



**PLANNING COMMISSION AGENDA
CITY HALL – 1104 MAPLE STREET
SEPTEMBER 3, 2026 6:00 PM**

Members - Nick Biermann, Byrl Eddy, Sharon Fochtman, Rob Healy, Kelly Locke, and Chris Pierce

The City is conducting this public meeting using a hybrid model. The public is welcome to attend tonight's meeting in-person at Sumner City Hall Council Chambers (1104 Maple Street) or virtually by using the meeting access link below:

<https://sumnerwa-gov.zoom.us/j/88655116217>

Or by phone: 253 215 8782 (Tacoma)

Webinar ID: 886 5511 6217

CALL TO ORDER

Roll Call: Nick Biermann, Byrl Eddy, Sharon Fochtman, Rob Healy, Kelly Locke, and Chris Pierce

Pledge of Allegiance

1. Election of Planning Commission Chair and Vice-Chair

APPROVAL OF MINUTES

1. August 6, 2026 minutes

PUBLIC COMMENT

The public may comment on topics that are not on the meeting agenda, virtually or in person. The public is strongly encouraged to submit comments via email to chrissandaw@sumnerwa.gov no later than 5pm on the day prior to the meeting. Your comments will be read into the record and limited to 3-minutes.

PUBLIC HEARING

1. Ordinance - Zoning Code Text Amendments - BESS 2.0

UNFINISHED BUSINESS

NEW BUSINESS

CORRESPONDENCE

COMMISSION COMMENTS

STAFF COMMENTS

ADJOURNMENT

SUBJECT: Election of Planning Commission Chair and Vice-Chair

CATEGORY: Motion

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

STAFF CONTACT: Katie Baker, Planning Manager

SUMMARY BACKGROUND:

The Planning Commission's adopted Rules of Procedure provide for an annual election of officers. In December 2025, the Commission elected Mark Issacs as Chair and Mark Malcom as Vice Chair. Both of these commissioners have been appointed to the City Council, so a new Chair and Vice Chair will be elected to serve the remainder of the 2026 term.

COUNCIL COMMITTEE/STUDY SESSION:
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MEETING/STUDY SESSION DATE:

COMMITTEE RECOMMENDATION:

STAFF RECOMMENDATIONS/MOTION:

SUBJECT: August 6, 2026 minutes

CATEGORY: Motion

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. PC Minutes 08-06-2026
-

STAFF CONTACT:

SUMMARY BACKGROUND:

Action minutes from a regular Planning Commission meeting held on August 6, 2026.

COUNCIL COMMITTEE/STUDY SESSION:
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MEETING/STUDY SESSION DATE:

COMMITTEE RECOMMENDATION:

STAFF RECOMMENDATIONS/MOTION:

Move to approve August 6, 2026 minutes.



**SUMNER PLANNING COMMISSION
MINUTES**

**CITY HALL – 1104 MAPLE STREET
August 06, 2026 6:00 PM**

MEETING MINUTES

CALL TO ORDER

The meeting was called to order at 6:06 pm by Chair Issacs

ROLL CALL

Commissioners Present: Biermann, Eddy, Fochtman, Isaacs, Pierce, Healy, Locke

Excused Absences:

APPROVAL OF MINUTES

1. Planning Commission meeting minutes – July 9, 2026

Moved to approve Fochtman, Second Locke; **passed unanimously.**

PUBLIC COMMENT *(The public may provide comments that are not on tonight's agenda)*

None.

PUBLIC HEARING

None.

UNFINISHED BUSINESS

1. Battery Energy Storage Systems (BESS) Ordinance 2.0 – Discussion

Ryan Windish, Community and Economic Development Director, gave a presentation on this item.

Discussion ensued. Commissioner Pierce recused himself from the discussion.

NEW BUSINESS

None

CORRESPONDENCE

None

COMMISSION COMMENTS

Commissioner Isaacs commented.
Commissioner Biermann commented.
Commissioner Fochtman had no comment.
Commissioner Eddy had no comment.
Commissioner Pierce had no comment.
Commissioner Locke had no comment.
Commissioner Healy commented.

STAFF COMMENTS

Ryan advised about bike infrastructure and a future underpass project.

ADJOURNMENT

Meeting adjourned at 7:51 PM.



STAFF MEMO

DATE: September 3, 2026
TO: Planning Commission
FROM: Ryan Windish, Community and Economic Development Director
CC: Katie Baker, Planning Manager
RE: **Zoning Code Text Amendments on Battery Energy Storage System (BESS) 2.0**

I. BACKGROUND/ WHY THE AMEDNMENTS ARE BEING PROPOSED

Battery energy storage systems (BESS) are becoming increasingly important as renewable energy sources are added to the energy mix. The increase in demand for the energy grid continues to rise as State mandates incentivize toward green electrification. Utility providers are responding to the State's Clean Energy Transformation Act (CETA) by adding BESS to its existing utility infrastructure to provide grid efficiency and reduce peak energy prices by stabilizing power supply.

In 2024, the City of Sumner proceeded with land-use review of a large-scale BESS facility, capable of storing 200-megawatt (MW)/800-megawatt hour (MWh) of energy 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 began construction in 2026 on approximately 8 acres along East Valley Hwy. The project includes a conditional use permit (CUP)-approved new transmission line that will connect from the BESS site to the PSE White River substation facility.

BESS 1.0 – Utility grid-scale BESS

In November 2024, following Planning Commission public hearing and recommendation, the City Council adopted Ordinance No. 2899 which regulates in the Zoning Code (Title 18) utility-scale Battery Energy Storage Systems, allowed under a CUP only in industrial zones, and subject to required performance standards to mitigate impacts including prohibiting utility-scale BESS within 1,000 feet of residential zones and requiring emergency management planning and financial security for decommissioning.

The Department of Ecology (DOE) responded to the rise in BESS deployment and issued a programmatic environmental impact statement in June 2025, assisting jurisdictions with the siting of green energy facilities. BESS can be categorized under land use classifications like "major utility" or "associated electrical facilities" when co-located with green energy facilities, such as wind and solar. BESS are similar in characteristic to other storage and utility land uses yet presents unique considerations in hazardous potential and fire risk. Therefore, limiting the concentration of large-scale and utility-scale BESS and maintaining a safe distance from residential and sensitive uses. The proposed amendments (BESS 2.0) address smaller and mid-scale BESS as communities will continue to see BESS associated with electric vehicle (EV) charging, solar panels and on-site backup energy.

Planning Commission Process

The Planning Commission received an informational presentation from city staff on July 9, 2026 to familiarize them with BESS, the reasons the facilities are needed for the electrical grid, potential risks and how those risks are being addressed. Staff shared slides from a presentation to the City Council that included information from Puget Sound Energy, the Energy Facility Siting Evaluation Council (EFSEC), and East Pierce Fire & Rescue. At the August 8, 2026 meeting the PC heard a detailed presentation on a draft Ordinance. Following discussion with the Planning Commission, additional research into how other jurisdictions are addressing small-scale BESS, and comments from the renewable energy industry, staff has proposed changes that are reflected in the current version of the ordinance. Changes are summarized as follows:

Summary	Reason
Greater reliance on current codes and regulations to manage risks and impacts.	Numerous technical regulations in the electrical and fire code address fire risk, emergency planning, decommissioning, etc. and therefore this level of detail is not needed.
Changed from a 4-Tier system to 3-Tiers	Relying on industry codes to set most of these thresholds and a 3-tier system fits better and is consistent with Pierce County regulations and others.
Removed 500-foot separation from sensitive uses	This had been introduced because it is in Pierce County's draft ordinance, however, it would preclude smaller BESS that support solar energy projects at schools and undermining grant funded plans to provide solar energy and back-up power at schools.
Removed aggregate footprint limit of 3,000 s.f.	Battery size will naturally limit the physical size and footprint. 5MWh can be within a fairly small footprint (8ft x 40ft) and there is no need in the industry to make the footprint any larger than necessary.
Clarified that fire district reimbursement is only for Tier-3 (Utility Scale) BESS	This is intended to address major fire incidents that could occur where systems are 5MWh or greater.
Commissioning plan only for Tier-3 BESS	These systems are large enough to require a commissioning plan consistent with state law (WAC 51-54A 1207.2.1).
Decommissioning plan only for Tier-3 BESS	These systems are large enough to require a decommissioning plan consistent with state law (WAC 51-54A 1207.2.1).
Only Tier-3 BESS will have to provide a financial guarantee for decommissioning the site, public liability, and environmental risks. Staff is recommending a minimum \$5M changed from \$1M which was too low.	These systems are large enough to require a minimum \$5 million in financial guarantee for clean-up. The Financial Guarantee will be based on the size of the facility, with larger facilities having a greater financial guarantee.

II. DESCRIPTION OF PROPOSAL

What is BESS 2.0?

In response to the CETA, utility providers like PSE have issued requests for more grid-connected BESS to balance peak energy demand and store excess energy generated to be used later during non-peak times. Energy load sharing can happen at any point in the electric grid and battery energy storage does not need to always be at the utility-scale.

BESS 2.0 addresses small and mid-scale BESS, indicates where they are permitted and defines what is considered residential (small) scale, mid-scale, and utility or grid-scale. BESS are regulated under the International Building Code (IBC) and International Fire Code (IFC), National Fire Protection Association (NFPA) codes, state laws (WAC 51-54L) therefore the ordinance refers to the latest adopted code standards for energy thresholds and relies on these codes for much of the safety protocols and regulations. This approach is similar to other jurisdictions such as Pierce and King Counties, and the City of Arlington.

The proposed amendments would update the Sumner Municipal Code (SMC) to establish a regulatory framework for **BESS** at three tiers: residential, commercial, and utility-scale. These changes align local zoning with clean energy objectives while ensuring public safety, compatibility with surrounding uses, and appropriate fire code compliance relying on existing technical regulations and codes already in place.

New Chapter 18.33: Battery Energy Storage Systems

The draft ordinance creates a new Chapter 18.33 in the Zoning Code (Title 18) that addresses BESS and is similar to other highly technical land uses such as telecommunications. Chapter 18.33 contains details related to allowed zoning districts, permitting, placement, screening, and other requirements specific to BESS. All the other chapters with specific zoning district regulations will refer to this new chapter for BESS development regulations and permitting requirements.

Defining BESS in the Zoning Code

Based on industry standards the proposed definition of BESS under SMC 18.33 is stated as follows:

“Battery energy storage system (BESS)” means one or more commercially available electrochemical devices, designed to store energy for future electrical supply to a building or the electric grid, excluding a stand-alone 12-volt car battery or an electric motor vehicle, ranging in capacity from residential to utility scale for public or private application. By way of example and not limitation, such systems may be used to provide standby or emergency power, store excess electricity from intermittent renewables sources like wind and solar, provide electrical load shedding or sharing, or other similar capabilities.

BESS Tier System

Current code only allows for utility-scale BESS that store 200 MW of energy and the capacity to supply large amounts of energy at one time. With the growing opportunity to disperse BESS in more urban areas, the proposal will amend the current definition of “Battery Energy Storage systems” to fall into Tier-1, Tier-2, and Tier-3 classification of BESS as follows:

Tier-1 BESS Residential Accessory Systems

- **Tier 1-BESS:** Accessory to residential uses, including single-family residential homes, duplexes, etc.
- **Use type:** Single-technology systems intended for excess solar energy backup, load sharing, EV charging.
- **Energy threshold:** up to 80 kWh will require permits; energy limit is fixed by IFC and IBC.
- **Allowed Zones:** Accessory use in all zones.
- **Permit required:** Residential solar permit + BESS; Electrical permit (through L&I).

Tier-2 BESS Mid-Scale Systems

- **Tier 2-BESS:** Standalone BESS intended for mid-scale commercial storage applications.
- **Use types:** Co-located with solar panels and onsite electric substations and standalone.
- **Energy threshold:** >80 kWh up to 5 MWh This size limit helps to minimize the size of high-risk BESS, keeping them manageable in an urban context.
- **Allowed Zones:** Low Density Residential as a conditional use with and existing conditional use; multi-family and mixed use zones (MDR, HDR, Town Center, GC, NC, GC/ESUV and NC/ESUV); Interchange Commercial and Industrial Zones (IC, M-1 and M-2)
- **Permit required:** A CUP in Low Density Residential Zones; AUP in mixed use and multifamily zones, and Mechanical BESS permit and electric permit (through L&I).

Tier-3 BESS Utility-Scale Systems

- **Tier-3 BESS:** Utility grid-scale facilities remain prohibited within 1,000 feet from zones allowing residential uses.
- **Use types:** Standalone facilities to supplement the electric utility grid. With the capacity to store megawatts of energy for regional benefit.
- **Energy Threshold:** >5MWh up to 200MW/800 MWh
- **Allowed Zones:** Industrial zones only (M-1 and M-2)
- **Permit required:** CUP; Mechanical BESS permit and electric permit (through L&I).

BESS Performance Standards

The following are performance standards for the various BESS facilities, some of which are currently in the Zoning Code:

Setbacks/height standards:

- Tier-1 BESS: Same as underlying zone/IRC and IFC
- Tier-2 BESS: 15 feet on all sides/ 15 feet maximum height
- Tier-3 BESS: 30 feet on all sides/ 20 feet maximum height

Distance requirements:

- Tier-3 BESS: Prohibited within 1,000 feet of residential zones and mixed-use zones.

Minimum Lot size:

- Tier 1 & 2 BESS: None
- Tier-3 BESS: 20,000 SF

Aesthetic standards:

- Screening from adjacent properties using berms and evergreen landscaping (except M-2 zone).
- Non-glare finishes and durable cladding (e.g., powder-coated surfaces).
- Lighting and fencing requirements vary across Tiers.
- Noise restrictions are consistent with SMC 8.14 and may be required to do additional noise testing.

BESS specific standards:

- All BESS tiers are subject to Fire code compliance where applicable (UL 9540, NFPA 855, IFC Section 1207).
- Review decommissioning requirements and financial guarantees that will apply to Tier-3 BESS and consistent with IFC.
- Tier 2 and Tier-3 BESS over 600 KWh must submit:
 - Emergency Operations Plans (EOPs)
 - Commission Plans (per WAC 51-54A-1207)
 - Decommissioning Plans (per WAC 51-54A-1207)
 - Distribution equity assessments to avoid overconcentration.
 - Safety and Fire Response Plan that includes a reimbursement requirement

III.ANALYSIS

The proposed Zoning Code amendments are consistent with the intent and policies of the Comprehensive Plan, including the policies discussed below.

UTILITY ELEMENT

The proposal is consistent with Comprehensive Plan goals and policies for in the Utility Element as follows:

1. ***Facilitate the development of natural gas and alternative energy utilities at the appropriate levels of service to accommodate the growth that is anticipated to occur in Sumner.***

- 1.4. Facilitate conversion from natural gas to cost-effective and environmentally sensitive alternative technologies and energy sources.
- 2. *Plan and allow for regional and local improvements to electric facilities sufficient to support projected growth and desired land use patterns in Sumner.***
 - 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.
 - 2.2. Accommodate facilities needed to support residential areas and sufficient to support economic development in Sumner.
- 7. *Implement new technologies that balance costs and benefits for the city, health and safety, aesthetics, protection of the environment and economy, and promote affordability and equitable access of utilities to all communities.***
 - 7.1. Prioritize the provision of cost-effective and energy-efficient new technologies to underserved populations.
 - 7.2. Prioritize the use of new technologies, programs, and applications that increase the reliability, affordability, and accessibility of utility services and pay options.

LAND USE ELEMENT

The proposal is consistent with Comprehensive Plan Land Use Element goals and policies specifically:

- 1. *Provide for a variety of land uses in Sumner while preventing adverse impacts and ensuring consistent implementation of policies and regulations.***
 - 1.3. Through the Land Use Element and Community Character Element, strive to balance residential, commercial, industrial and public land uses.
 - 1.3.1. Periodically review development regulations to remove unnecessary requirements and to balance environmental protection, public participation, and housing and economic development goals.
- 6. *Encourage neighborhood development that supports healthy communities.***
 - 2.3. Consider the environmental health and other impacts of land use decisions on overburdened communities (i.e., minority, low-income, Tribal, or indigenous populations that potentially experience disproportionate environmental harms and risks). Encourage the participation of these communities in decision-making processes.
 - 2.4. Ensure that adequate landscape screening and trees are provided around sources of significant noise and air pollutants that may affect schools and neighborhoods.
 - 2.5. Where feasible, mitigate the environmental health effects of climate change, including air quality, stormwater, and heat impacts, through the acquisition of parks and open space and tree planting, prioritizing overburdened communities.
 - 6.5. Engage with the community on the topic of climate impacts and adaptation strategies.
 - 6.6. Support energy efficiency and upgrade programs that reduce health risks for vulnerable

populations due to extremes of heat and cold.

ENVIRONMENTAL ELEMENT

The proposal is consistent with Comprehensive Plan Environmental Element goals and policies specifically:

1. Practice environmental stewardship by protecting, enhancing and promoting the natural environment in the City of Sumner.

- 1.1. Maintain up-to-date regulations that protect critical areas, the function and values of the natural environment, and/or safeguard the public from hazards to health and safety.
- 2.3. Work with other agencies to educate the public about air quality impacts.
- 2.4. Work with other agencies to monitor air quality within the planning area.
- 2.5. Support infrastructure, codes and permit processes that encourage alternative fuels and electric vehicles.

2. Protect air quality from adverse impacts.

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

3. Encourage a reduction in noise impacts associated with human activity and development.

- 3.1. Require new developments which could generate substantial levels of noise or could expose people to noise impacts sufficient to cause environmental health problems to submit an analysis of potential noise impacts and to propose mitigation.
- 3.2. Maintain the noise ordinance to address various noise sources, and periodically update it for consistency with industry standards and new environmental health data.

5. Protect surface water quality and quantity from significant degradation as required by state and federal law.

- 5.4. Monitor surface water quality discharges to provide a sufficient data base for determining if water quality is being degraded.
- 5.5. Work with other agencies to educate the general public and developers on the potential surface water quality degradation resulting from development and human activity and how to reduce impacts.
- 5.6. Maintain consistency with local, regional and federal water quality protection plans and permits.

6. Protect groundwater quality within the aquifer recharge area from substantial degradation.

- 6.1. Implement regulations to prevent groundwater quality degradation.

9. Reduce greenhouse gas emissions and encourage energy efficiency.

10. Establish regulations and processes to allow and streamline permits for new energy technologies, such as battery storage facilities, small- and large-scale solar facilities, and similar alternative

technologies.

- 10.1 Explore ways to streamline and reduce costs in the permitting process for residential-scale solar facilities.

CLIMATE CHANGE AND RESILIENCY

Environment: 1.10, 2.1, 2.5, 8.3, 8.3.1, 8.3.2, 9, 9.1, 9.2, 9.2.1, 9.2.2, 9.3, 9.4, 9.5, 10.1

Key topics: tree planting and carbon sequestration; alternative energy technologies; alternative modes of transportation; alternative fuels and electric vehicles; energy conservation and efficiency; recycled materials

CONCLUSION: The proposed amendments would implement the Comprehensive Plan policies consistent with policies that advocate for regulations that support “new energy technologies, such as battery storage facilities” (Environment Element, Policy 10.1) while at the same time safeguarding the environment and adjacent land uses from adverse impacts such as noise, potential surface water contamination and air pollution. The Utility Element speaks to developing “alternative energy utilities” and “improvements to electric facilities” that are “safe, adequate and efficient” (Goal 1, Goal 2, and Policy 2.1). The Goal 7 of the Utility Element also addresses the implementation of “new technologies that balance benefits for the city, health, safety, aesthetics, protection of the environment”. The proposed zoning code text amendment, through reliance on existing technical codes such as the building code, fire codes, and state law provides assurances and protections for safety, health and the environment. The Land Use Element contains policy regarding compatibility between uses and “preventing adverse impacts” that “strive to balance residential, commercial, industrial...uses” (Policy 1.3). The proposed regulations have a tiered approach that places smaller BESS in residential areas, requires conditional permits or administrative permits that focus on reducing impacts and include limited size of facilities, screening requirements, and retains utility-scale BESS in industrial areas that are at least 1,000 feet from residential zones. Finally, the technical codes require decommissioning plans and financial guarantees in order to provide means for clean-up if a failure does occur. Overall, the ordinance is consistent with the Comprehensive Plan policies addressing the need for alternative energy sources, efficiencies and new technologies as well as zoning compatibility, environmental protections, and mitigation of impacts, especially to residential areas.

IV. SEPA ENVIRONMENTAL REVIEW

The State Environmental Policy Act (SEPA) analysis of the proposed amendment has been completed. A Determination of Non-Significance was issued on August 21, 2026.

V. PUBLIC & AGENCY COMMENT

No public or agency comments at this time.

VI. STAFF RECOMMENDATION

Hold the public hearing and discuss.

VII. PLANNING COMMISSION RECOMMENDATION

Planning Commission recommendation pending public hearing on September 3, 2026.

V. EXHIBITS

- A. Draft Ordinance
- B. Reference Material

DRAFT

ORDINANCE NO. XXXX

CITY OF SUMNER, WASHINGTON

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, REGARDING BATTERY ENERGY STORAGE SYSTEMS (BESS), INCLUDING TIER CLASSIFICATIONS OF RESIDENTIAL, MID-SCALE AND UTILITY-SCALE BESS, NEW LAND USE REGULATIONS, AND DEVELOPMENT STANDARDS; CREATING A NEW CHAPTER 18.33 IN THE SUMNER MUNICIPAL CODE (SMC), BATTERY ENERGY STORAGE STYSTEMS; AMENDING SMC SECTION 18.04.0163 BATTERY ENERGY STORAGE SYSTEM; AMENDING SMC SECTION 18.12.080 PERFORMANCE STANDARDS FOR LDR; AMENDING SMC SECTION 18.14.030 ACCESSORY BUILDINGS AND USES; AMENDING SMC SECTION 18.14.080 PERFORMANCE STANDARDS FOR MDR/HDR; AMENDING SMC SECTION 18.16.020 PRINCIPAL AND CONDITIONAL USES; AMENDING SMC SECTION 18.16.080 PERFORMANCE STANDARDS; AMENDING SMC SECTION 18.18.020 PRINCIPAL, ADMINISTRATIVE, AND CONDITIONAL USE; AMENDING SMC SECTION 18.18.060 PERFORMANCE STANDARDS; AMENDING SMC SECTION 18.29.030 PRINCIPAL USES; AMENDING SMC SECTION 18.29.035 ACCESSORY ALLOWED USES IN THE TOWN CENTER; AMENDING SMC SECTION 18.29.040 CONDITIONAL USES; AMENDING SMC SECTION 18.30.030 PRINCIPAL AND CONDITIONAL USES; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Washington State has accelerated its transition to a clean energy future, and Battery Energy Storage Systems (BESS) have emerged as a foundational element of the modern energy grid. These systems play a pivotal role in balancing supply and demand, stabilizing intermittent renewable generation, and enhancing grid resilience during peak demand or extreme weather events; and

WHEREAS, technological progress and innovation have not only accelerated the development of BESS but have also led to significant improvements in their efficiency, safety, and scalability—marking a major leap forward in renewable energy storage solutions; and

WHEREAS, the City of Sumner, in 2024, proactively responded to BESS as a component of the clean energy transition by adopting Zoning Code amendments defining large, utility-scale BESS as facilities capable of storing 200 megawatt hour (MWh) or more of electrical energy with such facilities subject to review and approval through a Conditional Use Permit process; and

WHEREAS, the City intends to support this evolving energy landscape by modernizing development regulations to accommodate appropriately mitigated small- and mid-scale BESS within residential, commercial, and industrial zones. Small- and mid-scale BESS have the potential to enable households, businesses, and communities to increase energy independence, improve reliability during grid disruptions, reduce electricity costs through time-shifting of energy use, and contribute to broader decarbonization goals; and

WHEREAS, the proposed Zoning Code amendments in this ordinance were forwarded on August 28, 2026, to the Washington State Department of Commerce for the agency’s 60-day review per the Washington State Growth Management Act (GMA), chapter 36.70A RCW; and

WHEREAS, after holding study sessions on August 8, 2026 regarding the amendments proposed by this ordinance, the Planning Commission held a public hearing on September 3, 2026 and on **date XXX** recommended that the City Council adopt the amendments; and

WHEREAS, the City Council reviewed and discussed the proposed amendments at a Study Session on **XXX**; and

WHEREAS, the City Council finds that the relocation of BESS performance standards into a standalone chapter will improve clarity and consistency without reducing or eliminating substantive public health, safety, or environmental protections; 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, and are within the best interest of the public health, safety, and welfare of the City of Sumner.

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

Section 1. Amendatory Section. Sumner Municipal Code section 18.04.0163, “Battery Energy Storage Systems,” is hereby amended as follows:

18.04.0163 Battery Energy Storage Systems (BESS)

“Battery energy storage systems” or “BESS” is defined as provided in SMC 18.33.030 ~~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 2. Amendatory Section. Sumner Municipal Code section 18.12.080, “Performance standards,” is hereby amended as follows:

18.12.080 Performance standards for LDR.

The following special requirements and performance standards shall apply to properties located in the LDR districts:

- A. Exterior Mechanical Devices.** Air conditioners, heating, cooling, ventilating equipment, pumps and heaters and all other mechanical devices, including accessory BESS devices, shall be screened from surrounding properties and streets and shall be so operated that they do not disturb the peace quiet and comfort of the neighboring residents. Screening applies to ground-mounted Apparatus needed for the operation of active or passive solar energy systems, however solar panels need not be screened pursuant to this subsection.

[...]

Section 3. Amendatory Section. Sumner Municipal Code section 18.14.030, “Accessory buildings and uses,” is hereby amended as follows:

18.14.030 Accessory buildings and uses

Accessory buildings and uses permitted in the MDR and HDR districts are those uses customarily incidental or appurtenant to the principal permitted uses.

- A. Adult day care home facilities which:

[...]

- G. Wireless communication facilities subject to the standards of chapter 18.37 SMC;

- H. Accessory dwelling units, subject to 18.12.030(A).

- I. BESS, subject to requirements set forth in chapter 18.33 SMC.

Section 4. Amendatory Section. Sumner Municipal Code section 18.14.080, “Performance Standards,” is hereby amended as follows:

18.14.080 Performance standards for MDR/HDR.

The following special requirements and performance standards shall apply to properties located in the commercial districts:

- A. Exterior Mechanical Devices.** Air conditioners, heating, cooling, ventilating equipment, swimming pool pumps, and heaters and all other mechanical devices, including accessory BESS devices, shall be screened from surrounding properties and streets and shall be so operated that they do not disturb the peace, quiet and comfort of neighboring residents. Screening applies to ground-mounted apparatus needed for the operation of active or

passive solar energy systems, however solar panels need not be screened pursuant to this subsection.

[...]

Section 5. Amendatory Section. Sumner Municipal Code section 18.16.020, “Principal and Conditional Uses,” is hereby amended as follows:

18.16.020 Principal and Conditional Uses.

The following table details permitted and conditionally permitted uses in the commercial districts. Where a “P” is indicated, the respective use in the same row is permitted in the zone classification in the same column. Where an “A” is indicated, the respective use in the same row is allowed through an administrative use permit per SMC 18.48.020(A). 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 the conditional uses. Where a “PRD” is indicated, the respective use in the same row is permitted through a planned residential development. A planned residential development shall be required and in full force and effect in order to establish the use.

		NC	GC	IC
1.	Accessory parks and recreation facilities for use by on-site employees	P	P	P
2.	Adult entertainment businesses subject to chapter <u>18.38</u> SMC	–	P	P
	[...]			
39.	Public facilities	CUP	CUP	CUP
	[...]			
57.	Utility yard	CUP	CUP	–
	[...]			
75.	Essential public facilities not otherwise listed above	CUP	CUP	CUP
76.	Community gardens	P	P	P
<u>77.</u>	<u>Battery energy storage systems (BESS)</u>	<u>SMC 18.33</u>	<u>SMC 18.33</u>	<u>SMC 18.33</u>

¹Not involving operations or equipment that would cause excess noise, vibration, light, glare, or odor.
[...]

Section 6. Amendatory Section. Sumner Municipal Code section 18.16.080, “Performance Standards,” is hereby amended as follows:

18.16.080 Performance standards.

The following special requirements and performance standards shall apply to properties located in the commercial districts:

A. Exterior Mechanical Devices. Air conditioners, heating, cooling, ventilating equipment, pumps and heaters and all other mechanical devices, including BESS devices, shall be screened from surrounding properties and streets and shall be so operated that they do not disturb the peace, quiet and comfort of neighboring residents. Screening applies to ground-mounted Apparatus needed for the operation of active or passive solar energy systems, however solar panels need not be screened pursuant to this subsection.

[...]

Section 7. Amendatory Section. Sumner Municipal Code section 18.18.020, “Principal, Administrative, and Conditional Uses,” is hereby amended as follows:

		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 distribution ⁷ and processing business	P	P	P
	[...]			
19.	Food manufacturing, processing or package plants, excluding slaughtering facilities	CUP ¹	P	CUP ¹ /P
	[...]			
69.	Permanent supportive housing ⁸	CUP	CUP	--
	[...]			
72.	Essential public facilities not otherwise listed above	CUP	CUP	CUP
73.	Battery Energy Storage Systems (BESS) ⁹	See <u>SMC</u>	See <u>SMC</u>	See SMC <u>18.33 CUP¹</u>

	M-1	M-2	MICO (M-1/M-2)
	<u>18.33</u> CUP ¹	<u>18.33</u> CUP ¹	

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

⁸Subject to performance standards in SMC 18.18.060(W).

⁹~~Subject to performance standards in SMC 18.18.060(X)~~

Section 8. Amendatory Section. Sumner Municipal Code section 18.18.060, “Performance Standards,” is hereby amended as follows:

18.18.060 Performance Standards.

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

A. Exterior Mechanical Devices. In the M-1 zones, air conditioners, heating, cooling, ventilating equipment, pumps and heaters and all other mechanical devices, including BESS devices, shall be screened from surrounding properties and streets and shall be so operated that they do not disturb the peace, quiet and comfort of neighboring residents. Screening applies to ground-mounted Apparatus needed for the operation of active or passive solar energy systems, however solar panels need not be screened pursuant to this subsection.

[...]

X. Battery Energy Storage Systems(BESS)Facilities. Performance standards for BESS shall be permitted and regulated in accordance with chapter 18.33 SMC.

- ~~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 the boundaries of the site.~~

- ~~6. Building and equipment surfaces shall have cladding or coating that provides a durable and nonglare 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 9. Amendatory Section. Sumner Municipal Code section 18.29.030, “Principal Use,” is hereby amended as follows:

18.29.030. Principal uses.

The following are permitted uses in the Town Center districts, except in the IDEA overlay (see subsection Y of this section):

[...]

Z. Battery Energy Storage Systems (BESS) subject to chapter 18.33 SMC.

Section 10. Amendatory Section. Sumner Municipal Code section 18.29.035, “Accessory Allowed Uses in the Town Center,” is hereby amended as follows:

18.29.035. Accessory allowed uses in the Town Center.

[...]

B. Battery Energy Storage Systems (BESS) subject to chapter 18.33 SMC.

Section 11. Amendatory Section. Sumner Municipal Code section 18.29.040, “Conditional Uses,” is hereby amended as follows:

18.29.040. Conditional Uses.

Conditional uses allowed in the town center districts area are as follows:

[...]

V. Battery Energy Storage Systems (BESS) subject to chapter 18.33 SMC.

Section 12. Amendatory Section. Sumner Municipal Code section 18.30.030, “Principal and Conditional Uses,” is hereby amended as follows:

18.30.030. Principal and conditional uses.

- A. Residential Districts. Permitted principal, accessory, and conditional uses in the ESUV shall be the same as those specified in the underlying zoning districts for the LDR, MDR, and HDR districts, except that:
1. Apartments and multifamily residential uses are allowed as a permitted principal use in the ESUV/MDR and ESUV/HDR districts;
 2. Senior housing may be allowed only through a planned residential development, pursuant to chapter 18.24 SMC;
 3. Professional offices and services shall not be allowed in the ESUV/MDR or ESUV/HDR district as a conditional use;
 4. Accessory parking for retail and eating and drinking establishments within the NC/ESUV zone may be allowed within the adjacent ESUV/MDR zone; provided, that the portion of the accessory parking within the ESUV/MDR zone is located no more than 100 feet from said use and is no more than 50 percent of the total required parking stalls for said use; and
 5. Landscaping, pedestrian amenities and open space as required for a retail and eating and drinking establishments within the NC/ESUV zone may be allowed within the adjacent ESUV/MDR up to 50 percent of the total required area.
 6. Battery energy storage systems (BESS), subject to chapter 18.33 SMC.
- B. Commercial Districts. Those uses listed below shall govern the uses permitted and conditionally permitted where the base designations GC and NC are combined with the ESUV overlay district. Where a "P" is indicated, the respective use in the same row is permitted in the zone classification in the same column. 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 the conditional uses. Where a "PRD" is indicated, the respective use in the same row is permitted through a planned residential development. A planned residential development shall be required and in full force and effect in order to establish the use.

		NC/ESUV	GC/ESUV
1.	Accessory parks and recreation facilities for use by on-site employees or residents	P	P
[...]			
<u>58.</u>	<u>Battery energy storage systems (BESS)</u>	<u>See SMC 18.33</u>	<u>See SMC 18.33</u>

¹Drive-through businesses and drive-through espresso/coffee businesses within the area defined as East Main Street in SMC § 18.43.020 and in the GC district within the Town Center Plan area shall meet the provisions of SMC § 18.16.080(T).

²Artist studios shall not exceed 3,000 square feet in gross floor area not counting the retail component.

³Health and fitness clubs shall not exceed 3,000 square feet in gross floor area.

⁴Theaters and other enclosed commercial recreation establishments shall not exceed 10,000 square feet in gross floor area.

⁵Accessory uses to an existing mineral use may be allowed as follows:

- a. Equipment maintenance, repair and storage;
- b. Mineral conveying, sorting, screening, washing, storage, crushing, and loading;
- c. On-site mineral processing, including concrete batching, concrete recycling and other mineral recycling, but does not include asphalt batching;
- d. Administrative offices and sales of mineral, soil and compost products;
- e. Light manufacturing of precast concrete products;
- f. The operation shall not create:
 - i. Noise in violation of chapter 8.14 SMC;
 - ii. Light, glare or vibration in any amount determined to disturb the peace, quiet, and comfort of neighboring residents, business or properties;
- g. All mechanical devices shall be screened from surrounding properties and public streets and shall be so operated that they do not disturb the peace, quiet and comfort of neighboring residents;

- h. Consistent with the city's comprehensive plan maps, the property shall continue to be designated a mineral resource land pursuant to chapter 16.44 SMC.

⁶See performance standards in SMC § 18.30.090(G).

⁷See performance standards in SMC § 18.30.090(H).

Section 13. New Chapter. Sumner Municipal Code Title 18 is hereby amended to include a new chapter 18.33 to be titled “Battery Energy Storage Systems” as follows:

Chapter 18.33 Battery Energy Storage Systems

Article I General Provisions

18.33.010 Purpose.

18.33.020 Applicability.

18.33.030 Definitions.

18.33.040 General provisions.

18.33.050 BESS Tier Classifications.

Article II Regulations by District

18.33.060 BESS Regulation by District

18.33.070 Permitting for Tier-1 BESS Residential Accessory Systems

18.33.080 Permitting for Tier-2 BESS Mid-Scale Systems

18.33.090 Permitting for Tier-3 BESS Utility-Scale Systems

18.33.100 Transmission Interconnection

Article III Development and Operational Standards

18.33.110 Development Standards

18.33.120 Safety & Fire Compliance or Response

18.33.130 Commissioning Plan

18.33.140 Decommissioning Plan

18.33.150 Ownership Changes

Article I General Provisions

18.33.010 Purpose.

The purposes of this chapter are to:

- A. Provide a regulatory framework for the designation of properties suitable for the location, construction and operation of battery energy storage systems (BESS);
- B. Establish a local policy on tiered BESS based on standards proportional to system size and risk;
- C. Protect public health and safety related to BESS;
- D. Ensure compatible land uses in the vicinity of the areas where BESS are located;
- E. Mitigate the impacts of BESS on environmental resources such as critical areas, wildlife, surface water, and other protected resources;
- F. Minimize potential adverse visual, aesthetic, and noise impacts of BESS facilities;
- G. Encourage the location of new large-scale BESS to be co-located on existing substations and to help minimize the total distribution of utility-scale BESS and its impact of such structures throughout the community; and
- H. Accommodate BESS development to improve electrical grid stability, resiliency of the local Sumner economy to the impacts of climate change, and reduce the City's carbon emissions where practicable.

18.33.020 Applicability.

- A. The requirements of this chapter shall apply to all BESS permitted, installed, or modified in the city of Sumner after the effective date of this ordinance, excluding general maintenance and repair.
- B. BESS constructed or installed prior to the effective date of this ordinance shall not be required to meet the requirements of this chapter, except where applicable in subsection (C) of this section.
- C. Modifications to, retrofits, replacements, refurbishments, or recommissioning of an existing BESS that is intended to increase the total energy storage capacity, designed discharge duration, power rating, or similar enhancements for the BESS shall be subject to the requirements of this chapter.

18.33.030 Definitions.

Defined terms within title 15 and chapter 18.04 SMC shall apply to this chapter 18.33 SMC unless the context clearly requires otherwise. In the event terms defined in title 15 and chapter 18.04 SMC conflict with the definitions in this chapter 18.33 SMC, the definitions in this chapter 18.33 SMC control the use within this chapter.

“Aggregate Footprint” means the total ground-level area occupied by all buildings, structures, and outdoor mechanical, electrical, and utility equipment on a zoning lot, whether roofed or unroofed, measured by the outermost perimeter at grade.

“Battery/Batteries” means a single cell or a group of cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this chapter, batteries utilized in consumer products are excluded from these requirements.

“Battery energy storage system (BESS)” means one or more commercially available electrochemical devices, designed to store energy for future electrical supply to a building or the electric grid, excluding a stand-alone 12-volt car battery or an electric motor vehicle, ranging in capacity from residential to utility scale for public or private application. By way of example and not limitation, such systems may be used to provide standby or emergency power, store excess electricity from intermittent renewables sources like wind and solar, provide electrical load shedding or sharing, or other similar capabilities.

“Battery Management System (BMS)” means an electronic system that protects energy storage systems from operating outside their safe operating parameters and disconnects electrical power to the energy storage system or places it in a safe condition or other protective status if potentially hazardous temperatures or other adverse conditions are detected.

“Cell” means a basic electrochemical unit, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy.

“Container/BESS module” means a UL-listed and fire-rated module used to store BESS, excluding shipping, cargo, and storage containers as defined in SMC 18.04.0962.

“Commissioning Plan” means a systematic process that provides documented confirmation that a battery energy storage system functions according to the intended design criteria for the system and complies with applicable IBC, IFC, NFPA, requirements and state and federal law.

“Decommissioning” means a systematic process that provides documentation and procedures applicable for a battery energy storage system to be safely de-energized, disassembled, readied for shipment or storage, and removed from the premises in accordance with applicable code requirements.

“Energy Storage” means any technology capable of absorbing electricity, storing the electricity for a period of time, and redelivering that electricity.

“IBC” means the International Building Code as adopted per SMC 15.08.010.

“IFC” means the International Fire Code, as adopted per SMC 15.24.010.

“IRC” means the International Residential Code as adopted per SMC 15.32.010.

“NFPA” means the National Fire Protection Association.

“Segments” means a group of battery energy storage units limited to certain kilo-watt hours (kWh) per the IFC, unless the limit is specified by this chapter.

“Spacing Minimum” is the minimum distance between energy storage segments, walls, and landscape buffers to prevent propagation in the event of BESS failure.

“UL” means Underwriters Laboratories, a global safety certification organization, that is known for testing and certifying the safety of products, particularly in the electronics and construction industries.

18.33.040 General provisions.

- A. **Adoption by reference.** WAC 51-54A-1207, applicable National Fire Protection Association (NFPA) 855 standards, International Building Code, International Residential Code, National Electric Code, International Fire Code as currently exists or hereafter amended, are hereby adopted and incorporated in full by reference.
- B. BESS facilities shall not be considered nor regulated as major or minor utility facilities as defined in chapter 18.04 SMC.

18.33.050 BESS Tier Classification.

A BESS may be operated as an accessory or principal use, may be configured for on-site energy consumption or grid-connected operation, and shall be classified as Tier-1, Tier-2, or Tier-3 based on storage capacity and physical characteristics, as provided in this chapter.

- A. Tier-1 BESS means a small-scale battery energy storage system up to, but not exceeding, 80 kWh of total system capacity, intended as accessory to residential uses and designed to store electricity for on-site residential consumption.
- B. Tier-2 BESS means a mid-scale battery energy storage system with an energy storage capacity of more than 80 kWh up to, but not exceeding, five (5) megawatt-hour (MWh).
- C. Tier-3 BESS means a utility-scale battery energy storage system designed primarily for a utility provider having an aggregate energy capacity greater than 5 MWh, up to, but not exceeding 200MW/800MWh of energy storage.

Article II Regulations by District

18.33.060 BESS Regulations by District.

- A. BESS shall be permitted in zoning districts in a manner that is proportional to system scale, operational characteristics, and potential land use impacts. The review authority and approval process shall escalate with system size and intensity to ensure compatibility with surrounding uses and protection of public health and safety.

B. Table 1 — Battery Energy Storage System Permitting Matrix

KEY: *P*=permitted; *AUP*=Administrative use Permit; *CUP*=Conditional use permit; — = not permitted

Zoning District	Tier-1 Residential	Tier-2 Mid-scale	Tier-3 Utility-Scale
Low Density Residential (All)	P Accessory	CUP if accessory to an existing Conditional Use (e.g. substation, school)	—
Mixed Use/ Multifamily: TC, MDR & HDR, GC, NC, and GC/ESUV, NC/ESUV	P Accessory	AUP	—
Commercial: IC	P Accessory	P Accessory/Principal	—
Industrial	P Accessory	P Accessory/Principal	CUP Principal

- C. **Prohibited Districts.** Unless otherwise provided under this chapter, BESS are prohibited in the following districts and land uses in the interest of public health and safety and protection of the environment and other sensitive areas:

1. Resource Protection;
2. Residential Protection;
3. Conservation easements;

4. Flood hazard areas as set forth in SMC 15.52; and
5. Type I and Type II landslide hazard areas as defined under SMC 16.40.

18.33.070 Permitting for Tier-1 BESS Residential Accessory Systems.

- A. **Permitted Districts.** Tier-1 BESS may be permitted as an accessory use to a legally established residential dwelling unit where specified as an allowed use in all zoning districts, except those listed in SMC 18.33.060(C).
- B. **Review Authority.** Tier-1 systems are permitted outright, subject to applicable building, electrical, and fire code review. Persons wishing to locate a BESS at a residence must submit a residential BESS permit application and be granted a residential BESS permit. Residential BESS permits will not be issued to applicants that fail to fully and accurately complete the permit application, or for locations or uses that fail to meet the requirements of this chapter.
- C. **Limitations.** Tier-1 systems shall not be operated as a principal use, utility facility, or for off-site commercial energy sales.

18.33.080 Permitting for Tier-2 BESS Mid-Scale Systems.

A. Permitted Districts.

1. Tier-2 BESS may be permitted only as a conditional use in Low Density Residential (LDR) zoning districts when co-located with an existing conditional use.
2. Tier-2 BESS may be permitted only as an administrative use in the following mixed use and residential zoning districts: MDR, HDR, Town Center, GC, NC, GC/ESUV and NC/ESUV.
3. Tier-2 BESS may be permitted as a principal use or accessory use in:
 - a. IC zoning district
 - b. Industrial zoning districts M-1 and M-2

B. Review Authority.

1. Commercial BESS permit applications shall be submitted on forms provided by the Development Services director. Commercial BESS permits will not be issued to applicants that fail to fully and accurately complete the commercial BESS permit application, or for locations or uses that fail to meet the requirements of this chapter.

2. Tier-2 BESS shall be subject to administrative use permit and conditional use permit requirements in accordance with chapters 18.48 and 18.56 SMC.

18.33.090 Permitting for Tier-3 BESS Utility-Scale Systems.

A. Permitted Districts. Tier-3 BESS may be permitted as a conditional use in:

1. Industrial zoning districts: M-1 and M-2

B. Review Authority.

1. Commercial BESS permit applications shall be submitted on forms provided by the Development Services director. Commercial BESS permits will not be issued to applicants that fail to fully and accurately complete the commercial BESS permit application, or for locations or uses that fail to meet the requirements of this chapter.
2. Tier-3 BESS shall be subject to conditional use permit requirements in accordance with chapters 18.48 and 18.56 SMC.

C. Prohibited Locations. Tier-3 BESS are industrial in scale and have potential noise, aesthetic and hazards such that they shall be prohibited in all residential districts and within 1,000 feet of the following zoning districts: LDR, MDR, HDR, Town Center, GC, NC, GC/ESUV and NC/ESUV.

D. Undue Burden Evaluation. Applicants for a proposed Tier-3 BESS shall evaluate the overall distribution of other utility-scale BESS facilities within the county and city and demonstrate how the proposed facility avoids placing an undue burden on the city over other cities or on any one neighborhood within the city.

18.33.100 Transmission Interconnection

BESS requiring new transmission infrastructure within public rights-of-way shall obtain a franchise and agreement in accordance with chapter 12.90 SMC and comply with all applicable utility coordination requirements. Transmission infrastructure shall comply with the provisions of Title 18 SMC pertaining to a “major utility facility” as defined in chapter 18.04 SMC.

Article III Development and Operational Standards

18.33.110 Development Standards.

A. Applicability.

The development standards of this section shall apply to all battery energy storage systems (BESS), except Tier-1 systems located entirely within a residential structure, which shall be regulated by applicable building and fire codes.

Where a conflict exists between this section and the underlying zoning district development standards, the provisions of this chapter 18.33 SMC shall control.

B. Minimum Lot Size.

1. Tier-1 BESS: No minimum lot size shall be required beyond what is applicable to the underlying residential use.
2. Tier-2 BESS: No additional minimum lot size shall be required.
3. Tier-3 BESS: Shall be located on a lot containing not less than twenty thousand (20,000) square feet in area, except in the case where the BESS is co-located within an existing electrical substation and where all other development standards can be satisfied.

C. Setbacks:

1. Tier-1 BESS: Shall have minimum setbacks equal to those within the applicable zoning district.
2. Tier-2 BESS: Shall have a minimum setback of 15 feet on all sides from property lines.
3. Tier-3 BESS: Shall have a minimum setback of 30 feet on all sides from property lines.

D. Equipment Height.

1. Equipment, containers, cabinets, and modules, shall not exceed:
 - a. Tier-1 BESS: Subject to the IRC/IFC
 - b. Tier-2 BESS: 15 feet
 - c. Tier-3 BESS: 20 feet
2. Height shall be measured from finished grade to the highest point of the equipment, containers, cabinets, or modules.
3. Taller equipment may be approved through a special height exception per chapter 18.50 SMC where necessary for grid interconnection or safety compliance.
4. Equipment height limits do not apply to transmission poles or towers, or other structures used to hold or suspend transmission lines; or to antennas, staircases, handrails, and other

similar structures used to access or service of the equipment, containers, cabinets or modules.

- E. **Lot Coverage.** Battery energy storage equipment shall be included in lot coverage calculations where required by the underlying zoning district, except where located within an existing substation. Lot coverage shall be measured at the foundation line of any structures or bases constructed to support cabinets or modules.

F. **Fencing and Security.**

1. All Tier-3 BESS shall be enclosed by a security fence at least eight (8) feet in height.
2. Fencing shall comply with SMC 18.18.060(S) and include the following standards:
 - a. Anti-climb design;
 - b. Locked access gates; and
 - c. Knox Box or emergency access system where required by the fire authority.
3. Fencing shall be screened in accordance with subsection (G) where adjacent to non-industrial zones.

G. **Screening and Landscaping.**

1. All Tier-3 shall have a landscaped buffer equal to the required 30-foot setback width or the setback width of the underlying zone, whichever is greater, and shall be landscaped consistent with SMC 18.16.080(T)(4) where adjacent to residential zones.
2. Landscape screening can be counted towards onsite landscaping requirements. Landscape site plans shall be submitted per SMC 18.41.
3. Berms. Earth berms may be required to mitigate visual impacts for Tier-3 sites that are greater than 1 acre in area unless determined to be infeasible due to drainage, access, or utility conflicts. Berms used as landscape buffers shall meet standards consistent with SMC 18.18.060(C)(2)(d)(iii).

- H. **Lighting.** All exterior lighting shall comply with SMC 18.18.060(D).

I. **Access and Circulation.**

1. Sites developed for Tier-3 BESS shall provide fire apparatus access roads in accordance with fire code requirements.
2. Service drive aisles shall be constructed consistent with Sumner's Development Standards and Specification to support heavy equipment delivery and emergency response vehicles.
3. Access shall be gated and secured where required for public safety.

- J. **Noise.** The one-hour average noise generated from the battery energy storage systems, components, and associated ancillary equipment shall not exceed noise levels established in SMC 8.14.050, as measured at the outside wall of any non-participating residence or occupied building related to a sensitive use such as elementary or secondary schools; playgrounds; childcare centers; nursing homes; senior centers; community centers; and food banks. Applicants may submit equipment and component manufacturers noise ratings to demonstrate compliance. Applicants may be required to provide Operating Sound Pressure Level measurements from a reasonable number of sampled locations at the perimeter of the battery energy storage system to demonstrate compliance with this standard when necessary, advisable, or appropriate.
- K. **Utility Lines and Electrical Circuitry.** All on-site utility lines shall be placed underground to the extent reasonably practicable and technologically feasible except for any transmission poles serving the site with new easements and right-of-way or from existing public right-of-way.
- L. **Nonglare Surfacing.** All building and equipment surfaces associated with BESS shall have cladding or coating that provides a durable and nonglare surface, such as galvanized metal or powder-coated paint.

18.33.120 Safety & Fire Compliance or Response.

- A. An emergency management plan shall be developed for BESS as required by the NFPA 855 and WAC 51-54A 1207 and in coordination with the local fire district. The fire district shall approve the fire safety plan prior to permit issuance.
- B. **Cost Recovery for Emergency Response.**
 - 1. **Recuperation of Costs.** In the event of an emergency, incident, or response related to Tier-3 BESS, the owner or designated agent shall be responsible for reimbursing all reasonable costs incurred by local fire protection districts and other emergency response agencies that respond to the incident.
 - 2. **Eligible Costs.** Eligible costs include, but are not limited to, personnel time, equipment used, materials, hazardous material containment or cleanup, and any contracted emergency services required to mitigate or resolve the incident.
 - 3. **Billing and Payment.** The responding fire district or emergency agency shall provide an itemized invoice to the BESS owner or designated agent within sixty (60) days of the incident. Payment in full shall be remitted within thirty (30) days of receipt unless otherwise agreed in writing by both parties.
 - 4. **Pre-incident Agreements.** Prior to issuance of building or operational permits, the BESS project owner or designated agent shall enter into a written agreement with the local fire

protection district specifying cost recovery procedures, emergency coordination protocols, and training support provisions.

18.33.130 Commissioning Plan.

The applicant shall submit a commissioning plan for Tier-2 and Tier-3 BESS prior to the BESS being placed in service in accordance with WAC 51-54A-1207.2.1 for all newly installed BESS and existing BESS that have been retrofitted, replaced, or previously decommissioned and are returning to service.

18.33.140 Decommissioning Plan.

A. **Decommissioning Plan.** The applicant shall submit a decommissioning plan, to be implemented upon abandonment and/or in conjunction with removal from the facility. In addition to the requirements of WAC 51-54A 1207.2 (12) the decommissioning plan shall include, at a minimum, the following:

1. the anticipated life of the battery energy storage system;
2. the estimated decommissioning costs and how said estimate was determined;
3. the method of ensuring that funds will be available for decommissioning and restoration of the site; and
4. the method by which the decommissioning cost will be kept current.

B. Financial Responsibility.

1. For Tier-3 BESS, the applicant shall demonstrate financial responsibility for all costs associated with decommissioning the site, public liability, and environmental risks. At a minimum the applicant shall provide a financial guarantee that is at least five million dollars (\$5,000,000). All costs of the financial security shall be borne by the applicant.
2. Minimum financial responsibility may be established by one or more of the following criteria:
 - a. evidence of insurance;
 - b. a letter of credit from a Washington licensed-financial institution;
 - c. surety bonds; or
 - d. other financial instruments deemed acceptable by the department.

18.33.150 Ownership Changes.

If the owner of a Tier-3 BESS changes or the owner of the real property a Tier-3 BESS is located on changes, the Tier-3 BESS permit shall remain in effect, provided that the successor owner or operator assumes in writing all obligations of the permit and decommissioning plan. A new owner or operator of the BESS shall notify the Building Official of such change in ownership or operator

in writing within 30 days of such ownership change. All local approvals for the BESS will be void if a new owner or operator fails to provide written notification to the Building Official in the required timeframe. Reinstatement of a void permit will be subject to the same review and approval processes for new battery energy storage systems.

Section 14. 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 off 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 15. Effective Date. This ordinance shall be effective five (5) days from and after its passage approval and publication as provided by law.

Section 16. 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 number; or references to other local, state, or federal laws, codes, rules, or regulations.

Section 17. Implantation. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

Passed by the City Council and approved by the Mayor the of the City of Sumner, Washington, at a regular meeting thereof this XX day of XX, 202X.

Mayor Carla S. Bowman

ATTEST:

APPROVED AS TO FORM:

Michelle Converse, CMC, City Clerk

Andrea Marquez, City Attorney

Date Adopted: XXX XX, 2026
Date of Publication: XX XX, 2026 Online / XX ZZ, 2025
Effective Date: XX, XX, 2026



MEMORANDUM

DATE: August 27, 2026
TO: Planning Commission
FROM: Ryan Windish, Community & Economic Development Director
CC: Katie Baker, Planning Manager
RE: Reference Material – Battery Energy Storage Systems 2.0

The following is a list of resources that provides background information on the health and environmental risks as it relates to battery energy storage systems (BESS) for small- and mid-scale systems. This is not a complete list, but does provide information as it pertains to the environmental and health risks associated with the failure, fires and thermal runaway events and demonstrates that the technology continues to advance and the number of failures continues to decline as more BESS are brought online.

While this is not a comprehensive list, and information can be found from numerous sources on the internet, this list utilizes government related websites and information.

Environmental Protection Agency:

<https://www.epa.gov/electronics-batteries-management/battery-energy-storage-systems-main-considerations-safe>

Facts About Recent Fires:

<https://www.epa.gov/electronics-batteries-management/battery-energy-storage-systems-main-considerations-safe#facts-about-recent-fires>

National Fire Protection Association

<https://www.nfpa.org/forms/energy-storage-systems-safety-fact-sheet>

City of Escondido – Air Quality Report for BESS Fire in September 2024

[SDGE-Battery-Fire-Air-Quality-Report-PDF](#)

Moss Landing BESS Fire – 2025

https://response.epa.gov/site/site_profile.aspx?site_id=16792

Numerous documents on this website pertaining to air quality and surface water quality as it pertains to this large BESS fire in Moss Landing, CA.