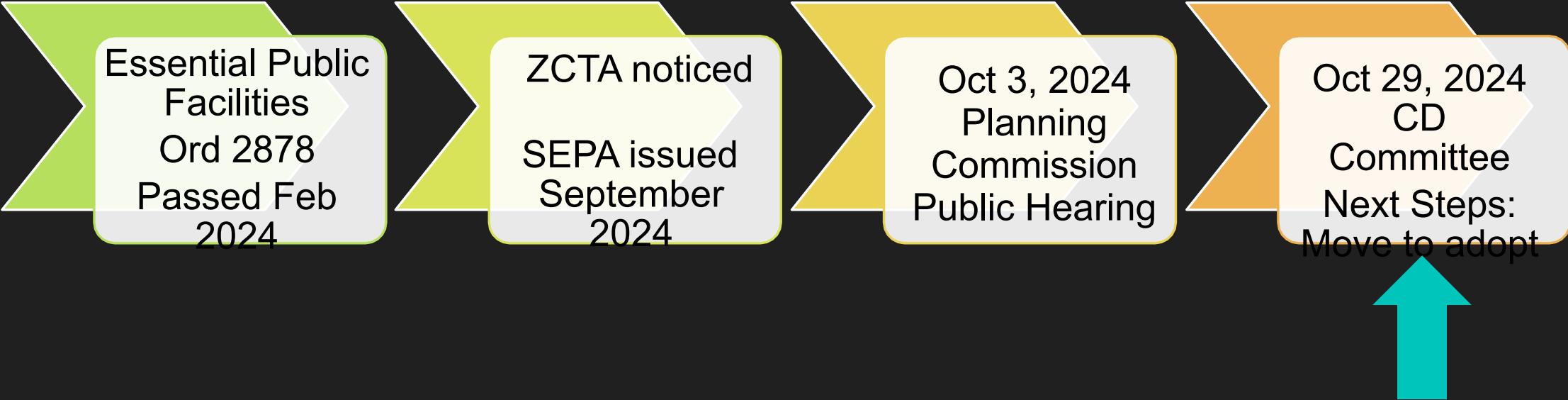
Group Homes Certification – Ordinance 2902

City Council

Regular Meeting

November 18, 2024

Overview of Zoning Code Text Amendment Process



WHERE WE ARE

Why are these Amendments being proposed?



New SMC 18.35 Essential Public
Facilities code



RCW Licensing and Registration
requirements for Group Homes
and Recovery Residences



Comprehensive Plan Policy
compliance & Fair Housing
Laws

Group Homes- an Essential Public Facility

Group Home Definition:

□ **18.04.0455 Group residence.**

“Group home” means a residential dwelling used as a home for unrelated persons to whom medical or psychological treatment, supervision, training, or other support services may be provided. Supervision may be provided by a resident or nonresident. Group homes may include adult family homes and recovery residences, and include:

“Group home, small” includes group homes with up to eight residents.

“Group home, large” includes group homes with nine or more residents.

“Group home” does not include dwellings in a federally, state or locally approved institution (see “Behavioral health facility, inpatient”).



Group Homes- an Essential Public Facility



New Section:

- The proposed amendment updates the “Essential Public Facilities” code (Sumner Municipal Code 18.35) by adding a new section, 18.35.030 to read as follows:

It is a condition of occupancy for Group Homes, as defined in SMC 18.04.0455, that the provider of the housing has obtained the correct license from the appropriate state authority, if the State of Washington requires licensing for the type of facility. In addition, recovery residences, as defined in SMC18.04.0851, shall be listed on the registry of approved recovery residences maintained by the state Health Care Authority pursuant to RCW 41.05.760.

A use shall discontinue and be vacated whenever a group home is no longer licensed, or in the case of a recovery residence is no longer listed on the state registry. Group homes not subject to licensing and/or certification requirements, shall be operated by government agencies or by organizations that demonstrate a capability to operate a home according to the best practices for the health, safety, and welfare of the residents.

State Registration Requirements



- The authority under RCW 41.05.760 establish and maintain a registry of approved recovery residences. The authority may contract with a nationally recognized recovery residence certification organization based in Washington to establish and maintain the registry.
- Licensed or certified service providers may not refer a client who is appropriate for housing in a recovery residence that is not included in the registry of approved recovery residences.
- The ordinance adds specific requirements for the registration and licensing of Group Homes to be consistent with state legislation.

Staff Recommendation

to City Council



Move to adopt Ordinance No. 2902 amending the zoning code pertaining to the licensing and registration of Group Homes.

STAFF REPORT

DATE: November 18, 2024
TO: CITY COUNCIL
FROM: Chrissanda Walker, Associate Planner
RE: **Zoning Code Text Amendment – Group Homes**

I. BACKGROUND / WHY THE AMENDMENTS ARE BEING PROPOSED

The City of Sumner recently codified an Essential Public Facilities (EPF) code that intends to appropriately condition, mitigate and regulate certain land uses. Group Homes, listed as an Essential Public Facility, includes adult family homes and recovery residences, with less than 8 residents, in a residential dwelling used as a home for unrelated persons seeking medical or psychological treatment, supervision, training or other support services. The proposed Zoning Code Text Amendment will require Group Homes Licensure by the state and any recovery residences to meet certification and registration requirements consistent with RCW 41.05.760.. The additional registration and licensing requirements are necessary for the safety and security of the residents of Group Homes, and these new requirements will address the operations of the facility such that it has minimal impacts to the surrounding neighborhoods

Staff presented the proposal to the Planning Commission at the public hearing held on October 3, 2024 and sponsored an amendment to the draft ordinance language that addresses discontinuation of Group Home facilities. The draft ordinance and proposed amendment were voted by the Planning Commission 5 out of 5 to recommend approval by the City Council, amending the zoning code to require licensure and state certification of Group Homes in Sumner. This item was presented to the CD Committee on October 29, 2024.

II. DESCRIPTION OF PROPOSAL

The draft ordinance would update the "Essential Public Facilities" code (Sumner Municipal Code 18.35) by adding a new section, 18.35.030 as follows:

It is an occupancy criterion for Group Homes, as defined in SMC 18.04.0455, that the provider of the housing has obtained the correct license from the appropriate state authority, if the State of Washington requires licensing for the type of facility. In addition, recovery residences, as defined in SMC18.04.0851, shall be listed on the registry of approved recovery residences maintained by the state Health Care Authority pursuant to RCW 41.05.760. A use shall discontinue and be vacated whenever a group home is no longer licensed, or in the case of a recovery residence is no longer listed on the state registry. Group homes not subject to licensing and/or certification requirements, shall be operated by government agencies or by organizations that demonstrate a capability to operate a home according to the best practices for the health, safety, and welfare of the residents.

Proposed amendments to SMC 18.35 are consistent with state legislation and code requirements. The proposal affects both adult-family homes and recovery residences used for the purposes of Group Homes as defined in SMC 18.04.0455.

III. ANALYSIS

The proposed amendment is consistent with State legislation, State and local guidelines, and the Sumner Comprehensive Plan, as discussed below.

A. State Legislation.

The amendment follows the recent state requirements for EPF allowance and state law requiring certified service providers, licensed and registered with the correct agency.

The amendment updates Sumner Municipal Code (SMC) regulations to be consistent with State requirements for Group Homes, as defined in SMC 18.04.0455.

B. Group Homes.

Group Homes are now defined under the Zoning Code in SMC 18.04.0455 and are specified as a land use type under EPF code section SMC 18.35. While Group Homes are considered an essential public facility, they are exempt from siting criteria.

State law and case law require that group homes be treated like similar residential structures in similar zones, and prohibit limits on the number of unrelated persons that occupy a household. To address these laws, the recently adopted EPF ordinance increased occupancy limits for group homes. Occupancy limits are consistent with the Fair Housing Act, Washington Building Code and other laws.

The proposal does not conflict with state or case law by requiring licensing and registration regulations.

C. Sumner Comprehensive Plan

Sumner's Comprehensive Plan has general policies related to Land Use, Governance Sub-element, Family and Human Services and Housing element that support this proposal:

Land Use Element. *The proposal requires facilities to meet the development standards of the underlying zone and other standards, which is consistent with the following:*

Goal 1. "Provide for orderly development within the Sumner community."

Policy 1.1 Ensure that appropriate transitions so that more intensive uses do not adversely impact adjacent uses.

Governance Sub-Element. *The proposal adopts clear regulations for Group Homes, consistent with the following policy:*

Policy 5.3 Adopt regulations that are clear, concise, and enforceable and periodically review regulations for improvement.

Family and Human Services. *The Comprehensive Plan contains policies related to providing support services in support of Group Homes, including the following:*

Goal 2. "Support human service programs that focus on prevention, education, and families."

Policy 2.1 Provide human services that directly relate to other City services and programs and facilitate the delivery of services with emphasis on families, prevention and education.

Goal 3. "Support programs and services for intervention and treatment."

Policy 3.1 Support efforts to provide access and to educate the public about counseling services, domestic violence, suicide, elder care issues, and other resources.

Housing Element. *The proposal accommodates for in-patient/residential Group Home facilities, which are a small but important component of housing in Sumner. The proposal is consistent with:*

Policy 2.5 Promote fair and equal access to housing for all persons in accordance with state law.

Conclusion: The proposal is consistent with the intent and vision of the City's Comprehensive Plan in that

it furthers the goals and policies related to regulating Group Homes to ensure safe and secure housing and human service support. Further, the amendment helps protect the city from unlicensed facilities and provides for the regulatory framework for licensing. The proposed ordinance allows for Group Homes and Adult Family Homes, and recovery residences to operate and be consistent with State law and case law and furthers the safety of residents of group homes and minimizes impacts to surrounding neighborhoods.

IV. SEPA ENVIRONMENTAL REVIEW

Amendments to the Zoning Code are required to be reviewed through the State Environmental Policy Act (SEPA). SEPA analysis of the proposed amendment has been completed. A Determination of Non-Significance was issued on September 11, 2024.

V. PUBLIC & AGENCY COMMENTS

A Notice of intent to adopt amendment was sent to the Department of Commerce on September 18, 2024, with an expedited review. No other state agencies provided comment.

One public comment was submitted prior to the Planning Commission public hearing held on October 3, 2024. There was no oral testimony provided at the public hearing. Staff presented a memo summarizing the correspondence at the CD Committee on October 29, 2024.

VI. CD COMMITTEE RECOMMENDATION

Move to adopt Ordinance 2902 as proposed

VII. EXHIBITS

A. Ordinance No. 2902

**ORDINANCE NO. 2902
CITY OF SUMNER, WASHINGTON**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, AMENDING THE FOLLOWING SECTIONS OF SMC CHAPTER 18.35 ESSENTIAL PUBLIC FACILITIES AND BEHAVIORAL HEALTH FACILITIES: 18.35.010.

WHEREAS, The City recently codified an Essential Public Facilities code that was intended to appropriately condition, mitigate and regulate certain land uses; and

WHEREAS, “Group Homes” including adult family homes and recovery residences are a residential dwelling used as a home for unrelated persons whom medical or psychological treatment, supervision, training or other support services are provided; and

WHEREAS, Group homes are required to be “licensed by the appropriate state authority” prior to occupancy; and

WHEREAS, recovery residences shall be registered on the state registry per RCW 41.05.760.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. New Section. A new section, 18.35.030 “Registration and Licensing Requirements for a Group Home” is hereby added to the Sumner Municipal Code to read as follows:

18.35.030 Registration and Licensing Requirements for a Group Home.

It is a condition of occupancy for Group Homes, as defined in SMC 18.04.0455, that the provider of the housing has obtained the correct license from the appropriate state authority, if the State of Washington requires licensing for the type of facility. In addition, recovery residences, as defined in SMC 18.04.0851, shall be listed on the registry of approved recovery residences maintained by the state Health Care Authority pursuant to RCW 41.05.760. A use shall discontinue and be vacated whenever a group home is no longer licensed, or in the case of a recovery residence is no longer listed on the state registry. Group homes not subject to licensing and/or certification requirements, shall be operated by government agencies or by organizations that demonstrate a capability to operate a home according to the best practices for the health, safety, and welfare of the residents.

Section 2. Severability. If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. If the provisions of this ordinance are found to be inconsistent with other provisions of the Sumner Municipal Code, this ordinance is deemed to control.

Section 3. Effective date. This ordinance shall take effect five (5) days from the date of publication in the City’s official newspaper.

Section 4. Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

Passed by the City Council and approved by the Mayor of the City of Sumner, Washington, at a regular meeting thereof this ____ day of _____

Mayor Kathy Hayden

ATTEST:

APPROVED AS TO FORM:

City Clerk Michelle Converse, CMC

Andrea Marquez, City Attorney

First Reading:
Date Adopted:
Date of Publication:
Effective Date:

SUBJECT: Ordinance No. 2913 - Significant Industrial User and Industrial Discharge Sewer Fees

CATEGORY: Ordinance

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Ordinance No. 2913 - Significant Industrial User and Industrial Discharge Sewer Fees (2)

STAFF CONTACT: Michael Kosa, Public Works Director

SUMMARY BACKGROUND:

Due to the upcoming pretreatment program delegation, the City will be assuming permit authorization of all non-domestic users from the Washington State Department of Ecology. Ecology has previously administered permits for Significant Industrial Users (SIU's) within city limits and charged appropriate fees.

This ordinance adopts the Department of Ecology fee schedule into City Code by reference so that SIU's will experience no significant changes to their fees and provide give the City the authority to charge said fees. At initial delegation, it is appropriate to charge SIU's the same fees they were paying to Ecology; as the program further establishes, Staff will review and analyze potential revisions to non-domestic user fee structure and recommend further changes if appropriate.

This ordinance also adds a consumption rate charge to one-time special wastewater discharges and revises a fee schedule reference.

COUNCIL COMMITTEE/STUDY SESSION: Finance and Personnel Committee MEETING/STUDY SESSION DATE: 11/14/2024 COMMITTEE RECOMMENDATION: Do-Pass

STAFF RECOMMENDATIONS/MOTION:

Move to adopt Ordinance No. 2913 - Significant Industrial User and Industrial Discharge Sewer Fees as presented.

ORDINANCE NO. 2913
CITY OF SUMNER, WASHINGTON

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON AMENDING SUMNER MUNICIPAL CODE CHAPTER 13.16 RELATING TO SEWER FEES.

WHEREAS, the City of Sumner is being delegated the authority to administer a pretreatment program that regulates discharges from Significant Industrial Users to protect public health, the environment, and the City's wastewater infrastructure; and

WHEREAS, Washington Administrative Code (WAC) 173-224-040 establishes a fee schedule for permits related to wastewater discharges, including Significant Industrial Users, and it is in the City's best interest to align with state regulations to ensure consistent and fair fee collection; and

WHEREAS, the City of Sumner seeks to ensure efficient administration and compliance by adopting the WAC fee schedule by reference and incorporating it into Sumner Municipal Code Chapter 13.16; and

WHEREAS, it is in the public's best interest that one-time special wastewater discharges shall be charged based on consumption rates in addition to an administrative fee.

WHEREAS, burdened staff rates are provided in the City of Sumner's Permit Fee Schedule rather than the Utility Rate and Fee Schedule.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Sumner Municipal Code Section 13.16 Amended. Chapter 13.16 Sewers is hereby amended by amending subsections as follows;

13.16.030 Definitions –the following definitions are added:

“Significant Industrial User,” as defined in SMC Chapter 13.18.210

13.16.210 Permit Fees

A. Permit Fee for Domestic Waste. Upon issuance of a complete permit for domestic sewage as outlined in SMC 13.16.150, the applicant shall pay a nonrefundable permit fee in the amount as set forth in subsection (C) of this section. Said fee shall be full compensation for processing, review, approval and inspection of the work. This fee does not cover any cost for the installation of said sewer. The total fee for permit approval shall be the sum of the elements outlined in subsection (C) of this section. Plan review fees shall be accrued until the construction plans are approved for construction. Accrued review fees shall be paid regardless of whether a permit is issued. Inspection fees shall be accrued until final project approval and shall be assessed to the permittee as they are accrued.

Burdened rates for city staff are actual salaries plus benefits with a 1.25 multiplier to cover indirect costs. City staff burdened rates are specific in the Sumner ~~utility rate and permit~~ fee schedule.

~~B. Permit Fee for Nondomestic Wastewater. The permit fee structure for all nondomestic wastewater is included in chapter 13.18 SMC.~~

~~B. Wastewater Discharge Permit Fees for Significant Industrial Users. The City of Sumner hereby adopts by reference the fee schedule outlined in Washington Administrative Code 173-224-040, as enacted or hereafter amended, for fees the issuance and renewal of Discharge Authorization Permits for Significant Industrial Users.~~

C. Permit fees for domestic and industrial side sewer permits are as follows:

1. Base Permit Fee.

a. For all users discharging domestic sewage: \$195.00;

b. Private side sewer replacement/repair: \$60.00;

~~e. Industrial waste discharges: \$400.00.~~

~~c. One-time industrial waste discharges: \$400.00, plus consumption rates as outlined in Sumner Utility Rate and Fee Schedule~~

2. Plan Review Fee.

a. One hour x current engineering burdened rate (minimum);

b. In-house plan review fee: hours x current engineer burdened rate;

c. Third-party review fees as billed to the city, including city administrative costs.

3. Inspection Fee.

a. Two hours x current inspector burdened rate (minimum);

b. $(\lceil \frac{\text{\# LF Sewer}}{150} \rceil \times 4) + 10$ x current inspector burdened rate;

c. Additional inspection as warranted: Number of hours x current staff burdened rate.

Section 2. Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this resolution, including but not limited to the correction of clerical errors; or references to other local, state, or federal laws, codes, rules, or regulations.

Section 3. Severability. If a section, subsection, paragraph, sentence, clause, or phrase of this

ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction; such decision shall not affect the validity of the remaining portions of this ordinance. If the provisions of this ordinance are found to be inconsistent with other provisions of the Sumner Municipal Code, the provisions of this ordinance shall control.

Section 4. Effective Date. This Ordinance shall become effective five (5) days from and after its passage, approval, and publication as provided by law.

Passed by the City Council and approved by the Mayor of the City of Sumner, Washington at a regular meeting thereof this 18th day of November, 2024.

Mayor Kathy Hayden

ATTEST:

APPROVED AS TO FORM:

City Clerk Michelle Converse, CMC

Andrea Marquez, City Attorney

First Reading:
Date Adopted:
Date of Publication:
Effective Date:

SUBJECT: Ordinance No. 2914 - Hydrant Use and Deletion of Surcharge Area

CATEGORY: Ordinance

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Ordinance No. 2914 - Hydrant Use and Deletion of Surcharge Area

STAFF CONTACT: Michael Kosa, Public Works Director

SUMMARY BACKGROUND:

This ordinance establishes definitions and authorized uses for City fire hydrants. Currently, the code is silent to hydrant use, particularly where non-emergency use is allowed. Establishing code allows for the City to permit fire hydrant use for construction and development purposes and provides restrictions such as the requirement to use City authorized equipment to meter the water used and protect the water system from cross-connections as required by State law.

Additionally, this ordinance deletes a code section related to a surcharge area that expired in 2015.

COUNCIL COMMITTEE/STUDY SESSION: Finance and Personnel Committee

MEETING/STUDY SESSION DATE: 11/14/2024

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

Move to Adopt Ordinance No. 2914 - Hydrant Use and Deletion of Surcharge Area.

**ORDINANCE NO. 2914
SUMNER, WASHINGTON**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON AMENDING SUMNER MUNICIPAL CODE CHAPTER 13.24 RELATING TO HYDRANT USAGE, PERMITS, AND PENALTIES FOR UNAUTHORIZED USE AND DELETION OF LID NO. 73 SYSTEM DEVELOPMENT SURCHARGE AREA.

WHEREAS, the City of Sumner is committed to maintaining the safety, integrity, and proper functioning of its water system and fire protection infrastructure by practically accounting for all water used and reducing the likelihood of cross-connections; and

WHEREAS, the City recognizes the need to regulate the public and non-emergency use of fire hydrants to ensure equitable access, prevent unauthorized usage, and protect public infrastructure; and

WHEREAS, Sumner Municipal Code Chapter 13.24 governs the City's water and fire hydrant infrastructure but require updates to incorporate regulations for non-emergency hydrant usage, permitting procedures, and penalties for unauthorized use; and

WHEREAS, Sumner Municipal Code Chapter 13.24 identified a System Development Surcharge Area – LID No. 73 which per Ordinance No. 2119 was to be in effect for 10 years from March 2005 per but is now fully expired;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Sumner Municipal Code Section 13.24 Amended Chapter 13.24 Water Utility Service is hereby amended by amending subsections as follows;

13.24.020 Definitions –the following definitions are added:

“Authorized Personnel” includes City and East Pierce Fire and Rescue personnel and other individuals with express written permission from the City of Sumner.

“Hydrant Meter Assembly” refers to a device that can be installed on a fire hydrant for the purpose of measuring non-emergency water use and providing backflow prevention.

"Public hydrant" refers to any fire hydrant situated and maintained to provide water for fire fighting purposes without restriction as to use or with restrictions as to use as authorized by the City.

Section 13.24.420 - System development surcharge area – LID No. 73. shall be fully deleted and renamed **Reserved**.

~~All properties located within Local Improvement District No. 73 boundaries shall pay 125 percent of the system development charge in effect at the time of application for service. Said surcharge shall be in effect for 10 years from the effective date of the ordinance codified in this chapter. The surcharge shall automatically be eliminated at that time.~~

New Section 13.24.430 - Hydrant Usage and Regulation

A. Installation and Use of Hydrant Meter Installation and Use of Hydrant Meter Assembly

1. Other than authorized personnel, persons requiring the use of water from a fire hydrant such as construction, special events, or temporary water service, shall obtain a hydrant meter permit.
2. Upon approval of the permit, the City will provide a hydrant meter assembly for use while the permit is active. The hydrant meter assembly remains the property of the City.
3. Permittees may install and remove the City-provided hydrant meter assembly on fire hydrants throughout the city. Permittees shall make the hydrant meter assembly available for inspection upon City request.
4. The permittee is responsible for ensuring the hydrant meter assembly remains undamaged and secure throughout its use.
5. Authorized personnel may access fire hydrants as necessary to perform their duties. Such access does not require prior approval or permit from the City.

B. Water Infrastructure and Hydrant Meter Assembly Deposits and Rates

1. A deposit and any associated fees shall be paid prior to issuance of the hydrant meter assembly. The deposit may be used by the City to cover any replacement, damage or repair costs to water infrastructure or provided hydrant meter assembly, including failure to return the hydrant meter assembly.
2. The user shall be charged monthly base and consumption rates for water usage based on the volume of water used. Rates for water usage shall be in accordance with the Sumner Utility Rate and Fee Schedule.

C. Prohibited Actions

1. It is unlawful for any person to:
 - i. Attach any pipe, hose, or other device to a hydrant without authorization.
 - ii. Use hydrants for any non-authorized purpose, including filling swimming pools, pressure washing, or other private uses.
 - iii. Damage or tamper with any hydrant or hydrant equipment.

- iv. Use a hydrant meter assembly that was not provided by the City.
2. Any unauthorized connection or use of a hydrant shall result in immediate disconnection and possible penalties as outlined in SMC 13.24.340 and SMC 13.24.390.
3. In addition to civil penalties and fines listed in SMC 13.24.340 and SMC 13.24.390, any person causing damage to a fire hydrant or associated equipment shall be liable for the cost of repairs and any water usage and loss incurred by the City.

Section 2 Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this resolution, including but not limited to the correction of clerical errors; or references to other local, state, or federal laws, codes, rules, or regulations.

Section 3. Severability. If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction; such decision shall not affect the validity of the remaining portions of this ordinance. If the provisions of this ordinance are found to be inconsistent with other provisions of the Sumner Municipal Code, the provisions of this ordinance shall control.

Section 4. Effective Date. This Ordinance shall become effective five (5) days from and after its passage, approval, and publication as provided by law.

Passed by the City Council and approved by the Mayor of the City of Sumner, Washington at a regular meeting thereof this 18th day of November, 2024.

Mayor Kathy Hayden

ATTEST:

APPROVED AS TO FORM:

City Clerk Michelle Converse, CMC

Andrea Marquez, City Attorney

First Reading:
Date Adopted:
Date of Publication:
Effective Date: