

**FIRCREST CITY COUNCIL
SPECIAL MEETING AGENDA**

**MONDAY, SEPTEMBER 18, 2023
7:00 P.M.**

**COUNCIL CHAMBERS
FIRCREST CITY HALL, 115 RAMSDELL STREET**

Pg. #

1. CALL TO ORDER	
2. PLEDGE OF ALLEGIANCE	
3. ROLL CALL	
4. INTERIM POLICE CHIEF LATOUR FAREWELL	
5. COMPREHENSIVE PLAN UPDATE DISCUSSION	
A. Executive Summary	2
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D. Community Discussion Questions	32
E. Additional Information	
• New State Housing Laws Memo	33
▪ Exhibit A – Middle Housing in Washington Fact Sheet	45
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6. ADJOURNMENT	

Join the Zoom *Dial-in Information: 1-253-215-8782 Webinar ID: 885 3802 7612 Password: 771679*

FIRCREST COMPREHENSIVE PLAN UPDATE 9/18/2023

The purpose of tonight's (9/18) meeting is to UPDATE the City Council and Community on the Comprehensive Plan WORK TO DATE, THE NEW STATE LAWS ON "MIDDLE HOUSING," THE FALL AND 2024 PLANNING WORK PLAN, and to receive COMMUNITY COMMENT on next steps.

We'll start with an EXECUTIVE SUMMARY of the LEGAL framework, recent changes to STATE LAW regarding Comp Plans, and the CODE tools and regulations available to us. Next, we'll report on the COMMUNITY SURVEY AND VISION. Our Planning Consultants BHC will then provide an update on the WORK TO DATE, HOUSING DATA, and upcoming FALL/2024 WORK PLAN. COMMUNITY DISCUSSION will then follow these updates.

EXECUTIVE SUMMARY OF LEGAL MANDATES AND REGULATORY "TOOLS" TO KEEP "FIRCREST FIRCREST". In the early 1900s, Fircrest had its origins in the "City Beautiful" movement dedicated to making cities more livable and improving community quality of life. In 1925, Fircrest incorporated as a "City in the Park". While Fircrest has continued to grow and change over time, the basic family-friendly, walkable, and park-like setting remains.

Washington is forecast to grow by more than a million new residents over the next 20 years. Cities and Counties are required to provide for their share of that future growth. For Fircrest, that means we must provide for future growth from our current 7,500 up to 9,000. But HOW we grow is governed by our COMPREHENSIVE PLAN AND CODES.

Responding to the skyrocketing cost of housing and rents, the State Legislature recently enacted several laws, including E2SHB 1110, EHB 1337, E2SSB 5412, 2SSB 5258, ESHB 1042 and ESHB 1293. These are intended to increase the variety of housing choices and reduce housing costs. The most significant are two laws that focus on the "Middle Housing" options between apartments and single-family homes.

For Fircrest, this means we have to provide for the OPTIONS of Duplex units and Accessory Dwelling Units (ADUs) in single-family zones. Several of these laws are mandates and preempt certain aspects of local control. We have until 2025 to determine exactly how to make these new mandates work for us.

Fircrest must adopt by ordinance and include regulations authorizing at least two housing units on all residential lots (including single-family zones). ADUs will be an important part of complying with the Law while minimizing the impacts and changes to our traditional neighborhoods. The new ADU law requires Fircrest to allow two ADUs per lot in single-family zones.

We still have the authority to apply administrative design review so that duplexes and ADUs fit the neighborhood character. But we cannot use regulations unreasonably to block or discourage infill. Nor may regulations be MORE restrictive than those that apply to the primary home in single-family zones. There are rules governing off-street parking, lot coverage, floor area ratios, height restrictions, and proportional impact fees. The new Law exempts "Middle Housing" from SEPA or most Judicial appeals.

Fortunately, Fircrest already has regulations that partially meet the new requirements, and these will allow Fircrest to adapt without a wholesale disruption of current regulations and processes. Since 2017, we've only had 6 ADUs, or about one per year. While still keeping Fircrest Fircrest.

THE COMP PLAN AND CODE REGULATORY TOOLS will be the keys to how we meet the new State laws and mandates. Fortunately, Fircrest has a tradition of refining its Plan and Codes to accommodate a wider range of housing types that may not have been historically "single-family." Naturally, community members will have concerns about how further changes affect neighborhoods going forward.

Some of the City's previous Plan and Code updates in the 1990s allowed projects like The Commons, which meet today's definition of "Middle Housing." In the 2000s, small lot detached single-family, duplex, and small-scale multi-family structures were allowed, like Fircrest Greens, and meet the "Middle Housing" goals. The new Law stresses ADUs, and while our standards have worked well, the Law will require a more streamlined process. In 2015, Fircrest adopted "Cottage Housing" standards, allowing units above detached garages. Also, in 2015, Fircrest adopted Codes regarding teardowns and the size and scale of replacement structures. Our Floor Area Ratios apply to single-family units and, therefore, can also be applied to Middle Housing units. Finally, in 2020, the City adopted a Form Based Code (FBC) for the NW corner of the City, allowing for a higher quality of multi-family development, and we may want to expand FBC to other areas, specifically those including Middle Housing. Tacoma, University Place, and Ruston have also applied some design and regulatory tools we may want to consider.

Fircrest is well-positioned to tackle the challenges of the Middle Housing Law mandates. Fircrest has a proven history of responding to State Laws in creative and successful ways, keeping Fircrest Fircrest.

OUR COMMUNITY SURVEY was developed this Spring as a part of our Comp Plan Update process. The initial electronic responses were not overwhelming at around 50 responses. The City Council then approved a direct mail Survey which now has over 650+ respondents! We are tabulating these responses and will have the results available in October as we begin our Fall Comp Plan work.

Our PLANNING CONSULTANTS BHC have been working since the Spring on mostly technical updates to our Comp Plan. BHC will outline our work to date and upcoming work this Fall and into 2024. We are now ready to dig into some of the more significant Plan policy issues, including the new Middle Housing requirements. Work to date included a housing "Gap Analysis" and buildable Lands" inventory. Staff and BHC will be working with the Council based on the Community Survey to update the City's Vision Statement in October. Other Fall Work Plan tasks involve Transportation, Parks and Open Space, Utilities and Capital Facilities, and a new (State-mandated) Climate-focused element. Draft elements at 70% level are due for Community review by the end of 2023. The Spring Work Plan is to finalize the draft Elements and develop Code and development regulations (including Middle Housing).

Following BHC's update, we'll ask for some table group discussions on some key questions and then ask for a report out from each table. Individual comments will be taken on any subjects not already heard.

We'll close this Special Meeting with Council questions and comments.

ADU types

There are two basic types of ADUs:

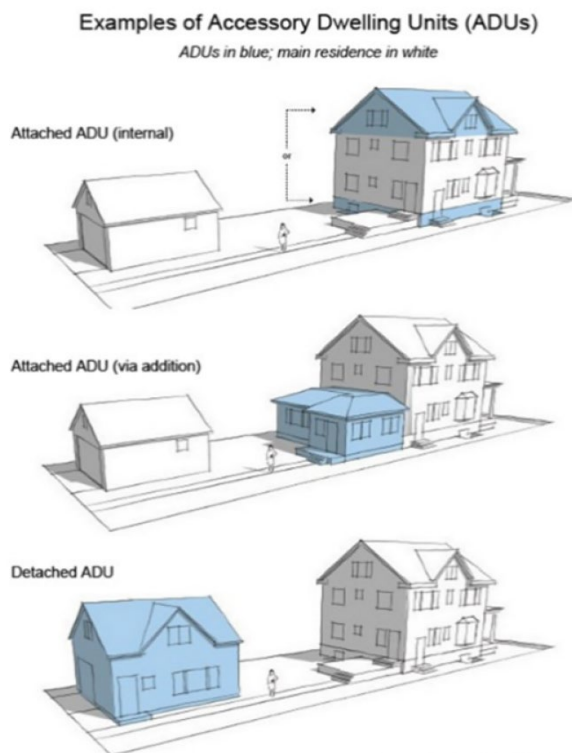
Attached ADU (AADU)

A self-contained unit located within an existing primary residential structure (for example, conversion of an existing basement, attic, or attached garage); or a new structural addition to an existing residence.

Detached ADU (DADU)

An existing detached structure that has been converted to a residential unit (such as the conversion of a detached garage); or a newly constructed detached housing unit on the same lot that is smaller than the primary residence.

An ADU has all the basic facilities needed for day-to-day living independent of the primary residence, such as a kitchen, bathroom, and a sleeping area.





Example of AADU with side entrance, separate from the primary residence entrance.



Example of DADU Carriage House in Portland, credit Radcliffe Dacannay, radworld (creative designs)



Cedar Cottage Seattle ADU Pre-Approved Plan (above and below)



Smith Gilman Cottage converted garage Credit CAST architecture

Set Maximum size limits at no less than 1,000 sqft

Comprehensive Plan Update

Eli Mulberry, Planner at BHC Consultants
City of Fircrest
City Council Meeting
September 18th, 2023



Meeting Objectives

What has been completed?

Expected Growth

Land Capacity by Income Bracket

Next Steps

What has been completed?

- Conducted a Housing Gaps Analysis and Land Capacity Analysis based on HB 1220 (2021)
- Conducted background research and compiled current data in an Existing Conditions Report
- Drafted and helped staff distribute a Community Survey
- Worked with staff to populate a Comprehensive Plan Update website
- Planned and facilitated a Community Visioning Event on June 15, 2023
- Prepared a draft Vision Statement
- Prepared templates for reformatted comprehensive plan document



Census Data /Office of Financial Management (OFM) provides population numbers and forecasts



County allocates estimates of population, employment, and housing changes

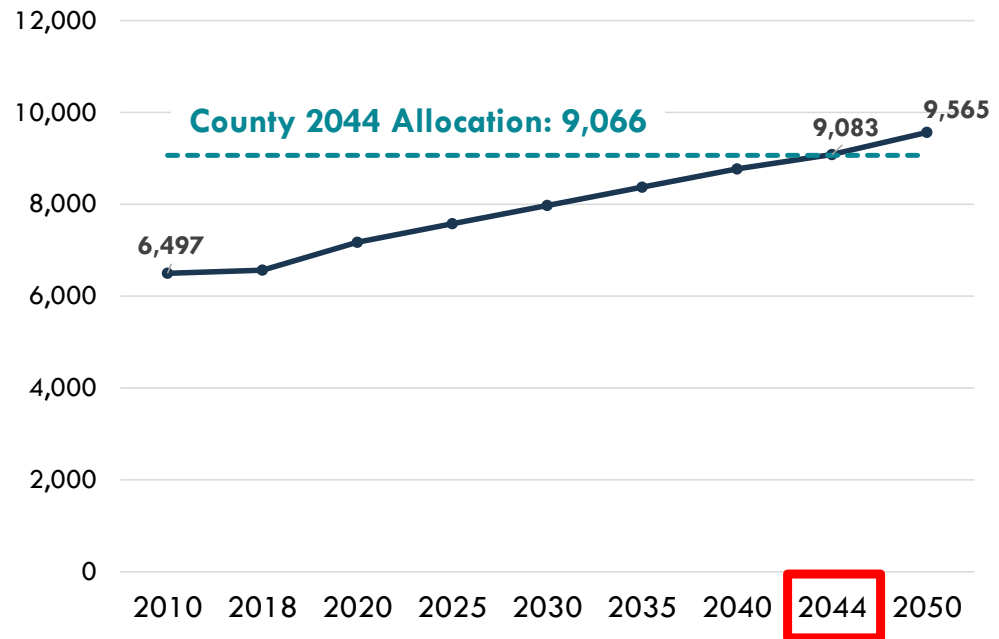


City provides for capacity with planning policies

How do we anticipate and plan for change?

Forecasted Population

- Fircrest’s 2020 census population: 7,156
- Growth from 2010-2020: +659 people
 - Approx. 65 people/year
- Anticipated growth from 2020-2044: 1,910
 - Approx. 80 people/year



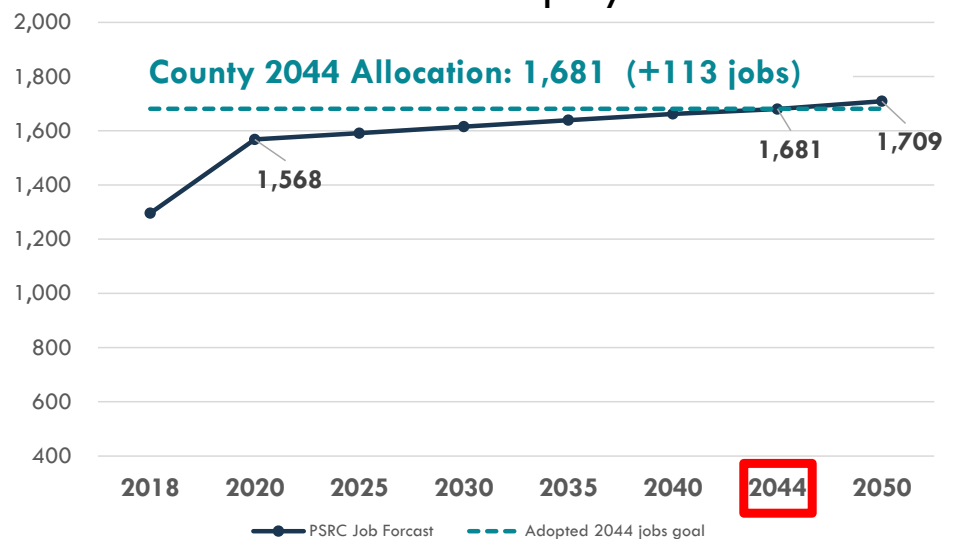
Source: Pierce County Ord. No. 2022-46s; PSRC LUV-it

Forecasted Employment Growth

Pierce County Employment Trends

- Fastest regional growing industry is **Leisure and Hospitality**:
 - 3.7% growth anticipated in the next 10 years
- Total regional non-farm employment growth: 1.8%

Fircrest Employment



Sources: WA ESD; PSRC LUV-it

Existing Conditions: Household Housing Costs

How many households spend more than **30%** of their income on housing?

- 27% of renters
- 26% of homeowners

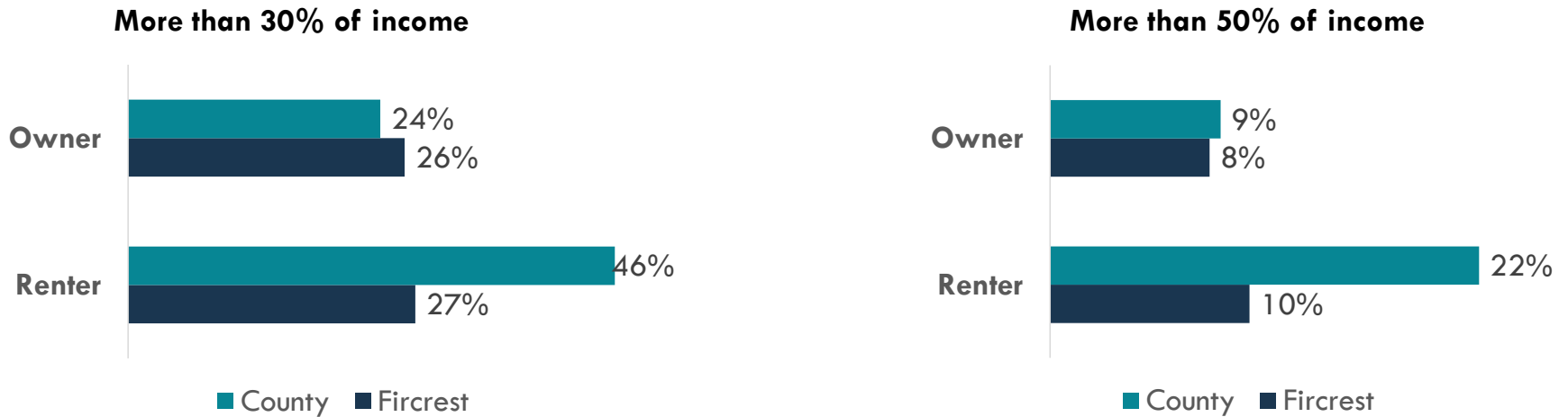
How many households spend more than **50%** of their income on housing?

- 10% of renters
- 8% of homeowners

Source: HUD CHAS, 2015-2019

Existing Conditions: Household Housing Costs

How does this compare to Pierce County?



Source: HUD CHAS, 2015-2019

What does the expected housing growth mean for Fircrest?

Housing Land Capacity Analysis

- What is required by the state?
- What are Fircrest's allocated (required to provide) housing unit numbers?
- How can we estimate housing capacity, i.e. the amount of housing Fircrest can accommodate?
- How do different future scenarios impact projected housing surplus/deficits?

What is required? (HB 1220)

- “Plan for and accommodate housing affordable to all economic segments”
- Include an inventory and analysis of existing and projected housing needs, including:
 - Units for moderate, low, very low, and extremely low-income households; and
 - Emergency housing, emergency shelters, and permanent supportive housing
- “Identifies sufficient capacity of land for housing including... for moderate, low, very low, and extremely low-income housing”

Allocated housing need: (Pierce County Ord. No 2023-22s)

Income as Area Median Income (AMI)	Income Bracket (rounded to nearest 1k)	Estimated 2020 Units	Additional Units Needed for 2044
0-30% AMI (Extremely Low)	< \$27,000	Non-PSH*:	99
		PSH*:	134
30-50% AMI (Very Low)	\$27,000 - \$45,000	140	143
50-80% AMI (Low Income)	\$45,000 - \$73,000	812	113
Moderate Income 80-100% AMI	\$73,000 – \$91,000	537	49
Moderate Income 100-120% AMI	\$91,000 – \$109,000	322	44
>120% AMI	>\$109,000	1,104	188
Emergency Housing Need (beds)		0	47

*Permanent Supportive Housing

Allocated housing need: (Pierce County Ord. No 2023-22s)

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0-30% AMI (Extremely Low)	< \$27,000	Non-PSH*:	99
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30-50% AMI (Very Low)	\$27,000 - \$45,000	140	143
50-80% AMI (Low Income)	\$45,000 - \$73,000	812	113
Moderate Income 80-100% AMI	\$73,000 – \$91,000	537	49
Moderate Income 100-120% AMI	\$91,000 - \$109,000	577	44
>120% AMI	>\$109,000	1,104	188
Emergency Housing Need (beds)		0	47

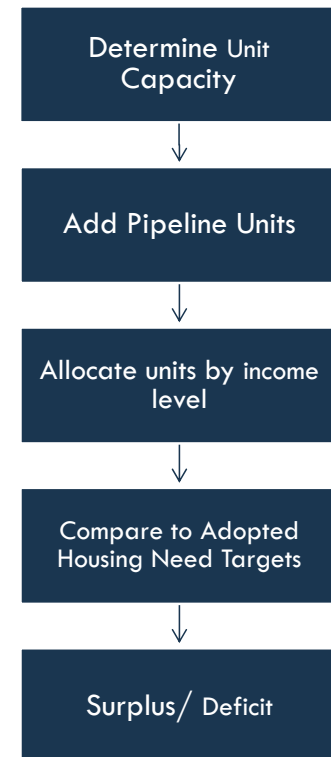
Not required to show capacity for under HB 1220

*Permanent Supportive Housing



Assessing unit capacity: Method

- Forecasting is not a perfect science. Estimated capacity may not be the same as actual development.
- **Inputs:**
 - Buildable lands (vacant and under-utilized)
 - Assumed densities (dwelling units per acre)
 - Pipeline projects (known units expected to be built)
- *What assumptions, if any, should be adjusted?*



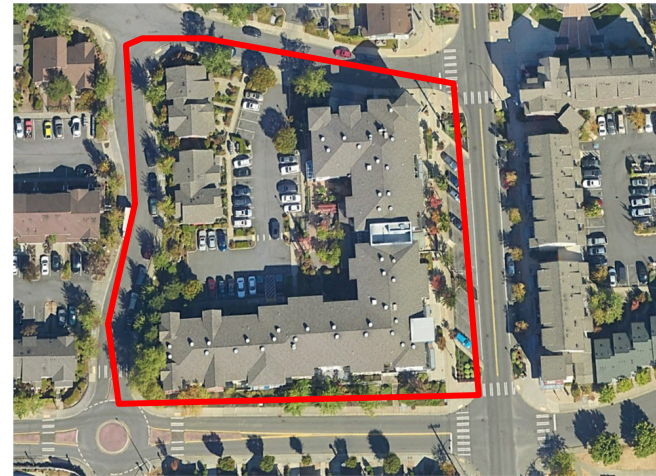
Converting Acreage to Units: Creating Density Assumptions

- Considers:
 - Zoned densities
 - Achieved densities
 - Case study neighborhoods across the city
- Decide an assumed dwelling unit per acre



A home in the R-6 Zone on Vassar Street. This zone has an assumed density of 5.5 dwelling units/ acre for our analysis.

Converting Acreage to Units: Form-Based Zones



Zone	Assumed density (du/acre)	Pipeline and recent units added
Mixed-Use Neighborhood, MUN	59	156
Mixed-Use Urban, MUU	59	235

Features:

- Ground Floor retail
- Mix of housing unit types: Apartments, townhomes.
- Surface Parking

Sources: Google Earth; Bengford, Bob (2017), Visualizing Compatible Density, MRSC.

How to allocate units by income level:

Guidance from the Department of Commerce

Zone Category	Typical Housing Types Allowed	Lowest Potential Income Level Served		Assumed Affordability Level for Capacity Analysis
		Market Rate	With Subsidies or Incentives	
Low Density	Detached single family homes	>120% AMI	<i>Not typically feasible at scale</i>	>120% AMI
Moderate Density	Townhomes, duplex, triplex, quadplex	>80-120% AMI	<i>Not typically feasible at scale</i>	>80-120% AMI
Low-Rise Multifamily	Walk-up apartments, condominiums (2-3-floors)	>50-80% AMI	0-50% AMI	0-80% AMI
Mid-Rise Multifamily	Apartments, condominiums	>50-80% AMI	0-50% AMI	0-80% AMI
ADUs (All Zones)	Accessory Dwelling Units on developed residential lots	>50-80% AMI	N/A	0-80% AMI

Assessing units by income band: Assumptions

Zone	0-30% AMI	30-50% AMI	50-80% AMI	80-100% AMI	100-120% AMI	>120% AMI
Residential-4, R-4					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Residential-4-Conservation, R-4-C					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Residential-6, R-6					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Residential-8, R-8			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Residential-10-Traditional Community Design, R-10-TCD				<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Residential-20, R-20		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Residential-30, R-30	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
Mixed-Use Neighborhood, MUN	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
Mixed-Use Urban, MUU	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
Golf Course, GC						<input checked="" type="checkbox"/>

Do you think these seem reasonable?

Analysis Scenarios

- 1. Baseline Scenario.** What would the unit capacity deficit/surplus be if there were no additional ADUs/duplexes?
- 2. ADU Impacts.** How does interest and construction of ADUs influence the capacity deficit/surplus?
- 3. Duplexes.** How could the additional of duplexes change the capacity deficit/surplus?

Should the assumptions be changed?

Are there any other scenarios you would like to see tested?

Scenario 1: Baseline

- Assumes no new ADUs and no duplexes despite HB 1110

Income Level	Income Bracket	Projected Housing Need	Capacity + Pipeline Allocated	Surplus/ (Deficit)
Extremely low income (0-30% AMI)	\$27,000 - \$45,000	233	213	(20)
Very Low income (30-50% AMI)	\$45,000 - \$73,000	143	213	70
Low income (50-80% AMI)	\$73,000 – \$91,000	113	213	100
Moderate income (80-120% AMI)	\$91,000 – 109,000	93	227	134
Total Net Capacity <i>(includes >120% AMI for overall)</i>		770	909	139

Scenario 2: ADU Impacts

Assumptions

- 2 ADUs/year on average over 20 years (In 2022, 4 permits issued. In 2023, 2 permits issued so far)
- ADUs affordable for 0-80% AMI. (Weighted more heavily for 50-80% considering construction costs.)

Income Level	Income Bracket	Projected Housing Need	Capacity + Pipeline Allocated	Surplus/ (Deficit)
Extremely low income (0-30% AMI)	\$27,000 - \$45,000	233	<u>223</u>	(10)
Very Low income (30-50% AMI)	\$45,000 - \$73,000	143	<u>223</u>	<u>80</u>
Low income (50-80% AMI)	\$73,000 – \$91,000	113	<u>233</u>	<u>120</u>
Moderate income (80-120% AMI)	\$91,000 – 109,000	93	227	134
Total Net Capacity <i>(includes >120% AMI for overall)</i>		770	<u>949</u>	<u>179</u>

Scenario 3: Duplex Impacts

- Assumptions. R-4 and R-6:
 - Become affordable to 80-50% AMI bracket. Only 10% of new units become duplexes.
 - Assumed density for R-4 increased to 4.5 du/acre and 6.6 for R-6.

Income Level	Income Bracket	Projected Housing Need	Capacity + Pipeline Allocated	Surplus/ (Deficit)
Extremely low income (0-30% AMI)	\$27,000 - \$45,000	233	213	(20)
Very Low income (30-50% AMI)	\$45,000 - \$73,000	143	213	70
Low income (50-80% AMI)	\$73,000 – \$91,000	113	213	100
Moderate income (80-120% AMI)	\$91,000 – 109,000	93	<u>246</u>	<u>153</u>
Total Net Capacity <i>(includes >120% AMI for overall)</i>		770	<u>916</u>	<u>146</u>

Comparison

Income Level	Income Bracket	Surplus/ (Deficit)			
		1. Baseline	2. ADUs	3. Duplexes	Combined
Extremely low income (0-30% AMI)	\$27,000 - \$45,000	(20)	(10)	(20)	(10)
Very Low income (30-50% AMI)	\$45,000 - \$73,000	70	<u>80</u>	70	80
Low income (50-80% AMI)	\$73,000 – \$91,000	100	<u>120</u>	100	120
Moderate income (80-120% AMI)	\$91,000 – 109,000	134	134	153	153
Total Net Capacity <i>(includes >120% AMI for overall)</i>		139	179	146	186

Key Takeaways and Next Steps

- While there is an expected deficit for the 0-30% AMI level, citywide there is an anticipated surplus of units.
- Analysis does not negate the importance of Comp Plan policies for incentives
 - Multi-Family Tax Exemption (MFTE) Program
 - Incentives to preserve existing affordable units
 - Grants
- Fircrest has permitted, on average, 17 units per year. To meet expected housing need, production would need to permit an additional 22 units per year on average.
- Adequate provisions to address any shortfalls: What changes to policy or land uses would address any shortfalls?

Where are we and what is next?

- Continued engagement at Planning Commission/Council
- Updating Element chapters for compliance with state law, regional policies, and to streamline
- Look for updates on drafts for Planning Commissioner review and comment this winter

Visit <https://www.cityoffircrest.net/2024-comp-plan/> to sign up for updates



City of Fircrest

Group Discussion Questions

1. As Fircrest grows, what are the most important aspects of the community to preserve? The community survey highlighted the small-town feel and forested environment as two important attributes. What are some others?
2. Fircrest is a welcoming place for all ages of residents. What are some ways we can ensure people of all ages and abilities can enjoy Fircrest?
3. Housing is an important part of this community discussion. What are ways we can ensure new types of housing or new development enhances community life?

TO: Dawn Masko, City Manager
Bob Jean, Consultant

FROM: Robert Zeinemann

DATE: September 5, 2023

RE: New State Housing Laws

I. INTRODUCTION

You have asked us to provide a legal summary of the new housing laws passed by the Washington State Legislature and signed by Governor Inslee. Some newspapers have called this legislative session “the year of housing.” At least eight bills were adopted with the goal of making it easier to build more housing in Washington’s metropolitan areas to alleviate what the Legislature found to be “a crisis” in housing availability and affordability. Several of these laws are mandates and preempt certain aspects of local government control over planning and zoning.

The two most significant new laws are “Middle Housing” E2SHB 1110 (Chapter 332, Laws of 2023) and the Accessory Dwelling Unit (“ADU”) EHB 1337 (Chapter 334, Laws of 2023). Other laws of note are SEPA Exemptions E2SSB 5412 (Chapter 368, Laws of 2023), Multifamily in Existing Building Envelope ESHB 1042 (Chapter 285, Laws of 2023), Condominium Construction 2SSB 5258 (Chapter 337, Laws of 2023), and Design Review and Project Review ESHB 1293 (Chapter 333, Laws of 2023).

II. LAW SUMMARIES AND ANALYSES

A. Middle Housing Law (E2SHB 1110).

The new “Middle Housing” law is the most significant bill among the suite of bills adopted during the 2023 Legislative Session. The law defines “Middle Housing” as follows:

“Middle housing” means buildings that are compatible in scale, form, and character with single-family houses and contain two or more attached, stacked, or clustered homes including duplexes, triplexes, fourplexes, fiveplexes, sixplexes, townhouses, stacked flats, courtyard apartments, and cottage housing.

E2SHB 1110, Section 2(21).

The City of Fircrest is subject to the Middle Housing law as a “tier 3” city as categorized by the Washington Department of Commerce (“Commerce”).¹ Under the Middle Housing law, Fircrest is a city with a population of less than 25,000 in a contiguous urban growth area of Pierce County’s largest city, and the County has over 275,000 in population. In other words, because Tacoma is the largest city in Pierce County, Fircrest is contiguous with Tacoma’s urban growth area, and Pierce County has a population over 275,000, the Middle Housing law requirements apply to Fircrest.

1. Core Requirements of Middle Housing Law.

A city that is subject to the Middle Housing law, like Fircrest, must provide by ordinance, and incorporate into its development regulations, zoning regulations, and other official controls, authorization for the development of a minimum number of units on all lots zoned predominately for residential use no later than six months after the city’s next required comprehensive plan update. Thus, under the Fircrest’s required comprehensive plan periodic update schedule, Fircrest must have the new Middle Housing law requirements in place by mid-2025.

The Middle Housing law has three tiers for the minimum number of units required on lots zoned predominately residential for cities of different population sizes:

- Tier 1. Cities with populations of 75,000 or more must adopt regulations that allow at least: four units per residential lot, and six units per lot if located within a quarter-mile of a major transit stop or if two of the homes are affordable.
- Tier 2. Cities with populations of at least 25,000 but less than 75,000 must adopt regulations that allow for at least two units per lot, and four units per lot if located within a quarter-mile of a major transit stop or if one of the homes is affordable.
- Tier 3. Cities with populations under 25,000 that are located within larger metro areas must allow at least two units per lot.

Fircrest is categorized into Tier 3. Thus, Fircrest must adopt by ordinance, and include in its development, zoning and other regulations, authorization for at least two housing units on all lots zoned predominantly for residential use, and such action is required to occur by mid-2025.

The above residential lot density requirements have exceptions. Pursuant to E2SHB 1110, Section 3(8), they do not apply to:

- Lots designated with critical areas or their buffers;
- A watershed serving a reservoir for potable water if that watershed is listed as impaired or threatened under the federal Clean Water Act; or
- Lots that have been designated as urban separators by countywide planning policies.

¹ See Commerce’s *Middle Housing in Washington: Fact Sheet for Implementing E2SHB 1110*, pp. 6-7, attached hereto as Exhibit A.

The Middle Housing law specifically states that it does nothing to prohibit a city from permitting detached single-family residences, nor does it require a city to issue a building permit if other federal, state, and local requirements for a building permit are not met. E2SHB 1110, Section 3(9)-(10).

Cities subject to the Middle Housing law “must allow at least six of the nine types of middle housing to achieve the unit density required” -- for Fircrest the required unit density is two units per lot. *Id.* at Section 3(5).² Using six of the nine types would require allowing triplexes. Confusingly, later in that same subsection, the law contradicts the requirement to have six housing types when it states, “Cities are not required to allow . . . middle housing types beyond the density requirements [two units per lot required for Fircrest] . . .” *Id.* That later provision suggests that Fircrest may not be required to have housing types with more than two units per lot.

We e-mailed Commerce to request clarification on that apparent contradiction in the law, and we were told that housing types with more than two units per lot are not required for Tier 3 cities, including Fircrest:

[F]or Tier 3, it would be a reasonable conclusion that only those middle housing types that accommodate a two unit per lot density be required. That being the case, only those middle housing types that provide two units per lot must be allowed such as, as examples, cottages, stacked flats, courtyard apartments and duplexes.³

The Middle Housing law further specifies that “a city may allow accessory dwelling units to achieve the unit density required” E2SHB 1110, Section 3(5). We therefore asked Commerce whether allowing only ADUs (no duplexes, stacked flats, etc.) would satisfy the Middle Housing law’s requirements for Tier 3 cities. Commerce responded that a “tier 3 city is to have code provisions that allow both ADU’s per HB 1337 AND that allows middle housing types (e.g. duplexes, etc.) to achieve the two unit per lot requirement per HB 1110. It’s up to the property owner to decide how the property might develop,” Permitting ADUs is expected to be an important path for Fircrest to use in complying with the Middle Housing law while minimizing changes to its residential neighborhoods.

2. Alternative to Applying New Density Requirement to All Districts Zoned Single Family.

Fircrest could comply with the two units per lot requirement by applying the requirement to 75 percent of primarily single-family detached housing units, leaving 25 percent of residential

² This section of the law is not clear as to what the nine housing types are, but we have interpreted it to include duplexes, triplexes, fourplexes, fiveplexes, sixplexes, townhouses, stacked flats, courtyard apartments, and cottage housing as referred to in E2SHB 1110, Section 2(21).

³ See, August 10-14, 2023, e-mail exchanges with Dave Osaki, Washington State Department of Commerce Growth Management Services Division, attached hereto as Exhibit B.

lots excepted from the mandate, subject to the following limitations on the parcels included or excluded from the two units per lot requirement.

Unless identified and certified by Commerce as at higher risk of displacement,⁴ pursuant to E2SHB 1110, Section 3(4)(c), the 75 percent of lots allowing the minimum lot density requirements must include areas:

- Where the exclusion from the two units per lot requirement would further racially disparate impacts or result in zoning with a discriminatory effect;
- Within 0.5 miles walking distance of a major transit stop; or
- Historically covered by a covenant or deed restriction excluding racial minorities from owning property or living in the area.

Pursuant to E2SHB 1110, Section 3(4)(b), the 25 percent of lots for which the minimum lot density requirements are not authorized must include:

- Areas for which Commerce has certified an extension due to the risk of displacement;
- Areas for which Commerce has certified an extension due to the lack of infrastructure capacity;⁵
- Lots designated with critical areas or their buffers;
- Portion of any city within a one-mile radius of SeaTac Airport; and
- Areas subject to sea level rise, increased flooding, susceptible to wildfires, or geological hazards over the next 100 years.

3. Additional Requirements of Middle Housing Law.

a. Objective administrative design review.

Cities subject to the Middle Housing law may only apply “administrative design review” to “Middle Housing”:

⁴ A city wishing to use this exception would apply to Commerce for an extension from the implementation timelines for areas at risk of displacement as determined by the city’s anti-displacement analysis. E2SHB 1110, Section 5. A city granted an extension must create a plan to implement anti-displacement policies by its next comprehensive plan implementation progress report. Id. Commerce may certify one further extension based on evidence of significant ongoing displacement risk in the impacted area. Id.

⁵ A city implementing the alternative density requirements also may apply for an extension to specific areas where a city can demonstrate that water, sewer, stormwater, transportation infrastructure, or fire protection services lack capacity to accommodate an increased density. E2SHB 1110, Section 7. To qualify for an extension for lack of infrastructure capacity, the city must have included one or more improvements, as needed, within its capital facilities plan to adequately increase capacity or identify which special district is responsible for providing the necessary infrastructure. Id. If granted by Commerce, the extension will last until the next periodic comprehensive plan update, infrastructure is built to meet capacity, or the City reapplies and is granted another extension due to lack of infrastructure. Id.

“Administrative design review” means a development permit process whereby an application is reviewed, approved, or denied by the planning director or the planning director's designee based solely on objective design and development standards without a public predecision hearing, unless such review is otherwise required by state or federal law, or the structure is a designated landmark or historic district established under a local preservation ordinance. A city may utilize public meetings, hearings, or voluntary review boards to consider, recommend, or approve requests for variances from locally established design review standards.

E2SHB 1110, Sections 2(1) and 3(6).

b. SEPA exemptions in Middle Housing law.

Amendments to development regulations and other non-project actions taken by cities to implement the lot density requirements in the Middle Housing law are exempt from administrative and judicial appeals otherwise available under the State Environmental Policy Act (“SEPA”). E2SHB 1110, Section 8(2). Further, amendments to development regulations that remove requirements for parking within an urban growth area are categorically exempt from SEPA. Id., Section 9(5).

c. Miscellaneous requirements.

Under E2SHB 1110, Section 3(6), any city subject to the middle housing requirements:

- Shall not require development standards for middle housing that are more restrictive than those required for detached single-family residences;
- May apply to middle housing the same objective development regulations that are required for detached single-family residences, including, but not limited to, set-back, lot coverage, stormwater, clearing, and tree canopy and retention requirements to ensure compliance with existing ordinances intended to protect critical areas and public health and safety;
- Shall apply to middle housing the same development permit and environmental review processes that apply to detached single-family residences, unless otherwise required by state law, including building codes, energy codes, electrical codes, and shorelines regulations;
- Is not required to achieve the required two unit per lot density on lot sizes under 1,000 square feet;
- Shall allow zero lot line short subdivisions where the number of lots created is equal to the unit density required;
- Shall not require off-street parking as a condition of permitting development of middle housing within 0.5 miles walking distance of a major transit stop;

- Shall not require more than one off-street parking space per unit as a condition of permitting development of middle housing on lots smaller than 6,000 square feet before any zero lot line subdivisions or lot splits; and
- Shall not require more than two off-street parking spaces per unit as a condition of permitting development of middle housing on lots greater than 6,000 square feet before any zero lot line subdivisions or lot splits.⁶

B. ADU Law (EHB 1337).

1. Two ADUs Per Lot Required in Areas Zoned for Single-Family Homes.

The new ADU law requires that cities allow the construction of at least two ADUs per lot on all standard lots within urban growth areas that are zoned to allow for single-family homes.⁷ EHB 1337, Sections 3 and 4(1)(c). Cities must adopt the new ADU requirements “by ordinance, and incorporate [the ADU requirements] into their development regulations, zoning regulations, and other official controls” beginning six months after the next periodic comprehensive plan update. *Id.*, Section 3(1). Fircrest’s next comprehensive plan periodic update is due December 31, 2024, and thus it must comply with the new ADU law by July 2025.

Cities may meet the two ADU per lot requirement with attached ADUs, detached ADUs, or a combination of the two. *Id.*, Section 4(1)(c).

The ADU law defines “accessory dwelling unit” as “[A] dwelling unit located on the same lot as a single-family housing unit, duplex, triplex, townhome, or other housing unit.” *Id.*, Section 2(1). The ADU law further defines two types of ADUs, attached ADUs and detached ADUs.⁸

Cities are allowed to apply public health, safety, building code, and environmental permitting requirements to an accessory dwelling unit that would be applicable to the principal unit, including regulations to protect ground and surface waters from on-site wastewater. *Id.*, Section 3(5)(b). The law also clarifies that it does not prohibit cities from “restricting the use of accessory dwelling units for short-term rentals.” *Id.*, Section 3(5)(a).

The ADU law does not require or authorize a city to allow the construction of ADUs where development is restricted under other laws, rules, or ordinances due to proximity to critical areas,

⁶ The off-street parking provisions do not apply if a city submits to Commerce an empirical study prepared by a credentialed transportation or land use planning expert that clearly demonstrates, and the department finds and certifies, that the application of the parking limitations for middle housing will be significantly less safe for vehicle drivers or passengers, pedestrians, or bicyclists than if the jurisdiction’s parking requirements were applied to the same location for the same number of detached houses. E2SHB 1110, Section 3(7).

⁷ Attached as Exhibit C to this Memo is a new guide jointly created by Commerce and Municipal Research Services Center (MRSC): *Implementing HB 1337: Guidance for Accessory Dwelling Units* (July 15, 2023).

⁸ “‘Attached accessory dwelling unit’ means an accessory dwelling unit located within or attached to a single-family housing unit, duplex, triplex, townhome, or other housing unit.” EHB 1337, Section 2(2). “‘Detached accessory dwelling unit’ means an accessory dwelling unit that consists partly or entirely of a building that is separate and detached from a single-family housing unit, duplex, triplex, townhome, or other housing unit and is on the same property.” *Id.*, Section 2(5).

on-site sewage systems, or “other unsuitable physical characteristics of a property.” EHB 1337, Section 3(4). Cities can continue “applying generally applicable development regulations to the construction of an accessory unit, except when the application of such regulations would be contrary to [core provisions] of this act.”⁹ Id., Section 3(c).

2. Other Restrictions on Local Government Authority.

The prescriptive requirements placed on cities by the ADU law are numerous and must be followed. Pursuant to EHB 1337, Section 4(1), beginning in July 2025, Fircrest may not:

- Assess impact fees on the construction of ADUs that are greater than 50 percent of the impact fees that would be imposed on the principal unit;
- Require the owner of a lot on which there is an ADU to reside in or occupy the ADU or another housing unit on the same lot;
- Establish a maximum gross floor area requirement for ADUs that is less than 1,000 square feet;
- Establish roof height limits on an ADU of less than 24 feet, unless the height limit on the principal unit is less than 24 feet;
- Impose setback requirements, yard coverage limits, tree retention mandates, restrictions on entry door locations, aesthetic requirements, or requirements for design review for ADUs that are more restrictive than those for principal units;
- Require public street improvements as a condition of permitting ADUs; or
- Prohibit the sale of a condominium unit independently of a principal unit solely on the grounds that the condominium unit was originally built as an ADU.

The same section of the ADU law also specifies what cities must allow. Beginning in July 2025, Fircrest must allow:

- ADUs in structures detached from the lot’s principal unit;
- Conversion of an existing detached structure, such as a detached garage, into an ADU even if it violates the City’s existing setback and lot coverage requirements;
- At least two ADUs on all lots that allow for single-family homes within a UGA;
- ADUs on any lot that meets the minimum lot size required for the principal unit; and
- Detached ADUs to be sited at a lot line if the lot line abuts a public alley, unless the City or County routinely plows snow on the public alley.

⁹ See the restrictions in the next section of this memorandum taken from Section 4 of the ADU law.

The ADU law restricts the ability of cities to require off-street parking for ADUs.¹⁰ Pursuant to EHB 1337, Section 4(2), a city may not:

- Require off-street parking as a condition of permitting development of ADUs within 0.5 miles walking distance of a major transit stop;¹¹
- Require more than one off-street parking space per unit as a condition of permitting development of ADUs on lots smaller than 6,000 square feet before any zero lot line subdivisions or lot splits; and
- Require more than two off-street parking spaces per unit as a condition of permitting development of ADUs on lots greater than 6,000 square feet before any zero lot line subdivisions or lot splits.

3. Exceptions to the Two ADUs Per Lot Requirement.

The ADU requirements do not apply to lots with critical areas, critical area buffers, and lots located in certain impaired watersheds:

The provisions of this section do not apply to lots designated with critical areas or their buffers as designated in RCW 36.70A.060, or to a watershed serving a reservoir for potable water if that watershed is or was listed, as of the effective date of this section, as impaired or threatened under section 303(d) of the federal clean water act (33 U.S.C. Sec. 1313(d)).

Id., Section 4(4). Pursuant to Section 3(d)-(e), ADU's may be restricted on lots that are in:

- Residential zones with a density of one dwelling unit per acre or less that are within areas designated as wetlands, fish and wildlife habitats, flood plains, or geologically hazardous areas; and
- Areas not served by or connected to public sewers.

C. SEPA Review Exemption Law (E2SSB 5412).

E2SSB 5412 categorically exempts from SEPA review all project actions that propose to develop one or more housing units in urban growth areas where the projects are consistent with

¹⁰ Note that a law adopted in 2021 already prohibits cities from requiring off-street parking for ADUs within a quarter mile of a major transit stop, such as a high-capacity transportation system stop, a rail stop, or certain bus stops, unless the city determines that on-street parking is infeasible for the ADU. The distance has now been increased to within a half mile of a major transit stop.

¹¹ “‘Major transit stop’ means:(a) A stop on a high capacity transportation system funded or expanded under the provisions of chapter 81.104 RCW; (b) Commuter rail stops; (c) Stops on rail or fixed guideway systems, including transitways;(d) Stops on bus rapid transit routes or routes that run on high occupancy vehicle lanes; or(e) Stops for a bus or other transit mode providing actual fixed route service at intervals of at least fifteen minutes for at least five hours during the peak hours of operation on weekdays.” E2SSB 5412, Section 2(8).

the city’s adopted development regulations and comprehensive plan, and an environmental analysis was prepared that considered the proposed use, including analysis of multimodal transportation impacts. E2SSB 5412, Section 1(3). The law explains that:

Such environmental analysis shall include documentation that the requirements for environmental analysis, protection, and mitigation for impacts to elements of the environment have been adequately addressed for the development exempted. The requirements may be addressed in locally adopted comprehensive plans, subarea plans, adopted development regulations, other applicable local ordinances and regulations, or applicable state and federal regulations. . . .

E2SSB 5412, Section 1(3)(b)(i).

To qualify for the SEPA exemption, cities must “find that the proposed [housing] development is consistent with the development regulations implementing an applicable comprehensive plan” provided that those development regulations meet the requirements of the Growth Management Act. Id., Section 1(3)(a).

D. Multifamily Permitted in Existing Building Envelope Law (ESHB 1042).

ESHB 1042 limits the restrictions that cities may place on housing conversions done to existing buildings zoned commercial or mixed-use. Cities must incorporate new standards into their development and zoning regulations no later than six months after a city’s next periodic comprehensive plan update (beginning in July 2025 for Fircrest); if they do not timely comply, any conflicting development regulations will be preempted and invalidated. ESHB 1042, Section 1(1).

Section 1(1) further provides that cities shall not require any of the following on existing buildings in commercial or mixed-use zoned districts:

- Restrictions on housing unit density that would stop the addition of housing with a density up to 50 percent more than allowed in the zoning district if it is built within an existing building envelope and meets generally applicable health and safety standards;¹²
- New parking requirements on the additional housing units; however, cities may require the retention of parking required to satisfy existing parking requirements for residential and any nonresidential uses that remain after more housing is added;
- Permitting requirements beyond those generally applicable to all residential development within the building’s zone, unless used as emergency or transitional housing;

¹² An existing building means “a building that received a certificate of occupancy at least three years prior to the permit application to add housing units.” ESHB 1042, Section 2(4).

- Design standard requirements, including setbacks, lot coverage, and floor area ratio requirements beyond those generally applicable to all residential development within the building's zone;
- Exterior design or architectural requirements beyond those necessary for health and safety of the interior of the building or to preserve character-defining streetscapes, unless the building is a designated landmark or is within an official historic district;
- Prohibitions on adding housing units in any specific part of a building except ground floor commercial or retail that is along a major pedestrian corridor, unless the units would violate building codes or health and safety standards;
- Current energy code requirements for unchanged portions of the building solely due to the addition of housing units; however, if any portion of an existing building is converted to new dwelling units, each of those new units must meet the requirements of the current energy code; or
- A transportation concurrency or SEPA study.

Further, cities cannot deny a building permit application for new housing units in an existing building due to the structure's nonconformity, including parking, height, setbacks, elevator size, or modulation, unless the proper city official makes written findings that the nonconformity is causing a significant detriment to the surrounding area. Id.

Cities are still allowed to deny, and should deny, building permit applications for new housing units within an existing building that cannot satisfy life safety standards. Id., Section 2(3).

Adoption or amendment of ordinances, development regulations, zoning regulations, and other official controls made by cities to meet the law's requirements are categorically exempt from SEPA. Id., Section 4(5).

E. Condominium Construction Law (2SSB 5258).

The goal of 2SSB 5258 is to encourage the construction of condominiums. Most of its provisions address construction defect claims, warranties, insurance, and other legal relationships between private parties. Two of the law's subsections, however, affect local governments.

1. Lower Impact Fees for Smaller Houses.

The law requires that impact fee schedules adopted by cities:

[s]hall reflect the proportionate impact of new housing units, including multifamily and condominium units, based on the square footage, number of bedrooms, or trips generated, in the housing unit in order to produce a proportionally lower impact fee for smaller housing units.

2SSB 5258, Section 10(1). The goal is to lower the cost to construct multifamily and condominium units.

2. Short Plats.

2SSB 5258 requires cities to adopt short plat procedures for unit lot subdivisions that allow:

[d]ivision of a parent lot into separately owned unit lots. Portions of the parent lot not subdivided for individual unit lots shall be owned in common by the owners of the individual unit lots, or by a homeowners' association comprised of the owners of the individual unit lots.

Id., Section 11(3).

F. Local Design Review and Project Review Law (ESHB 1293).

1. Design Review.

ESHB 1293 places limits on how cities can apply design review standards to development. Its goal is to eliminate capricious design review criteria that can increase the cost of building housing by adding delay and uncertainty to the development process.¹³

Beginning six months after a city's next periodic comprehensive plan update (July 2025 for Fircrest), cities shall apply a "design review process with clear and objective development regulations governing the exterior design of new development." ESHB 1293, Sections 1(2) and (5).

The law defines "clear and objective development regulation" to include "one or more ascertainable guideline, standard, or criterion by which an applicant can determine whether a given building design is permissible under that development regulation." Id., Section 1(2)(a). Additionally, design review cannot "result in a reduction in density, height, bulk, or scale below the generally applicable development regulations for a development proposal in the applicable zone." Id., Section 1(2)(b).

The law requires any design review process must occur "concurrently," or is "otherwise logically integrated, with the consolidated review and decision process for project permits . . . and no design review process may include more than one public meeting. Id., Section 1(4).

Finally, the new design review requirements in ESHB 1293 do not apply "to development regulations that apply only to designated landmarks or historic districts established under a local preservation ordinance." Id., Section 1(3).

¹³ "'Design review' means a formally adopted local government process by which projects are reviewed for compliance with design standards for the type of use adopted through local ordinance." ESHB 1293, Section 1(1).

2. Project Review.

Unlike the other new legal provisions summarized in this Memo, ESHB 1293's local project review provisions are not mandated. Instead, cities are "encouraged to adopt further project review provisions to provide prompt, coordinated, and objective review and ensure accountability to applicants and the public." Id., Section 2(1).

The law further encourages the use of "expedited review for project permit applications for projects that are consistent with adopted development regulations or that include dwelling units that are affordable to low-income or moderate-income households and within the capacity of systemwide infrastructure improvements." Id. Often what the Legislature encourages in law it eventually requires. Though the project review provisions of ESHB 1293 are optional, they are worth understanding.

III. CONCLUSION

The 2023 Washington State Legislative Session produced new laws that preempt local control over planning and zoning with the goal of creating conditions that foster the construction of new housing units to meet a present "housing crisis" in affordability and availability, and to meet future housing needs, especially in major metropolitan areas.

The summaries in this Memo of the Middle Housing, ADU, SEPA Exemptions, Multifamily in Existing Envelope, Condominium Construction, and Design Review and Project Review laws detail the City's obligations to adopt new ordinances, regulations and processes required by those laws.

The new laws impose many requirements on local governments, including Fircrest. Fortunately, Fircrest has a history of being at the forefront of adopting innovative land use planning and development regulations. It already has regulations that partially meet the new requirements, e.g., ADUs, which will allow Fircrest to adapt to the changes without a wholesale disruption of present regulations and processes.



Revised July 2023

Middle Housing in Washington: Fact Sheet for Implementing E2SHB 1110

Topics

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In 2023, the Washington State Legislature passed E2SHB 1110 (“HB 1110”), which substantially changes the way many cities in Washington are to plan for housing. HB 1110 requires cities of certain sizes and locations to allow multiple dwelling units per lot in a middle housing type of form. Commerce is collecting questions from local governments about the bill and other related legislation passed this session, and has answered certain questions received below, with more to follow. If you have additional questions or need for technical assistance, please email dave.osaki@commerce.wa.gov or Anne.Fritzel@commerce.wa.gov.

What is middle housing? HB 1110 defines "Middle housing" as *“buildings that are compatible in scale, form, and character with single-family houses and contain two or more attached, stacked, or clustered homes including duplexes, triplexes, fourplexes, fiveplexes, sixplexes, townhouses, stacked flats, courtyard apartments, and cottage housing.”*

What types of assistance will be coming from Commerce?

- **Model ordinances:** Commerce is directed under the HB 1110 to publish model ordinances no later than six months following the effective date of the bill, which will be in January of 2024. Stakeholders will be notified of the opportunity to review drafts of the model middle housing ordinances in the fall of 2023 and invited to provide comment.
- **Grant program:** Commerce will offer a statewide competitive grant program in the 2023-2025 biennium to help jurisdictions implement the bill’s requirements. All grant funds must be expended by June of 2025.
- **Continuing guidance from Commerce:** Commerce has already developed a web page on middle housing, which includes tools such as PowerPoint presentations, photos, posters, and will include objective design standards, and a pro-forma calculator that local governments can use to communicate about middle housing.¹ Commerce will also be developing the following to implement the middle housing legislation:
 - Middle housing model ordinances and guidance on the requirements
 - Rules for a process by which cities may seek Commerce approval of an alternative local action necessary to meet the requirements of the bill.²

¹ www.commerce.wa.gov/serving-communities/growth-management/growth-management-topics/planning-for-middle-housing/

² See E2SHB 1110, Sec. 4(3)

- Standards and procedures for Commerce to use when processing a city request to extend the date by when middle housing rules must be applied, when and where certain criteria apply.
- Guidance to assist cities on preparing a parking study.³
- Possible changes to land capacity and buildable lands guidance to address units per lot density requirements.

APPLICABILITY

What are cities required to do? Table 1 below summarizes the middle housing requirements that apply to cities in each of the three population tiers established by HB 1110.⁴ Commerce will provide more detail in the coming year on requirements of the bill and implementation tools.

Table 1: Basic requirements for cities subject to the HB 1110 in the 2024-2027 periodic update.

	Minimum number of middle housing units that must be allowed per lot in predominately residential zones	NEAR A MAJOR TRANSIT STOP: Minimum number of middle housing units that must be allowed per lot within ¼ mile walking distance of major transit stop in predominately residential zones	WITH AFFORDABLE HOUSING: Minimum number of middle housing units that must be allowed per lot with affordable housing in predominately residential zones where density in applicable zone does not otherwise allow this number (See also HB 1110, Sec. 3(2))
TIER ONE: Cities with population of at least 75,000 E2SHB 1110, Sec. 3(1)(b)	4 du/lot, unless zoning permits higher densities	6 du/ lot, unless zoning permits higher densities	6 du/lot if at least 2 units are affordable, unless zoning permits higher densities
TIER TWO: Cities with population of at least 25,000 but less than 75,000 E2SHB 1110, Sec. 3(1)(a)	2 du/lot unless zoning permits higher densities	4 du/lot, unless zoning permits higher densities	4 du/lot if at least 1 unit is affordable, unless zoning permits higher densities
TIER THREE: Cities with population under 25,000 that are contiguous with a UGA that includes the largest city in a county with a population over 275,000 E2SHB 1110, Sec. 3(1)(c)	2 du/lot, unless zoning permits higher densities	N/A	N/A

Which cities are required to allow middle housing? Over the 2024-2027 periodic update cycle, cities of at least 25,000 in population must allow middle housing, as well as cities with a population less than 25,000 in a county of over 275,000 population and which are within a contiguous urban growth area that includes the largest city in the county. **Table 2**, at the end of the document, identifies

³ See E2SHB 1110, Sec. 3(7)(a)

⁴ E2SHB 1110, Sec. 3(11)(a) requires use of the Washington State Office of Financial Management’s 2020 April 1 population data. <https://ofm.wa.gov/washington-data-research/population-demographics/population-estimates>

cities currently subject to the requirements of HB 1110, based on 2020 Office of Financial Management population data, and Commerce’s best understanding.⁵

When does a local government need to allow middle housing? Cities subject to the bill must implement the requirements no later than six months after their next periodic update required under RCW 36.70A.130. Cities in the central Puget Sound region (within King, Kitsap, Snohomish and Pierce counties) have the earliest periodic review deadline, on December 31, 2024, which means that they must implement the bill by June 30, 2025. Additional cities may be added to this list over time or moved to the next tier, should they meet the population threshold in future years. Commerce recommends cities look ahead to when their population might meet the thresholds in the bill and be prepared to meet the requirement, if applicable, within 12 months after their next implementation progress report required under RCW 36.70A.130.⁶

DESIGN AND DENSITY

What does E2SHB 1110 mean when it uses the term “density”? “Density” measured in “dwelling units per acre” has traditionally been the way that zoning ordinances have regulated residential land use. HB 1110 introduces the term “unit density” because the bill focuses instead on the minimum number of dwelling units on a lot, not on a per acre basis. Local jurisdictions may need to review and amend comprehensive plan policies and development regulations to take this into consideration, at least for accommodating middle housing.

How can cities adopt design and development standards that reflect differences between detached single-unit houses and “middle housing” types? One way to adopt design and development standards that reflect differences between detached single-unit houses and “middle housing” types is to adopt standards for middle housing that are less restrictive than existing standards required for detached single-family residences. Because HB 1110 Section (6)(b) states that middle housing regulations may not be “more restrictive” than for detached single-family residences, there is flexibility for some standards to be less restrictive.⁷ One example might be to allow driveway widths that are narrower for certain middle housing types than for a detached house. The less restrictive standard, however, must still be objective (see further below in a separate question regarding EHB 1293’s objective development regulations).

An alternate way to adopt design and development standards is through the administrative design review process in HB 1110 Section 3(6)(a). “Administrative design review” is defined, in part, as, “...a development permit process whereby an application is reviewed, approved, or denied by the planning director or the planning director’s designee based solely on objective design and development standards without a public predecision hearing...”⁸ Objective design review standards enable a city to adopt those middle housing specific standards that it deems necessary to achieve compatibility in residential zones where detached single family houses are the predominant use. These middle housing standards may include design and development standards that are not existing requirements for a detached single family residence so long as these design and development standards are “objective” and promote compatibility. The middle housing definition conveys that objective design and development standards are intended to make middle housing buildings compatible with, not identical to, the scale, form and character of detached single family houses.⁹

***NEW* QUESTION JULY 2023: Can a city still have a design review board?** While some cities may choose to have a design review board review certain types of permits, e.g., for commercial development, HB 1110 allows only administrative design review for middle housing. This means that the planning director or the planning director’s designee must decide based on objective criteria, and not a design review board.¹⁰ Another 2023 bill, ESHB 1293, places constraints on all design review, not just for housing, including a limitation of no more than one public meeting and the requirement to use only “clear and objective” development regulations.

⁵ If your city is incorrectly listed or incorrectly omitted, please contact Commerce.

⁶ E2SHB 1110, Sec. 3(11)(b)

⁷ See E2SHB 1110, Sec. 3 6(a) and 6(b)

⁸ See E2SHB 1110, Sec. 2(1)

⁹ See E2SHB 1110, Sec 2(21) "Middle housing" means buildings that are compatible in scale, form, and character with single-family houses and contain two or more attached, stacked, or clustered homes including duplexes, triplexes, fourplexes, fiveplexes, sixplexes, townhouses, stacked flats, courtyard apartments, and cottage housing.

¹⁰ E2SHB 1110, Sec. 3(6)(a)

***NEW* QUESTION JULY 2023 Are cities required to adopt Commerce’s 2023 Objective Design and Development Standards?**

No. The standards in the Objective Design and Development Standards Toolkit are provided solely as a resource for cities to consider at their discretion to provide for middle housing. Commerce will prepare model ordinances by January 2024 specific to HB 1110 requirements.

Given that all cities must allow two accessory dwelling units per lot under HB 1337, how does this harmonize with E2SHB 1110 (middle housing)? HB 1337 (section 4(1)(c)) requires that, within urban growth areas, cities and counties allow two accessory dwelling units on all lots in zoning districts that allow single-family homes. HB 1110 (section 3(5)), requires that cities allow at least six of the nine types of middle housing to achieve the required unit count.

A city must allow accessory dwelling units and such units may help achieve the unit count, AND the city also must allow middle housing types (such as a duplex) that can satisfy the minimum density¹¹ (i.e., unit count per lot). For example, where a city must allow two or four units per lot, it does not have to increase the unit count to also accommodate two ADUs.¹² A city may choose to allow such a higher count but is not required to do so. Both bills require that a city allow separate sale of units and the land they sit upon.

***NEW* QUESTION JULY 2023 Is a city required to change the name of zoning districts that include “single-family” (or something similar) in the title?** No. HB 1110 does not require that a new name, be assigned to a zoning district, however, some cities have chosen to rename their single-family zones. For example, the City of Walla Walla has renamed its previous “single family” zones as “Neighborhood Residential Zones” which allow both detached and middle housing types. A city that wishes to rename an existing zoning district, or to create, name, and map a new one, has authority to do so as a legislative action,

LOT SPLITS AND SUBDIVISION

Does HB 1110 require a city to allow subdivision of land into lots smaller than 1,000 square feet and then also require that the city allow additional units on these small lots? HB 1110 Section 3(6)(g) states, in part, *“Any city subject to the requirements of this section . . . are not required to achieve the . . . density under this act on lots after subdivision below 1,000 square feet unless the city chooses to enact smaller allowable lot sizes.”* A city has discretion to allow subdivision of land into lots less than 1,000 square feet and allow additional units on each of those lots, but is not required to do so. While lots may be subdivided (or even if a lot is not subdivided), the ability to fully achieve four units per lot, for instance, may be limited by the size of the lot and the application of development standards such as maximum lot coverage, parking, and setback requirements.

TRANSIT STOPS AND PARKING

***NEW* QUESTION JULY 2023: The middle housing bill requires increases in allowed density within “walking distance of a major transit stop”. Does this mean distance is to be measured along some reasonable path, such as street network or by a straight line distance?** A city may use a method of measuring walking distance that is not just a straight line distance (although using a straight line distance is acceptable if a city chooses that method). To measure walking distance typically means to calculate the actual walking distance of each path (whether sidewalk, street edge, or trail) that connects one location to another. For purposes of HB 1110, this would include measuring the walking distance of each pedestrian route leading from a lot to the lot or specific right of way location on which a major transit stop is located. This type of measurement can be done using certain computerized mapping applications. However, it is likely to result in a smaller total area (and not identified by standard shape, such as a circle) on a map than a simple measurement that radiates equidistant from the major transit stop. For practical reasons, jurisdictions are encouraged

¹¹ E2SHB 1110, Section 3(5) states, “A city must allow at least six of the nine types of middle housing to achieve the unit density required in subsection (1) of this section. A city may allow accessory dwelling units to achieve the unit density required in subsection (1) of this section. Cities are not required to allow accessory dwelling units or middle housing types beyond the density requirements in subsection (1) of this section. A city must also allow zero lot line short subdivision where the number of lots created is equal to the unit density required in subsection (1) of this section.”

¹² E2SHB 1110 and EHB 1337 do not expressly state how to reconcile the different requirements between the two bills for jurisdictions with a two unit density requirement per lot.

to define a station area using logical boundaries such as roads, edges of land use designations, or other features to delineate a logical area.

***NEW* QUESTION July 2023** **What is the maximum off-street parking requirement for middle housing on a lot exactly 6,000 square feet in area?** E2SHB 1110 Section 3(6)(e) and (f) address off-street parking requirements for middle housing based on lot size as follows,

“(e) Shall not require more than one off-street parking space per unit as a condition of permitting development of middle housing on lots smaller than 6,000 square feet before any zero lot line subdivisions or lot splits;

(f) Shall not require more than two off-street parking spaces per unit as a condition of permitting development of middle housing on lots greater than 6,000 square feet before any zero lot line subdivisions or lot splits;”

A lot exactly 6,000 square feet is not addressed. In instances where a lot is 6,000 square feet, a jurisdiction may specify in its development regulations whether (6)(e) or (6)(f) will apply. Regardless, fewer parking spaces than the maximum under HB 1110 may be appropriate in many locations. In general, in this specific situation, Commerce recommends requiring fewer parking spaces to reduce barriers to housing development. A developer may choose to provide additional parking spaces.

ADDITIONAL QUESTIONS:

Commerce has received additional questions, which will be answered in further updates, including:

- How are jurisdictions to allow zero lot line subdivisions?
- How does the definition of Major Transit Stop, which includes, “fixed guideway systems”, apply?
- How does the provision in ESHB 1293 about height apply to “stepbacks” in particular circumstances (such as for properties adjacent to single-family zones)?
- Should airport overlay areas be exempted from needing to allow additional middle housing?
- Are there best practices for wildfire/urban interface areas that could be used for E2SHB 1110 implementation?
- Will Commerce provide guidance to utilities to help with growth modeling?
- E2SHB 1110, EHB 1337, and ESHB 1293 establish requirements for local government development regulations, but not comprehensive plans. Do we need to adopt plan policies that reference or align with these new regulatory changes?
- Can a city adopt and apply middle housing design and development standards through an overlay zone?
- What type of design standards may cities require for accessory dwelling units?
- How should land capacity be calculated, given that more units will be allowed?
- Does E2SHB 1110 have any bearing on vacant residential land that is yet to be platted? The bill does not seem to indicate if it only applies to platted lots of record as of 2023, or if lots created through future residential plats would also be affected.

AFFORDABILITY

- Would the bill requirement for mid-size cities to allow 4 units per lot outside ¼ mile distance from a major transit stop mean we cannot allow additional units without an affordability requirement?
- Does E2SHB 1110 require jurisdictions to allow plats within ¼ mile of transit with 4-plexes on each lot, or does that requirement only apply to existing lots meeting the size requirements of the zoning?
- Does E2SHB 1110 allow jurisdictions to apply affordability requirements within ¼ mile of transit?
- Would an affordability requirement that provided the same number of affordable units, but some flexibility in the types of units allowed, be considered compliant?

CONTACT INFORMATION

Dave Osaki, Middle Housing Lead: dave.osaki@commerce.wa.us

Anne Fritzel: Growth Management Housing Programs Manager anne.fritzel@commerce.wa.us

Table 2 – 2020 City populations and three tiers per HB 1110 Section 3(1)(a)-(c)

TIER 1		TIER 2		TIER 3	
Cities with population of at least 75k		Cities with population of at least 25k and but less than 75k		Cities with populations less than 25K that are within a contiguous UGA with the largest city, in a county with a population more than 275,000	
Seattle	737,015	Redmond	73,256	Kenmore	23,914
Spokane	228,989	Marysville	70,714	Tukwila	21,798
Tacoma	219,346	Sammamish	67,455	Mukilteo	21,538
Vancouver	190,915	Lakewood	63,612	Mountlake Terrace	21,286
Bellevue	151,854	Richland	60,560	Mill Creek	20,926
Kent	136,588	Shoreline	58,608	Covington	20,777
Everett	110,629	Olympia	55,382	Arlington	19,868
Renton	106,785	Lacey	53,526	Washougal	17,039
Spokane Valley	102,976	Burien	52,066	Port Orchard	15,587
Federal Way	101,030	Bothell	48,161	Lake Forest Park	13,630
Yakima	96,968	Bremerton	43,505	Woodinville	13,069
Kirkland	92,175	Puyallup	42,937	Newcastle	13,017
Bellingham	91,482	Edmonds	42,853	Edgewood	12,327
Auburn	87,256	Issaquah	40,051	Liberty Lake	12,003
Kennewick	83,921	Lynnwood	38,568	Fife	10,999
Pasco	77,108	Lake Stevens	35,630	Airway Heights	10,757
Counties with April 1, 2020 population greater than 275,000		Wenatchee	35,575	Sumner	10,621
		Mount Vernon	35,219	DuPont	10,151
King	2,269,675	University Place	34,866	Milton	8,697
Pierce	920,393	Walla Walla	34,060	Pacific	7,235

Snohomish	827,957	Des Moines	32,888	Fircrest	7,156
Spokane	539,339	SeaTac	31,454	Normandy Park	6,771
Clark	503,311	Maple Valley	28,013	Steilacoom	6,727
Thurston	294,793	Camas	26,065	Brier	6,560
Kitsap	275,611	Mercer Island	25,748	Black Diamond	4,697
		Tumwater	25,573	Algona	3,290
		Moses Lake	25,146	Clyde Hill	3,126
				Medina	2,915
				Millwood	1,881
				Woodway	1,318
				Yarrow Point	1,134
				Ruston	1,055
				Hunts Point	457
				Beaux Arts Village	317

From: [Osaki, Dave \(COM\)](#)
To: [Robert Zeinemann](#)
Subject: RE: Middle Housing Law Question
Date: Monday, August 14, 2023 12:58:05 PM

Bob,

Thanks for the email and follow up.

First, I wanted to let you know that the rulemaking process to update the administrative rules was recently initiated, to include possible amendments reflecting new legislation on housing, urban growth areas, and rural planning. Here is a link to the General Commerce Rulemaking webpage.

[Rulemaking - Washington State Department of Commerce](#)

Under the *Active Rulemaking* heading you can access “WAC 365-196 - Updating administrative rules for the Growth Management Act (GMA)” and read more about that specific Rulemaking process.

In addition, here is a page where you can sign up to be on the email list for that specific rulemaking process, as well as where questions or public comment can be submitted

[GMA Housing Rulemaking \(wa.gov\)](#)

With regards to your question, you may not have seen the Middle Housing webpage yet.

[Planning for Middle Housing - Washington State Department of Commerce](#)

On this page, you will find a document entitled “[Fact Sheet on Implementing HB 1110 – July 15, 2023 \(PDF\)](#)”.

If I understand your question correctly, it would be responded to in the second question on page 4 that asks:

“Given that all cities must allow two accessory dwelling units per lot under HB 1337, how does this harmonize with E2SHB 1110 (middle housing)?”

The short answer is that a tier 3 city is to have code provisions that allow both ADU’s per HB 1337 AND that allows middle housing types (e.g. duplexes etc) to achieve the two unit per lot requirement per HB 1110. It’s up to the property owner to decide how the property might develop, but neither is precluded. The owner could also decide to do neither, but the municipal code is to allow for both approaches.

Thanks for asking.

Dave Osaki

From: Robert Zeinemann
Sent: Friday, August 11, 2023 1:02 PM
To: Osaki, Dave (COM)
Subject: RE: Middle Housing Law Question

External Email

Dave,

I have a follow up question. Are tier 3 cities required to allow duplexes in areas with predominately single-family housing? I ask because the Middle Housing law specifies that “a city may allow accessory dwelling units to achieve the unit density required.” E2SHB 110, Section 2(5). This comes back again to how many of the nine housing types must a tier 3 city use. The new ADU (HB 1337) law generally requires two ADUs per lot (with exceptions I’m not going to list), and it appears ADUs can take care for meeting the Middle Housing law’s density requirement for tier 3 cities without a need for duplexes. Is that correct? Or must they allow duplexes? Wouldn’t two detached ADUs work to get the density?

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www.kenyondisend.com

From: Osaki, Dave (COM)
Sent: Thursday, August 10, 2023 9:39 PM
To: Robert Zeinemann
Subject: RE: Middle Housing Law Question

Robert,

Thanks for your email.

Sorry for the delay in a response, but I was out of the office for a bit and am catching upon messages.

You answered part of the question already. Notwithstanding your comment about clarity, you are correct. E2SHB 1110, section 2(21) adds a definition of “middle housing” as follows,

“(21) "Middle housing" means buildings that are compatible in scale, form, and character with single-family houses and contain two or more attached, stacked, or clustered homes including duplexes, triplexes, fourplexes, fiveplexes, sixplexes, townhouses, stacked flats, courtyard apartments, and cottage housing.”

The nine housing types listed in that definition comprise the nine middle housing types.

In the scenario you mentioned for Tier 3, it would be a reasonable conclusion that only those middle housing types that accommodate a two unit per lot density be required. That being the case, only those middle housing types that provide two units per lot must be allowed such as, as examples, cottages, stacked flats, courtyard apartments and duplexes.

This isn't to say, though, that a Tier 3 city couldn't also choose to include additional types of middle housing, for example on its largest lots, thus making six middle housing types possible in at least some areas.

Thanks again for your email.

David Osaki

From: Robert Zeinemann
Sent: Monday, August 7, 2023 4:03 PM
To: Osaki, Dave (COM)
Subject: Middle Housing Law Question

External Email

For a tier 3 city (under 25,000 in metro area) why and where “must [it] allow at least six of the nine types of middle housing to achieve the unit density required” which for a tier 3 city is two units per lot. E2SHB 1110, Section 3(5). First, the law is unclear about what “the nine types” it is referring to, but assuming it is “duplexes, triplexes, fourplexes, fiveplexes, sixplexes, townhouses, stacked flats, courtyard apartments, and cottage housing” as defined in E2SHB 1110, Section 2(21), why would a tier 3 city, which is only required to have at least two units per lot in predominately residential areas, be required to have triplexes or higher density units, as is apparently required? Does that provision in Section 3(5) mean that at least six of those nine housing types must be allowed via zoning *somewhere* in the city, but *not everywhere* in predominately residential zones? It is not clear to me.

Second, the reference to “the nine types of middle housing” in Section 3(5) is odd as it suggests there are exactly nine types of middle housing, but Section 2(21) defines “Middle Housing to mean “buildings that are compatible in scale, form, and character with single-family houses and contain two or more attached, stacked, or clustered homes including duplexes triplexes, fourplexes, fiveplexes, sixplexes, townhouses, stacked flats, courtyard apartments, and cottage housing.” Use of

the word “including” means it is not an exhaustive list and suggests there are more than the nine types listed. Thus, for the law to later reference “the” nine types is poor drafting and adds to my confusion. It should read: “six of the nine types of middle housing that are listed in Section 2(21).”

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Washington State
Department of
Commerce

We strengthen communities

Implementing HB 1337: Guidance for Accessory Dwelling Units

**GROWTH MANAGEMENT
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MRSC Disclaimer

The content of this publication is for Washington local governments to implement HB 1337 (laws of 2023) and to encourage the creation of new accessory dwelling units (ADUs). It is not intended as legal advice, nor as a substitute for the legal advice of an attorney. Users of this publication should contact their own legal counsel regarding their legal rights or any other legal issue.

Advisory Committee

This was developed in consultation with land use planners of Washington through Regional Planners' Forums, a panel at the 2022 Washington conference of the American Planning Association, and a panel of county land use planners.

Comments

This is a final draft our Commerce guidance to implement HB 1337 (laws of 2023). Please provide comments to Catherine.Mccoy@commerce.wa.gov by June 15, 2023.

Washington State Department of Commerce

PO Box 42525, Olympia, WA 98504-2525

www.commerce.wa.gov

For people with disabilities, this report is available on request in other formats.

To submit a request, please call 360-725-4000 (TTY 360-586-0772).

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Introduction

Available and affordable housing is a major issue in Washington and local governments throughout the state are grappling with finding successful approaches to encourage construction of more affordable housing and increase the overall supply and variety of housing options. Accessory dwelling units (ADUs) are one type of housing that can help address those challenges.

HB 1337, laws of 2023, requires jurisdictions to allow two ADUs per lot within urban growth areas, by six months after the next periodic update due date. This document provides detail on the state law and local policy choices.

ADU types

There are two basic types of ADUs:

Attached ADU (AADU)

A self-contained unit located within an existing primary residential structure (for example, conversion of an existing basement, attic, or attached garage); or a new structural addition to an existing residence.¹

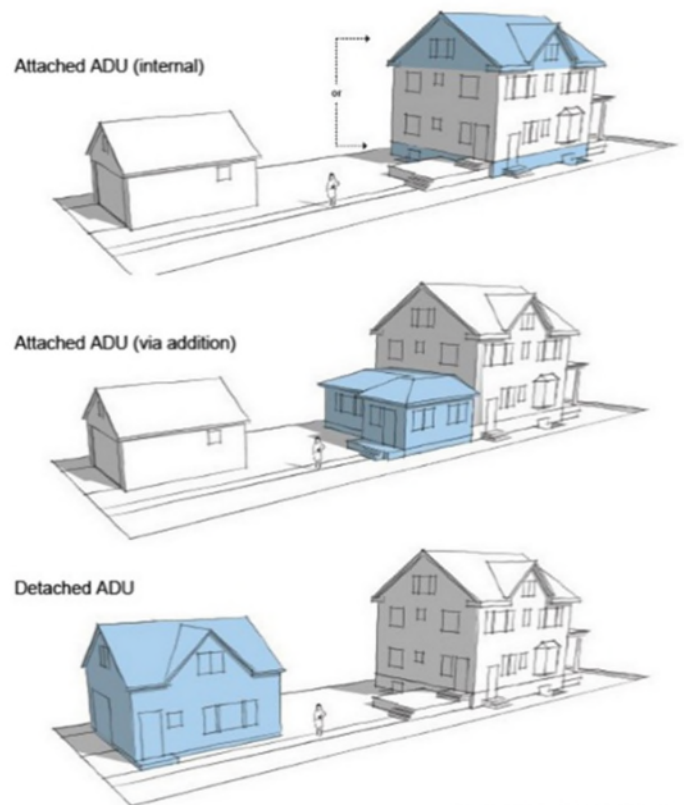
Detached ADU (DADU)

An existing detached structure that has been converted to a residential unit (such as the conversion of a detached garage); or a newly constructed detached housing unit on the same lot that is smaller than the primary residence.

An ADU has all the basic facilities needed for day-to-day living independent of the primary residence, such as a kitchen, bathroom, and sleeping area.²

Examples of Accessory Dwelling Units (ADUs)

ADUs in blue; main residence in white



¹ [RCW 36.70A.696](#) defines "Attached accessory dwelling unit" means an accessory dwelling unit located within or attached to a single-family housing unit, duplex, triplex, townhome, or other housing unit.

² [RCW 36.70A.696](#) defines dwelling unit as "a residential living unit that provides complete independent living facilities for one or more persons and that includes permanent provisions for living, sleeping, eating, cooking, and sanitation."

Benefits of ADUs

The benefits of encouraging the construction of new ADUs include:

- Adding to the diversity of housing options.
- Providing a housing type that blends in well with existing single-family residential neighborhoods.
- Catering to our state’s changing demographics, such as more seniors and smaller household sizes.
- Providing housing that is typically more affordable than traditional single-family homes.
- Adding housing units without expanding urban growth areas.
- Correcting historic economic and racial exclusion by opening up single-family neighborhoods to more diverse housing and household types.
- Reducing climate impacts because an ADU tends to be smaller and use less energy than a traditional single-family home.

For these reasons, ADUs are an effective and “gentle” way to help accommodate the state’s growing population.



Basement AADU example, with AADU entrance on the side of the structure. Credit: Steve Butler.

Legal History of ADU Policy in Washington State

The 1993 Washington Housing Policy Act directed the Department of Commerce (Commerce) to make recommendations to encourage development and placement of ADUs. See the [Model ADU Ordinance Recommendations](#) (1994). Under [RCW 43.63.215](#), local governments were required to incorporate the Commerce recommendations into their zoning and development regulations. To allow local flexibility, the recommendations were subject to such regulations, conditions, procedures, and limitations as may be determined by the local government legislative authority. “Local government” was defined in the statute as a city with a population that exceeds 20,000, a county with a population that exceeds 125,000, and a county that is required to or has chosen to plan under the Growth Management Act (GMA).

In 2019, the state Legislature expressed intent to help increase residential building capacity. The Legislature found that Washington State was experiencing a housing affordability crisis and sought to promote and encourage the creation of ADUs. [Chapter 348, Laws of 2019 \(HB 1923\)](#) offered a grant program to encourage cities to adopt regulations to increase housing supply, including to: (1) authorize ADUs in one or more zoning district in which they are currently prohibited; (2) remove minimum parking requirements; (3) remove owner occupancy requirements; (4) adopt new square footage requirements that are less restrictive than existing requirements; and (5) develop a local program that offers homeowners a combination of financing, design, permitting or construction support to build ADUs.³

In 2020, [Chapter 217, Laws of 2020 \(ESSB 6617\)](#) adopted restrictions on local government requirements for off-street parking for ADUs near transit stops. Cities that fully plan under the GMA may not require provision of off-street parking for ADUs within one-quarter mile of a major transit stop, with certain limited exceptions ([RCW 36.70A.698](#)).⁴

In 2021, [Chapter 254, Laws of 2021 \(HB 1220\)](#) amended [RCW 36.70A.070\(2\)](#) to require all cities and counties that fully plan under the GMA to “*consider the role of accessory dwelling units in meeting housing needs.*” In addition, Section 7 of the bill stated that cities and counties “should consider” certain policies to encourage the construction of ADUs. This section was vetoed by Governor Jay Inslee because it did not specifically limit the policies to lands within urban growth areas. The Governor’s veto of Section 7 illustrates a fundamental point: While there is little doubt that local governments should encourage ADUs in cities and urban growth areas, very different considerations come into play with respect to county rural and resource lands.

In 2023, [HB 1337](#) amended RCW 36.70A to add significant changes to local government roles for regulating accessory dwelling units (ADUs). Within urban growth areas, cities and counties:

- Must allow two ADUs per residential lot. The ADUs may be attached, detached, or a combination of both, or may be conversions of existing structures.
- May not require the owner to occupy the property, and may not prohibit sale as independent units.
- May not charge more than 50% of impact fees charged for the principal unit.
- Must allow an ADU of at least 1,000 square feet and must adjust zoning to be consistent with the bill for things such as height, setbacks, and other regulations.
- Must set consistent parking requirements based on distance from transit and lot size.

³ [RCW 36.70A.600\(1\)\(n\), \(o\), \(p\), \(q\) and \(x\)](#), passed in 2019, and updated in 2020 to this current list of options.

⁴ See [ESSB 6617](#) and Commerce’s page on [Washington Housing Laws of 2019 through 2022](#).

The bill states that if a city or county does not amend their rules to be consistent with the law, the rules "supersede, preempt and invalidate any conflicting local development regulations."⁵

Other **new** provisions in HB 1337:

- Any action taken by a city or county to comply with the requirements are not subject to legal challenge under GMA or SEPA. Section 3(3)
- Cities and counties are not required to authorize the construction of an ADU where development is restricted under rules as a result of physical proximity to on-site sewage system infrastructure, critical areas, or other unsuitable physical characteristics of a property. Section 3(4) , 5(d), and 5(e)
- Cities and counties may restrict the use of ADUs for short term rentals. Section 3(5)(a)
- Cities and counties may apply public health, safety, building code, and environmental permitting requirements to an ADU that would be applicable to the principal unit, including regulations to protect ground and surface waters from on-site wastewater. Section 3(5)(b)
- The bill does not require ADUs to be allowed on lots with critical areas, and around SeaTac airport. Section 4(2)(b)(ii)
- The bill also addresses restrictive covenants and deed restrictions, protecting any local government from civil liability if they issue a permit for an ADU on a lot with a covenant restricting an ADU. Sections 11 and 12 (3).

Commerce is required to develop guidance to update the 1994 recommendations. That will be completed by June 30, 2023 and posted at: <https://www.commerce.wa.gov/serving-communities/growth-management/growth-management-topics/planning-for-housing/>



Detached ADU/"Carriage House" in Portland. Credit: Radcliffe Dacannay, radworld (Creative Commons).

⁵ Section (1)(b) HB 1337 as passed legislature 2023

Requirements, recommendations, key considerations, and other programmatic elements to encourage construction of new ADUs

The Washington State Department of Commerce presents these requirements, recommendations, key considerations, and other elements as an update to the agency's 1994 guidance and as implementation of HB 1337 (laws of 2023). The objective is to provide some detail on the requirements, local policy choices, and examples of approaches to be considered by cities, towns, and counties, in accordance with the original statute. This guidance actions is structured under the following categories:

- A. Requirements for cities and other urban areas
- B. Recommendations for cities and other urban areas
- C. Key considerations for counties (rural and resource lands)
- D. Other programmatic elements to consider

A. Requirements for cities and urban growth areas

1. Allow two ADUs per lot

Allowing ADUs in residential neighborhoods creates additional housing options and gives homeowners greater flexibility by providing rental income or a place for them or their family members to age in place.

State law:

Within urban growth areas, cities and counties must allow two ADUs on all lots that meet minimum lot size in zoning districts that allow for single-family homes.⁶ The ADUs may be:

- **Two attached accessory dwelling units (ADUs) such as unit in a basement, attic, or garage.**
- **One attached accessory dwelling unit and one detached accessory dwelling unit (DADU), or**
- **Two detached accessory dwelling units, which may be comprised of either one or two detached structures**
- **A conversion of an existing structure, such as a detached garage.⁷**

Local policy choice:

Cities and counties should generally apply the same public health, safety, building code, and environmental permitting requirements to an accessory dwelling unit that would be applicable to the principal unit, including regulations to protect ground and surface waters from on-site wastewater.⁸

Cities and counties may also choose to prohibit the construction of accessory dwelling units on lots that are not connected to public sewer, though some lots' existing septic system may have capacity for one ADU, particularly an attached unit. See the section on impact fees.

Cities and counties may restrict ADU development:

- Within areas designated as wetlands, fish and wildlife habitats, flood plains, or geologically hazardous areas.
- In zones with a density of one dwelling unit per acre or less that are in critical areas.⁹
- On lots in a watershed serving a reservoir for potable water if that watershed is or was listed, as of July 1, 2023, as impaired or threatened under section 303(d) of the federal clean water act (33 U.S.C. Sec. 1313(d))
- The requirements to allow two ADUs do not apply within a one mile radius of SeaTac Airport.¹⁰
- In designated shoreline areas, the Washington State Department of Ecology guidance prefers attached ADUs within the footprint of an existing building, and should be consulted about any other impact(s).

⁶ Section 4(1)(c) of HB 1337

⁷ Section 4(1)(j) HB 1337: A city or county must allow accessory dwelling units to be converted from existing structures, including but not limited to detached garages, even if they violate current code requirements for setbacks or lot coverage.

⁸ Section 3(5)(b) HB 1337

⁹ Section 3(5)(e) HB 1337

¹⁰ Section 4(2)(b)(ii) HB 1337

Examples

[Black Diamond Municipal Code Sec. 18.56.030](#) – Allows two ADUs in conjunction with the primary unit provided adequate provisions for water and sewer are met.

[Burien Municipal Code Sec. 19.17.070](#) – Permits a maximum of two ADUs (one attached and one detached) per detached house.

[Langley Municipal Code Sec. 18.08.095](#) – Allows one attached and one detached ADU on a lot with a single-family dwelling connected to sewer.

Reduce minimum lot sizes for ADUs (especially on small urban lots)

Minimum lot sizes set the base lot size for development as part of a subdivision process. Large minimum lot sizes for ADUs meant that they couldn't be built on smaller urban infill lots, resulting in ADUs only on larger lots with larger, more expensive homes. To support more ADUs on smaller lots, cities and other urban areas should reduce or eliminate minimum lot sizes for ADUs.

Local policy choice:

HB 1337 requires that two ADUs be allowed on lots meeting minimum lot size. Where lots are smaller than the minimum allowed by the zone, cities may choose to allow one ADU, especially attached, where the unit can fit within the existing footprint. This may occur for small lots where there is not enough space to accommodate a DADU. This situation may be particularly acute for very small, "substandard" lots.¹¹

Examples

[Enumclaw Municipal Code Sec. 19.34.050](#) – Allows ADUs on lots of any size.

[Kenmore Municipal Code Sec. 18.73.100](#) – Does not require a minimum lot size for ADUs.

[Renton Municipal Code Sec. 4-2-110C](#) – Permits ADUs on lots 3,000 square feet or less.

2. Do not require owner occupancy

Owner occupancy standards generally require that a property owner live in either the primary residence or the ADU and are relatively common throughout Washington. The rationale for this requirement has historically been based on apprehensions about noise and other negative impacts that might be caused by unsupervised renters, and perhaps perceptions of conflicts around undefined shared space. But other local code provisions relating to those types of nuisance concerns can be adopted and applied to residential properties occupied by either owners or renters.

State Law:

Within urban growth areas, cities and counties must not require owner occupancy for any unit on the property.¹² [RCW 36.70A.696](#)(9) defines owner as any person who has at least 50% ownership in a property on which an accessory dwelling unit is located.

¹¹ Section 4(3) HB 1337 says that when regulating accessory dwelling units, cities and counties may impose a limit of two accessory dwelling units, in addition to the principal unit, on a residential lot of 2,000 square feet or less. However, this may be an error and two ADUs are to be allowed on lots that meet the minimum lot size. Commerce is seeking clarity on this point.

¹² Section 4(1)(b) HB 1337

Local policy choice:

When one of the units is used as a short-term rental (STR), a local government may choose to require an owner to occupy either the primary or accessory unit. (See the section on short-term rentals.)¹³

Examples

[Bremerton Accessory Dwelling Units](#)

[Kirkland Accessory Dwelling Units](#)

[Seattle Accessory Dwelling Units](#)

[Vancouver Accessory Dwelling Units](#)

3. Allow separate sale of ADUs

Because they are smaller and more affordable than most typical single-family homes, sales of ADUs as separate units can increase homeownership opportunities for first-time homebuyers and low-income residents. [Washington's Condominium Act](#), which provides for the creation of condominiums, does not preclude ADUs from being “platted” as a part of a condominium development.

State law:

A city or county may not prohibit the sale or other conveyance of a condominium unit independently of a principal unit solely on the grounds that the condominium unit was originally built as an accessory dwelling unit.¹⁴

Local policy choice:

Local governments wanting to regulate the issue of how ADUs are converted to a condominium form of ownership should work closely with their legal counsel in reviewing [RCW 64.90.025](#) and other related laws.

Local governments can also allow ADUs to be sold separately using a fee simple process, such as a unit lot subdivision.

Example

[Seattle ADU Annual Report](#) (2021) – Allows ADUs to be sold as condominiums and their annual ADU report highlights the benefits of ADUs as condominiums.

4. Set off-street parking requirements for ADUs consistent with state law

Many lots in established areas aren't large enough to support both an ADU and off-street parking, effectively prohibiting ADU development. This means that ADUs are often limited to larger lots that can accommodate parking and other site features. Removing off-street parking requirements for ADUs can help to open up possibilities for placing ADUs, especially in urban areas with transportation options.

State law:

¹³ Section 3(5)(a) HB 1337

¹⁴ Section 4(1)(k) HB 1337

Parking limits for ADUs are subject to the following:

- **On lots smaller than 6,000 square feet, no more than one off-street parking space may be required per ADU before any zero lot line subdivisions.**
- **On lots greater than 6,000 square feet, no more than two off-street parking spaces per unit may be required.**
- **Off street parking may not be required as a condition of permitting ADUs within one half mile of a major transit stop.**¹⁵¹⁶

Local policy choice:

Cities may choose to reduce parking requirements from the maximum limits in the bill (i.e. generally no more than two on-site spaces for lots greater than 6,000 square feet before any zero lot line subdivisions or lot splits. For example, because ADUs typically are for one or two people, no more than one parking space may be needed for any lot size, especially in areas with on-street parking. Furthermore, while on-site parking cannot be required at all within ½ mile of a major transit stop, a city may not want to require on-site parking in other types of walkable areas or where on-street parking is sufficient. Under state law, for lots over 6,000 square feet where cities may choose to allow up to two off-street parking spaces, cities may choose to allow one or two off-street parking spaces; Commerce recommends generally requiring only one on-site parking space and none where sufficient on-street parking is available, or in highly walkable or transit-oriented locations.

Cities may choose to require more parking if Commerce concurs with a study that shows that parking consistent with the law would be significantly less safe for pedestrians, bicyclists, or people in vehicles. Under HB 1337 and HB 1110 (laws of 2023) Commerce is required to develop guidance on the contents of the study.¹⁷ This should be complete by the end of 2023.

Because there are multiple definitions for major transit stop that are not quite aligned, cities should consider parking requirements for E2SHB 1110 as they implement this section. Within urban growth areas, where E2SHB does not apply, counties should use the definition in RCW 36.70A.696.

Related to the issue of off-street parking requirements are garage conversions for ADUs. This type of ADU may be more affordable since the changes are primarily internal to an existing structure, and they're popular with retirees who want to age in place because they generally have "no-step entries." Because HB 1337 requires cities to allow garage conversions, and to reduce parking requirements, Commerce recommends that cities allow any replacement parking on driveways or on the street if possible.

¹⁵ Under [RCW 36.70A.698](#), the off-street parking for ADUs is prohibited within one-quarter mile of major transit stops. However, E2SHB 1110, also prohibits off-street parking for middle housing within ½ mile of a major transit stop, so Commerce recommends using ½ mile.

¹⁶ There are now several definitions for major transit stop. Recent definition changes in E2SHB 1110 define it to include 1) A stop on a high capacity transportation system funded or expanded under the provisions of RCW 81.104; 2) Commuter rail stops; 3) Stops on rail or fixed guideway systems, and 4) Stops on bus rapid transit routes. [RCW 36.70A.696](#) also includes transit ways; routes that run on high occupancy vehicle lanes; or stops for a bus or other transit mode providing actual fixed route service at intervals of at least fifteen minutes for at least five hours during the peak hours of operation on weekdays.

¹⁷ Section 4(2)(b)(i) HB 1337 review for errors in section as this is codified.

Examples

[Kirkland Municipal Code Sec. 115.07](#) – Doesn't require off-street parking for one ADU. On lots with more than one ADU, one space is required, with exceptions (available street parking within 600 feet or property is located within ½ mile of frequent transit.)

[Fircrest Municipal Code Sec. 22.58.012](#) – Doesn't require additional off-street parking for ADUs, unless the planning director determines there is insufficient on-street parking to satisfy parking demand.

[Kenmore Municipal Code Sec. 18.73.100](#) – No additional off-street parking spaces are required for an ADU.

[Sumner Municipal Code Sec. 18.12.030](#) – ADUs created via garage conversion are not required to have off-street parking, as long as there is available on-street parking and the unit is located within half a mile of the Sumner transit station.



Smith Gillman Cottage converted garage. Credit: CAST architecture.

5. Set maximum size limits at no less than 1,000 SF

Local governments typically enact maximum size limits for buildings to ensure there is enough space on a lot for site features like parking and green space; however, maximum size limits that are too restrictive pose design and use limitations. ADU size limits are typically smaller in urban infill areas than they are for larger greenfield sites. Some cities and other urban areas set a single maximum that is based on square footage, while others couple this standard with a percentage of the primary residence.

State law:

ADU size limits must allow a maximum gross floor areas of at least 1,000 within urban growth areas.

New amendments to RCW 36.70A.969 define "gross floor area" as the interior habitable area of a dwelling unit including basements and attics but not including a garage or accessory structure.

Examples

[Chelan Municipal Code Sec. 17.20.20](#) – Limits ADUs in its single-family residential district to 1,200 square

feet or no more than 50% of the total square footage of the primary residence, whichever is less. The planning director may approve an increased size to efficiently use all floor area if all other standards are met.

[Kenmore Municipal Code Ch. 18.73](#) – Attached ADUs are limited to 1,000 square feet unless the ADU is proposed for preexisting floor area on a single level of the primary unit. For DADUs, maximums are based on lot size.

6. Reduce barriers from setbacks and other ADU regulations

Zoning codes should clearly describe dimensional and other ADU standards, including:

- Setbacks
- Lot Sizes
- Height

These standards should consider ADUs in various circumstances, including those on small lots and along alleyways. Below are requirements and recommendations for setbacks, lot sizes, and height standards.

Increase height maximums for ADUs

State law:

The city or county may not establish roof height limits on an accessory dwelling unit of less than 24 feet, unless the height limit of the principal unit is less than 24 feet.¹⁸

Cities and other urban areas typically set building height limits to address issues like views and privacy; however, they also limit design options and use land less efficiently. Height limits for ADUs allow more design flexibility, both in terms of lot placement and within the unit itself. Some communities set one maximum for both the principal unit and ADUs, while others have a separate maximum for ADUs.

Examples

[Kenmore Municipal Code Sec. 18.73.100](#) – Allows ADUs up to 35 feet.

¹⁸ HB 1337, Section 4(1)(g)

[Spokane Municipal Code Sec. 17C.300.130](#) – Has height limits that are more nuanced and relate to the proximity of an ADU to a property line.



Larger, taller DADU – 1130 SF. Credit: Eddie Bojorquez/Crest Backyard Homes.

Reduce setbacks for ADUs (especially rear setbacks)

State law:

A city or county may not impose setback requirements, yard coverage limits, tree retention mandates, restrictions on entry door locations, aesthetic requirements, or requirements for design review for accessory dwelling units that are more restrictive than those for principal units.¹⁹

A city or county must allow detached accessory dwelling units to be sited at a lot line if the lot line abuts a public alley, unless the city or county routinely plows snow on the public alley.²⁰

Setback requirements, which establish the minimum distance from front, side, or rear lot lines, create space between an ADU and adjacent uses. Some codes establish setbacks for ADUs that mirror those of the principal unit, thereby limiting space for ADUs, especially DADUs on small lots. Many urban communities have begun requiring separate, less restrictive setbacks specifically for ADUs. For example, some cities and other urban areas reduce or waive setbacks for DADUs along side and rear lot lines, and alleys.

¹⁹ Section 4(1)(h) of HB 1337

²⁰ Section 4(1)(h)(i) of HB 1337



DADU over a garage with relaxed rear setback. Credit: Steve Butler.

Examples

[Bellingham Municipal Code Sec. 20.01.036](#) – Exempts DADUs from side and rear yard setbacks when abutting an alley.

[LaCenter Municipal Code Ch. 18.247](#) – Allows DADUs at the rear yard lot line if adjacent to an alley.

7. Limit use of design standards

Design standards often involve ensuring ADUs are compatible with the primary residence through features such as architectural style, window placement, roof form and pitch, and building materials. ADU design standards, however, can have the unanticipated impact of increasing project costs, by lengthening the time needed for local ADU project review. ADUs can complement, but need not be exactly the same as the principal unit.

State law:

A city or county may not impose aesthetic requirements, or requirements for design review for accessory dwelling units that are more restrictive than those for principal units.²¹

Accordingly, local governments should minimize the use of ADU design standards. In some cases, standards may be used to address privacy, for example making sure that the ADU's windows are located to preserve privacy between the ADU and neighboring properties or private open space. To address potential time delays, any ADU design standards should be reviewed administratively, instead of by a separate design review board.

Examples

[Ellensburg Municipal Code Sec. 15.540.040](#) – Does not require ADUs to match the appearance of the primary structure.

[Sedro Woolley Municipal Code Sec. 17.100.030](#) – Allows the planning director to approve interesting DADU designs that are dissimilar from the primary structure.

[Lacey Municipal Code Sec. 14.23.071](#) – Has minimal design criteria for attached and detached ADUs, though duplex-like designs are not allowed.



ADU in the Wedgewood neighborhood of Seattle. Credit: Pam MacRae, [Sightline Institute](#). Used with permission.

²¹ Section 4(1)(h) HB 1337

8. Remove, reduce or waive permit application fees, impact fees, system development charges, and other ADU-related fees

Impact fees

Impact fees are one-time charges assessed by a local government against a new development project to help pay for new or expanded public capital facilities that will directly address the increased demand for services created by that development. [RCW 82.02.050](#) authorize counties, cities, and towns planning under the [Growth Management Act](#) (GMA) to impose impact fees for:

- Public streets and roads,
- Publicly owned parks, open space, and recreation facilities,
- School facilities, and
- Fire protection facilities.

Because ADUs are generally smaller than standard single family homes, they typically have fewer people living in them, and likely cause fewer impacts.

State law:

The city or county may not assess impact fees on the construction of accessory dwelling units that are greater than 50 percent of the impact fees that would be imposed on the principal unit.²²

Local policy choice:

Local governments may charge according to the size of the unit, fixture count, or location with the community, or completely waive fees, but in no case, should the fees be more than 50% of what would be charged to the principal unit.

Examples

[Everett 2023 Impact Fees Schedule](#) – Waives transportation and school impact fees for ADUs.

[Olympia Municipal Code Ch. 15.08](#) – Waives school impact fees and reduces transportation and park impact fees for ADUs.

[Renton 2019-2020 Fee Schedule \(Section XII\)](#) – Provides impact fee reductions and waivers for ADUs.

[Fife Municipal Code Sec. 19.80.030](#) – Meters ADU utilities jointly with the primary unit.

[Lake Stevens Municipal Code Sec. 9.25.010](#) – Reduces utilities connection fees for ADUs based on ADU size.

²²Section 4(1)(a) HB 1337

Utility connection fees/system development charges

System development charges, or connection fees may be charged for area-wide improvements for water. Sewer or stormwater. Like impact fees, communities may charge according to the unit's impact on the system. A fundamental feature of ADUs is that the ADU is "accessory to" a primary residential unit. As a result, the ADU will be smaller, typically have fewer people living in it, and have a reduced demand for municipal services.

Local policy choice

There is no specific requirement to reduce charges for sewer, water, and stormwater, as there is for impact fees, but a local government has the option of removing, reducing or waiving connection fees or system development charges to meet public purposes. They may choose to reduce system development charges to 50% as well because these charges are meant to fund area wide system development improvements, and an ADU generally has a smaller impact.

Other considerations: Because of this dependent nature of ADUs, especially attached, it is recommended that a local government allow shared meters, especially for attached units that are within the capacity of an existing meter. There may be limited cases in which separate meters are necessary because of site configuration or separate sale.

Examples

King County has a detailed system capacity charge system with charges that vary based on the size and form of the housing unit, with addition discounts for affordable units.

<https://kingcounty.gov/en/dept/dnrp/waste-services/wastewater-treatment/sewer-system-services/capacity-charge/about>

[Kirkland Accessory Dwelling Units](#) – This webpage provides the following information:

- ADUs are not subject to water capital facility charges if there are no changes to the water service/meter.
- ADUs are not subject to sewer capital facility charges.
- ADUs are not subject to the surface water capital facility charge if the primary residence is already connected to the public storm system.

[Olympia Municipal Code Ch. 13.04](#) and [Ch. 13.08](#) – Provides the option of new connections or tie-ins when developing an ADU. There is no charge when the connection occurs on the lot. The Olympia Engineering and Design Standards [Section 7B.080](#) addresses the issue of ADUs and side sewers.

[Sedro Woolley Municipal Code Sec. 17.100.030](#) – Utilities may be shared between an ADU and the primary dwelling. Sewer connection fees are collected at a reduced rate depending on the size of the ADU.

Other fees and exactions

State law:

A city or county may not require public street improvements as a condition of permitting accessory dwelling units.²³

Permit fees can be a barrier to ADU development. Local governments often attempt to recoup the actual cost of processing land use permits, but there is not a legal requirement that they do so. A city or county could choose, for policy reasons, to charge a lower amount for ADU applications as part of a strategy to encourage property owners to construct new ADUs on their properties. In addition, lowering fees makes sense if a city or county is taking other steps to streamline the ADU process, since those measures may also result in lower permit administration costs.

Examples

[Spokane Municipal Code Sec. 08.02.031](#) – Waived permit fees for ADUs on lots within half a mile of certain zoning districts. The waiver is set to expire at the end of 2024.

[Washougal Municipal Code Sec. 18.46.020](#) – Does not charge an application fee for DADU development.

²³ Section 4(1)(l) HB 1337

B. Recommendations for cities and other urban areas

The following recommendations are not required, but are suggestions to encourage the development of ADUs. They are to apply only to cities, towns, and other urban areas, including unincorporated urban growth areas (UGAs) and limited areas of more intensive development (LAMIRDs). The purpose of applying these ADU recommendations to cities and other urban areas, and not to rural areas or resource lands, is to support the GMA's goals of encouraging development in urban areas and reducing sprawl.

1. Allow prefabricated units

Prefabricated detached ADUs (DADUs) can provide a degree of cost savings, which may make them more affordable for property owners, especially in more remote areas that may not have access to the tradespeople needed to construct an ADU. Because materials and manufacturing are centralized at an off-site manufacturing facility, prefabricated units require less construction time than conventionally built structures and can be constructed year-round in a climate-controlled factory.

Washington state law ([RCW 35A.21.312](#)) allows for consumer choice in housing, requiring local government to allow the placement of factory-built homes in any location where site-built homes are permitted. The law was likely developed to apply to primary units, and not necessarily ADUs. However, code cities and counties may adopt a set of additional standards, relating to permanent foundation, roof pitch, and design, although not all of those standards should be applied to ADUs.

Any prefabricated unit must meet state standards.²⁴ Local codes may refer to larger manufactured homes, and may not be related to small homes, such as park models, more suitable for an ADU.

Example

[Bremerton Municipal Code Sec. 20.46.010](#) – Allows for manufactured homes to be used as ADUs.



Prefab DADU: Nanny Flat, Elder Cottage. Credit: Eddie Bojorquez/Crest Backyard Homes.

²⁴ See the Washington Department of Labor & Industries page on [Manufactured Home Permits & Inspections](#).

Tiny houses

Tiny houses, or tiny houses with wheels, as defined in [RCW 35.21.686](#), are not generally allowed as ADUs because they may not be able to meet the standards required for a permanent residential unit, such as a foundation, water supply and sewage disposal. However, some communities are starting to consider allowing tiny homes on wheels as temporary units, with appropriate connections and tie-downs.

One exception in state law is that tiny homes on wheels and RVs may be used as permanent living quarters only when they are situated in manufactured/mobile home communities, but they are still subject to certain life/safety and utility hookup requirements ([RCW 35.21.684](#)). Tiny houses must be inspected and meet the standards of the Washington State Department of Labor and Industry.²⁵



Prefab ADU travelling from factory to residential site / installed on-site. Credit: Roger Fitzsimons.

2. Streamline ADU permitting processes

A local permitting process should be designed to make it as easy as possible for an applicant to prepare and submit a development permit application, and for the permit review staff to review and quickly approve it. This approach should be particularly true for the types of development that a community is actively trying to encourage, such as ADUs.

Discretionary project permitting processes, such as those requiring conditional use permits, hearings examiner review, and public hearings add extra time and cost to getting a development project approved. These processes make sense for situations where a proposed project may be large or have a number of potential impacts on a neighborhood or community. For small, low-impact development projects that

²⁵ See the Washington Department of Labor & Industries page on [Tiny Houses](#).

advance adopted public policy such as new ADUs, a discretionary permitting process creates an unnecessary barrier to ADU construction.

Local governments should allow ADUs “by-right,” with project review and approval to be done administratively. Having an expedited or shorter review process for ADUs can also include moving ADU proposals to the “front of the line.” Providing pre-approved ADU plans is another method for reducing the time needed to review an ADU proposal (see provide pre-approved ADU plans in section D6). Streamlining can be additionally bolstered by checklists that clarify the ADU approval process (see the section D2 on providing user-friendly communication materials).

Examples

[Pasco Municipal Code Sec. 25.161.030](#) – ADU applications are approved administratively.

[Sequim Municipal Code Sec. 18.66.040](#) – Requires a single administrative permit for ADU development. The application must be processed by the community development director within 30 days of submittal ([Sec. 20.01.080](#)).

3. Offer incentives to encourage ADUs that are affordable to lower-income households

While ADUs are generally more affordable than a typical single-family home, most aren't affordable to households making less than 80% of the area median income (AMI). To address this issue, some local governments offer incentives for ADUs that are affordable for lower-income households (that is, less than 80% AMI) for a set number of years (such as 50 years). These types of incentives usually involve requiring affordability in exchange for providing a “bonus,” like higher densities in the form of an additional ADU. Local governments can also support affordability for low-income residents by incorporating ADUs into their affordable housing funding programs and forming partnerships with community land trusts and other non-profit organizations.

Local policy choice:

There are a number of ways that local governments can offer reductions for affordable housing, most require some kind of assurance that the unit will remain affordable over time.

- [RCW 82.02.060](#)(4) also authorizes local governments to offer impact fee reductions or waivers for affordable housing. An exemption for low-income housing granted under this section, however, must be conditioned upon requiring the developer to record a covenant that prohibits using the property for any purpose other than for low-income housing.
- [RCW 36.70A.540](#) authorizes jurisdictions to expand affordable housing incentive programs to include, among other things, fee waivers or exemptions provided the local government is committed to continuing affordability for at least 50 years.
- A local government may offer “tap-in charge” waivers for low-income persons (under [RCW 35.92.380](#) or [RCW 36.94.370](#)).²⁶

²⁶ For more information on this topic, see [MRSC's Affordable Housing Techniques and Incentives - Reduction/Waiver of Fees](#).

Examples

[CLTplusOne](#) – A pilot program offered by Durham (NC) Community Land Trustees, which pairs a land trust home with ADUs on the same lot. Both the primary residence and rental unit are permanently affordable (see this Shelterforce article on [Durham’s Community Land Trust](#)).

[Seattle Municipal Code Sec. 23.44.041](#) – Allows a second ADU on a lot if one of three conditions are met: conversion within an existing structure, green building standards, or affordability for “income-eligible households” for a minimum of 50 years.

[Vancouver: 2022 Application Guidelines for Housing Production, Acquisition, and Rehabilitation](#) – Includes ADUs on a list of innovative projects that are encouraged and will be considered for affordable housing funds.

C. Key considerations for counties

GMA-planning counties must plan and provide regulatory frameworks for four land use categories in decreasing order of ADU intensity:

- Unincorporated urban growth areas (UGAs).²⁷
- LAMIRDs, and
- Rural lands
- Designated natural resource lands

1. Unincorporated urban growth areas and LAMIRDs

State law:

In unincorporated urban growth areas, which are generally intended to have urban services and eventually become or annex into cities, the requirements in section A of this guidance apply within 6 months of the next periodic update.²⁸

- Must allow two ADUs per residential lot. The ADUs may be attached, detached, or a combination of both, or may be conversions of existing structures.
- May not require the owner to occupy the property, and may not prohibit sale as independent units.
- May not charge more than 50% of impact fees charged for the principal unit.
- Must allow an ADU of at least 1,000 square feet and must adjust zoning to be consistent with the bill for things such as height, setbacks, and other regulations.
- Must set consistent parking requirements based on distance from transit and lot size.

Local policy choice:

Unincorporated urban growth areas, if served by sewer should be able to meet all the requirements in section A of this guidance. If there are urban growth areas that are not yet served by sewer and / or water, Commerce recommends that counties consider ways to further infill these areas with expanded infrastructure. For urban growth areas that are already developed on septic, attached ADUs may be possible within the existing foot print of the building or a small addition, depending on how the septic systems were designed. Some lots may be limited in capacity by their ability to site additional septic capacity. Best practice is that an interlocal agreement exists between the city and the county for addressing growth, permitting and expansion of urban infrastructure within unincorporated urban growth areas.

Within Limited Areas of More Intensive Rural Development (LAMIRDs), the outer boundary may not change, but the LAMIRD may be filled in with new development, including ADUs.

²⁷ See [Chapter 36.70A RCW](#).

²⁸ HB 1337 (laws of 2023) Section 3 (1 and 2).

2. Rural and natural resource lands

ADU regulations outside of urban growth areas require consideration of a different set of factors than ADU regulations in cities and urban growth areas. ADU provisions in rural and resource areas must be accompanied by measures to protect rural character, conserve resource lands, and limit density and sprawl. When developing or amending regulations, counties should consider the potential for:

- Increased demand for emergency and other services.
- Increased traffic on county roads, which may be built to a lower standard.
- More housing and increased population in areas potentially prone to wildfires or other natural hazards.
- Impact on water supplies.
- Conflict with or decrease in land available for agriculture or other natural resource industries.

The Growth Management Hearings Boards (GMHBs) have considered challenges to ADU regulations in rural and resource designated areas in a handful of counties. Three hearings boards have issued decisions disfavoring local regulations allowing detached ADUs where they do not include specific criteria to curtail indiscriminate increased density.²⁹

Designated natural resource lands: Counties must ensure ADU regulations are consistent with GMA requirements to preserve natural resource lands for resource production. In natural resource lands, the dominant use is to be the agricultural, forestry, or mineral use; residential development is to be sited to not interfere with and preserve the majority of land for such use. See [RCW 36.70A.060](#).

Rural lands: For areas designated as “rural,” the regulations must be consistent with “rural character” as established in the rural element of the county’s comprehensive plan.³⁰ [RCW 36.70A.030](#) (23) defines rural character as “[...] the patterns of land use and development established by a county in the rural element of its comprehensive plan.” Importantly, what constitutes rural character in one county may be different than what constitutes rural character in another ([RCW 36.70A.011](#)). ADUs should not contribute to sprawl or cause residential uses to predominate over rural uses.³¹

Given the need to be consistent with and implement their rural, housing, and land use elements of their comprehensive plans (among others), it will be important for counties to “show their work” through the written record, including but not limited to whereas statements, findings of fact, staff reports, and public participation processes; and to articulate legal and policy justifications for their actions.

Careful with detached ADUs: The hearings boards have held that freestanding residential ADUs should be treated as separate dwelling units for purposes of density calculations – although in some cases

²⁹ [Loon Lake Property Owners, et al v. Stevens County](#), EWGMHB, Case No. 01-1-0002c, Compliance Order (May 30, 2008); [Friends of San Juans, et al v. San Juan County](#), Case No. 3-2-0003c coordinated with [Nelson, et al v. San Juan County](#), Case No. 06-2-0024c, FDO/Compliance Order, at 3 (Feb. 12, 2007).

³⁰ County comprehensive plans must include a rural element. A county’s rural element must include policies that are consistent with rural character. [RCW 36.70A.070](#)(5)(b) provides, in relevant part: “[The rural element] shall provide for a variety of rural densities, uses, essential public facilities, and rural governmental services needed to serve the permitted densities and uses. To achieve a variety of rural densities and uses, counties may provide for clustering, density transfer, design guidelines, conservation easements, and other innovative techniques that will accommodate appropriate rural economic advancement, densities, and uses that are not characterized by urban growth and that are consistent with rural character.”

³¹ [RCW 36.70A.020](#)(2) and [RCW 36.70A.110](#)(1) and [.070](#)(5). [Friends of San Juans, et al v. San Juan County](#), Case No. 3-2-0003c coordinated with [Nelson, et al v. San Juan County](#), Case No. 06-2-0024c, FDO/Compliance Order, at 3 (Feb. 12, 2007) – Regulations allowing a detached ADU on substandard rural lots allowed residential use to predominate over rural uses and were therefore noncompliant; [Loon Lake Property Owners, et al v. Stevens County](#), Case No. 01-1-0002C – Allowing an ADU on all parcels –including substandard lots – can considerably increase density within zone.

have found compliant county regulations that allow limited exceptions to detached ADUs triggering such density requirements.³²

Attached ADUs are preferred: Conversely, the boards have held that attached ADUs and ADUs converted from an existing structure in close association with the primary residence (such as a garage) do not count toward density in rural and resource areas.³³

2. Considerations and examples for rural and resource areas

Generally, regulations permitting attached ADUs raise fewer concerns than those permitting detached ADUs. While several counties allow detached ADUs in their rural land designations, most include restrictions related to standards such as:

- Size limit on a single ADU.
- Minimum lot size to conform to zoning or in some cases, double the minimum lot size.
- Proximity to and dependency on the primary residence (such as shared driveway, parking, yard, septic, well, utilities, etc.)
- Design standards for consistency with primary unit.
- Limitations on number of permits issued annually.
- Restrictions on title.

Examples

[Clark County: Accessory Dwelling Unit – Rural \(Handout\)](#) (2022) – Allows only attached accessory dwelling units in rural and resources zones.

[Kitsap County: Accessory Dwelling Unit \(Handout\)](#) (2022) – Requires detached ADUs to be sited within 150 feet of the principal dwelling outside of UGAs. Size limit, 50% of primary unit or 900 square feet, whichever is smaller. Owner occupancy requirements and design standards apply.

[San Juan County Code Sec. 18.40.240](#) – Limits the number of detached ADU permits outside “activity centers” and UGAs in any calendar year to no more than 12% of the total number of building permits for new principal residences issued for the previous calendar year. Further limited to one permit per property owner outside UGAs.

[Spokane County: Detached Accessory Dwelling Unit \(Handout\)](#) – Detached ADUs in selected rural zones must be within 150 feet of principal dwelling and meet several other conditions, including that title notice will be placed on the property that the accessory dwelling may not be sold as a separate residence until such time as the accessory dwelling is located as the sole residence on a legally subdivided parcel.

[Walla Walla County Code Sec. 17.08.015](#) – Requires at least four of six “dependency requirements” be shared for a detached accessory dwelling unit (road access, septic system, water system, utility meters, yard, and parking areas).

³² [Friends of San Juans, et al v. San Juan County](#), Case No. 3-2-0003c coordinated with [Nelson, et al v. San Juan County](#), Case No. 06-2-0024c, FDO/Compliance Order, at 3 (Feb. 12, 2007).

³³ [Yanisch v. Lewis County](#), Case No. 02-2-0007c, Order on Compliance Hearing (Mar. 12, 2004).

D. Other programmatic elements to consider

The following “programmatic elements” are not recommendations but are instead meant to be additional options to be considered by cities, towns, and other urban areas, including unincorporated UGAs and LAMIRDS.

1. Address the use of ADUs as short-term rentals

Construction of ADUs presents an opportunity to increase a community’s supply of relatively affordable long-term housing. When an ADU is used as a short-term rental (STR), defined as a housing unit being rented for fewer than 30 consecutive days, that housing unit functions as a lodging unit for visitors and not as a housing unit.³⁴ As a result, some local governments completely prohibit the use of ADUs as STRs, while others limit but don’t completely prohibit that use.

The primary rationale for prohibiting or limiting ADUs being used as STRs is that renting an ADU as a long-term housing unit, defined as being rented for more than 30 consecutive days, will have the dual benefit of providing a positive income stream to a homeowner and adding a new residential unit to the local housing supply.

Some studies attempt to make the case that ADUs being used as STRs make up “only a small percentage” of the overall stock of STRs (8%-12%).³⁵ For example, data collected by the City of Seattle shows that 11% of the total short-term rental units were ADUs. It should be noted, however, that 11% still represents 418 units that are not contributing to that city’s long-term housing supply.

Given the significant policy implications, local jurisdictions located in areas with high demand for short-term rentals, such as popular tourist destinations, should carefully consider the pros and cons of allowing ADUs to be used as short-term rentals.

State law:

Cities and counties may restrict the use of ADUs for short term rentals.³⁶

Examples

[Bellingham Municipal Code Sec. 20.10.037](#) – Does not allow STRs in DADUs in single-family zones but does allow them in DADUs in other zones, and in AADUs citywide.

[Poulsbo Municipal Code Sec. 18.70.070](#) – Does not allow ADUs to be used as STRs.

[Sequim Municipal Code Ch. 18.66](#) – Does not allow ADUs to be used as STRs.

2. Provide user-friendly communication materials

To assist applicants in navigating the ADU permitting process, local governments can provide user-friendly ADU webpages, informational handouts, guides, and checklists. These guidance documents can

³⁴ [RCW 36.70A.696\(9\)](#) defines short-term rental as “a lodging use, that is not a hotel or motel or bed and breakfast, in which a dwelling unit, or portion thereof, is offered or provided to a guest by a short-term rental operator for a fee for fewer than 30 consecutive nights.”

³⁵ See, for instance, the Urban Land Institute’s report [Jumpstarting the Market for ADUs: Lessons Learned from Portland, Seattle, and Vancouver](#).

³⁶ HB 1337 Section 3(5)(a)]

help by clearly articulating ADU requirements to property owners, homeowners, contractors, and developers. Clear materials not only serve to inform those who are interested in building ADUs, but also encourage more interest in ADU construction.

Examples

[Bremerton Guide to Establishing an ADU](#) (2021) – Includes an overview of the city’s ADU standards and links to permit requirements.

[Lake Stevens ADU Permit Checklist](#) – Helps applicants understand the city’s ADU provisions.

[Olympia ADUs & Accessory Structures Guide](#) (2022) – Includes an overview of ADU regulations and standards, including design review requirements and guidelines.

[Seattle ADUniverse: The ABCs of ADUs](#) – Includes a step-by-step guide to creating an ADU.

[Thurston County ADU Handout](#) (2021) – Covers the main elements of the county’s three-step ADU permitting process.

3. Provide information on landlord-tenant laws for prospective ADU owners and ADU tenants

For many homeowners renting an ADU on their property, this may be the first time they have served as a landlord. As a result, they may not be familiar with relevant local, state, and federal laws that apply to landlords (such as the Fair Housing Act). Conversely, renters also have certain rights and responsibilities under these laws that both landlords and tenants should be aware of.

The Washington [Residential Landlord-Tenant Act](#) includes the state’s key landlord-tenant laws.³⁷ Some local governments have created landlord-tenant regulations and programs with additional protections for renters, including rental registration and extra notice of rent increases and/or inspections. To inform both landlords and tenants about these requirements, local governments can develop user-friendly summaries of these resources and provide them to ADU applicants during the permit process.

Examples

[Bellingham: Landlords and Tenants](#) – Includes information on the city’s rental housing regulations, rental registration and safety inspection program, and more.

[Benton County: Renter’s Resources](#) – Includes information on fair housing and tenant rights in Washington.

[Burien: Renting in Burien](#) – Includes information on the city’s rental housing inspection program, notice of intent to sell, and eviction law in Washington.

[Olympia: Tenant Protections](#) – Includes information on the city’s rental housing ordinance, FAQs, and more.

³⁷ More information on state and federal laws may be found on the Washington Office of the Attorney General’s [Landlord-Tenant page](#) and the U.S. Department of Housing and Urban Development [Tenant Rights, Laws and Protections: Washington](#) page.

[Tacoma: Landlord-Tenant Program](#) – Includes information on the city’s landlord-tenant program.

4. Provide information on ADU financing and funding programs

Lack of funding and financing options is often cited as one of the most prevalent challenges for ADU construction.³⁸ Lending institutions that finance ADU projects generally don’t allow homeowners to borrow against a portion of the future value of an unbuilt ADU, further constraining the viability of projects. To support homeowners in financing their ADU projects, local governments can:

- Identify other funding and financing opportunities for ADUs and make these resources available at the permit center and online.
- Develop programs to facilitate access to ADU funding and financing opportunities.

[RCW 84.36.400](#), authorizes counties to provide a three-year property tax exemption for improvements to a single-family dwelling, including the construction of an ADU, as long as it represents 30% or less of the value of the original structure. The program was initiated through [Chapter 204, Laws of 2020 \(2SSB 6231\)](#) and stipulates that dwelling units may be either attached to or within the single-family dwelling or a detached unit located on the same real property. In 2023, additional provisions were added in King County.³⁹

ADU owners may deduct, for income tax purposes, construction costs over time, annual property taxes, and shared monthly utility costs from rental proceeds, which may help encourage their development.

Examples

[Olympia OlyFed Bank: ADUs Financing](#) – Provides six loan options for ADU construction. See this [ADU Loan Options flyer](#) and [ADU Financing](#) presentation for more information.

[Spokane Single-Family & Detached ADU Tax Exemption](#) – The City of Spokane highlights the fact that Spokane County provides a tax exemption for ADUs for the three assessment years after the completion of the improvement, to the extent the improvement represents 30% or less of the value of the original structure.

5. Create a program to encourage legalization of unpermitted ADUs

A combination of strong demand for new housing and too many barriers have in some Washington communities resulted in unpermitted ADUs. Creating a program to allow legalization of unpermitted ADUs can help promote safe, legal structures and open them up to rental opportunities.

Local governments are encouraged to develop programs to promote the legalization of existing housing units, which should be done in a manner that ensures accessory dwelling units are safe to inhabit.

Examples

[Bellingham Municipal Code Sec. 20.10.036](#) – Allows ADUs existing prior to January 1, 1995, to become legally permitted, as long as ADU owners submit an application that is consistent with current ADU regulations and building codes.

³⁸ See the UC Berkeley’s Turner Center for Housing Innovation’s article [ADU’s for All: Breaking Down Barriers to Racial and Economic Equity in ADU Construction](#) (2022).

³⁹ SB 5045 offers extended property tax exemptions for ADUs in King County if the unit is affordable.

[Ferndale Municipal Code Sec. 18.34.060](#) – Allows owners of ADUs established before June 20, 2017, to submit an application to the city to legally permit the existing unit pursuant to the city’s ADU regulations.

6. Provide pre-approved ADU plans

After confirming their property is eligible for an ADU, homeowners begin the design process with an architect or designer. Depending on whether the unit is within an existing structure or free standing, the design process can add significant time and expense to a project. To streamline this step, some local governments offer detached ADU plan designs that have been pre-approved for compliance with building codes. ADU applications with pre-approved plans are typically approved in a shorter timeframe and with reduced permit fees since the designs have been vetted by staff. Even though the designs have been pre-approved all other code provisions, like site-specific standards, still apply.

Examples

[Olympia: Pre-Approved ADU Plans \(Guide\)](#) (2021) – The cities of Olympia, Lacey, and Tumwater worked together to offer four plans that have been pre-approved for compliance with building codes.

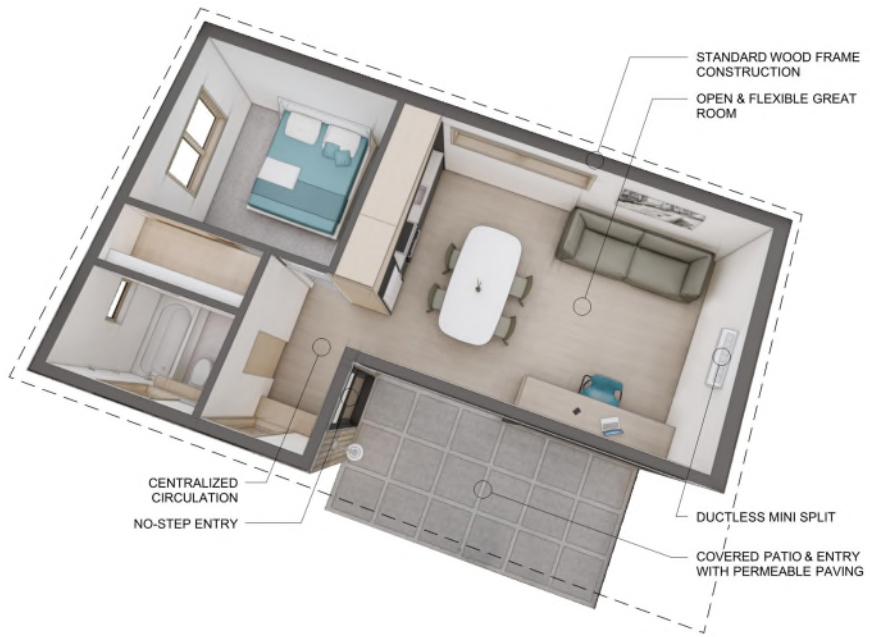
[Leavenworth: ADU Plans](#) – Offers four pre-approved designs. Each option includes two different styles – modern and traditional.

[Renton: Permit Ready ADU Program](#) – Includes eight pre-approved, designed, and engineered model base plans, ranging in size from 415 to 1,000 square feet and varying in architectural style.

[Seattle: Pre-approved DADUs Program](#) – Offers 10 pre-approved plans for DADUs, including factory-assembled structures that have been approved by the Washington Department of Labor and Industries.



Cedar Cottage Seattle ADU Pre-Approved Plan (above and below). Credit: CAST architecture.



Appendix A: Additional examples and resources

A. Cities and other urban areas

1. Allow two ADUs per lot

[Bremerton Municipal Code Ch. 20.46](#) – Allows up to two ADUs per lot (see Sec. 20.46.010).

[Kirkland Municipal Code Sec. 115.07](#) – Allows up to two ADUs (either attached or detached).

[Fife Municipal Code Ch. 19.80](#) – Allows both one attached and one detached ADU on larger city lots. “For lots between 3,200 and 4,356 square feet, only attached accessory dwelling units are permitted. For lots larger than 4,356 square feet both attached and detached accessory dwelling units are permitted, provided the extra lot area required in the applicable zone is met.”

[Lake Forest Park Municipal Code Ch. 18.50](#) – For lots exceeding one acre, one attached and one detached ADU are permitted (see Sec. 18.50.050).

2. Do not require owner occupancy

[Kenmore Municipal Code Sec. 18.73.100](#) – Either the primary dwelling unit or the accessory dwelling unit is required to be owner-occupied for a minimum of six consecutive months after completion of the ADU. At the end of the six-month period, the owner occupancy requirement shall be extinguished.

[Renton Municipal Code Sec. 4-9-030](#) – Applicants requesting exemption from owner occupancy requirements are required to meet five criteria, including an affordability requirement.

[Seattle Release of Owner Occupancy Covenant for ADUs Forms](#) (Word document) – This form for recording with the King County Recorder’s Office releases property from the covenant for owner occupancy entered into as a condition of applying for an ADU permit, as owner occupancy is no longer required by Seattle’s Land Use Code per [Ordinance No. 125854](#) (2019).

3. Do not require off-street parking for ADUs

[Bainbridge Island Municipal Code Ch. 18.09](#) – Allows garage conversions for ADUs.

[Bellevue Ordinance 6589](#) – Adopted in 2021 prohibiting requirements for off-street parking for ADUs within one-quarter mile of a major transit stop. For additional background information, see Bellevue’s page on [Reduced Minimum Residential Parking Standards](#).

[Bremerton Municipal Code Sec. 20.46.010](#) – One ADU is not required to provide an additional off-street parking space. The second ADU is required, however, to provide an off-street parking space in addition to that which is required for the principal unit.

[Spokane Municipal Code Sec. 17C.300.130](#) – No additional parking is required for studio and one-bedroom ADUs and ADUs within one-quarter mile of certain transit stops. Spokane allows garage conversion for ADUs.

[Olympia Municipal Code Sec. 18.38.100](#) – Doesn't require parking spaces for ADUs (see table 38.01, "Residential" section).

[Tacoma Municipal Code Sec. 13.06.080](#) – No off-street parking is required for ADUs.

[University Place Municipal Code Sec. 19.70.010](#) – No additional off-street parking is required for ADUs.

[Vancouver Municipal Code Ch. 20.810](#) – Doesn't require additional on-site parking in conjunction with the establishment of an ADU. The city allows conversion of an existing garage structure or other outbuilding to be converted to an ADU; however, off-street parking for the primary residence is required to be provided elsewhere on the site.

[Seattle Municipal Code Sec. 23.44.041](#) – Off-street parking is not required for accessory dwelling units, except that an existing required parking space may not be eliminated to accommodate an accessory dwelling unit unless it is replaced elsewhere on the lot.

4. Reduce barriers from setbacks and other ADU regulations

Reduce setbacks for ADUs (especially rear setbacks)

[Brier Municipal Code Sec. 17.24.010](#) – ADUs must conform to standard setback regulations, though the rear yard setback requirement is reduced to seven feet for ADUs.

[Kirkland Municipal Code Sec. 115.115](#) – Required setbacks are the same as the underlying zone. DADUs may be located within five feet of an alley. DADUs without alley access may be located no closer than five feet from the rear property line as long as the portion of the DADU in the reduced setback is no taller than 15 feet.

[Sequim Municipal Code Sec. 18.66.050](#) – Exempts existing legally created on-site accessory structures – such as garages – that have been converted to ADUs from complying with setback standards.

[Tacoma Municipal Code Sec. 13.06.080](#) – No setbacks from alleys are required.

Reduce minimum lot sizes for ADUs (especially on small urban lots)

[La Conner Municipal Code Sec. 15.110.080](#) – ADUs are allowed on lots that are under 5,000 square feet.

[Medina Municipal Code Sec. 16.34.020](#) – ADUs are excluded from minimum lot area requirements.

[Tacoma Municipal Code Sec. 13.06.080](#) – ADUs are allowed on any legally established lot, regardless of lot size or width.

Increase height maximums for ADUs

[La Center Municipal Code Sec. 18.247.050](#) – ADUs are limited in height to 25 feet or the primary dwelling's height, whichever is lower.

[Mukilteo Municipal Code Sec. 17.30.060](#) – ADUs may be two stories high and must comply with maximum building heights for the underlying zoning district; DADUs cannot be taller than the primary unit, except that there is a maximum height of one-story if DADU is located above a garage or similar structure.

[Pacific Municipal Code Sec. 20.92.060](#) – ADUs may be up to 25 feet high.

5. Increase maximum size limits for ADUs appropriate to zone and context

[Black Diamond Municipal Code Sec. 18.56.030](#) – Detached ADUs are limited to 1,000 square feet.

[Bremerton Municipal Code Sec. 20.46.010](#) – Limits ADUs to 1,000 square feet or no more than 60% percent of the principal unit's total habitable floor area, whichever is greater. Attached ADUs in residences built prior to 2020 may receive director's approval to increase ADU floor area to equal that of the principal dwelling.

[Burien Municipal Code Sec. 19.17.070](#) – Internal or attached ADUs are limited to 1,000 square feet. The planning director may make exceptions to size limitations to allow for the better utilization of existing spaces.

[Leavenworth Municipal Code Sec. 18.36.035](#) – The total habitable floor area of any ADU is limited to 1,200 square feet.

[Kirkland Municipal Code Sec. 115.07](#) – ADUs are limited to 1,200 square feet.

[Roslyn Municipal Code Sec. 18.140.030](#) – ADUs are limited to 1,000 square feet.

[Yakima Municipal Code Sec. 15.09.045](#) – The ADU's floor area is limited to 1,000 square feet.

6. Limit use of design standards

[Bothell Municipal Code Sec. 12.14.135](#) – Attached ADU entrances are permitted on the front of the primary residence under certain conditions.

[Bremerton Municipal Code Sec. 20.46.010](#) – The city has developed a user-friendly [ADU Guide](#) (2021) that summarizes design regulations with visual examples.

[Fife Municipal Code Sec. 19.80.040](#) – Recommended approaches to promote privacy for adjacent properties are included in subsection 19.80.040(A)(6).

7. Remove, reduce or waive permit application fees, impact fees, system development charges, and other ADU-related fees

Utility connection fees/system development charges

[Chelan Municipal Code Sec. 13.33.020](#) – Offers utility rate reductions for family ADUs.

[La Center Municipal Code Sec. 18.247.050](#) – ADUs may share sewer and water connections with the primary dwelling. System development charges are imposed at a reduced rate compared to a single-family home (Sec. 18.247.080).

[Yakima County Code Sec. 19.18.020](#) – The ADU and the primary dwelling unit will share a single sewer and water connection, unless the local sewer and/or water purveyor requires separate connections. Outside of Urban Growth Areas, the two dwellings may use separate on-site sewage disposal systems.

Impact fees

[Bellingham Permit Fees](#) – This webpage offers information establishing that:

- ADUs are assessed at half the multi-family rate for park impact fees.
- For transportation impact fees, the person trip rate is less than duplexes and townhouses.
- School impact fees are waived for ADUs.

[Bellingham Ordinance No. 2018-11-022](#) – Establishes impact fee reductions related to the city's 2018 ADU code update.

[Kirkland Accessory Dwelling Units](#) – Exempts transportation, park, and school impact fees for ADUs in accordance with city code (KMC 27.04.050, KMC 27.06.050, KMC 27.08.050). These fees are assessed on the primary single-family residence only.

[Renton 2023-2024 Fee Schedule](#) – Impact and permit fees are waived for ADUs. Stormwater system development charges are reduced by 50% for ADUs.

[Tukwila Fee Schedule](#) – Exempts attached ADUs from impact fees (see Figure 16-1 “Fee Schedule”).

[Everett 2023 Impact Fees Schedule](#) – Waives traffic and school impact fees for ADUs.

[Olympia Municipal Code Ch. 15.08](#) – Waives school impact fees and reduces transportation and park impact fees for ADUs.

[Renton 2019-2020 Fee Schedule \(Section XII\)](#) – Provides impact fee reductions and waivers for ADUs.

ADU permit application fees

[Port Angeles Temporary Building Permit Fee Waiver Form](#) (2022) – A temporary building permit fee waiver is available for construction of housing reserved for families with 80% AMI or below through September 2028; ADUs are included as an acceptable dwelling type for this waiver.

8. Allow prefabricated ADUs

Code examples

[Richland Municipal Code Sec. 23.42.020](#) – Allows accessory apartment units that are manufactured off site.

[Langley Municipal Code Sec. 18.22.115\(C\)](#)– While not addressing prefabricated housing, "tiny homes" are allowed to be used as ADUs, if they can meet the International Residential Code (IRC) and other specified local standards.

Other resources

[Olympia Manufactured Homes \(Handout\)](#) (2017) – Manufactured homes are allowed to be used as ADUs, particularly to promote affordable housing.

Seattle ADUniverse:

- [The ABCs of ADUs](#) – Mentions factory-built ADUs in the Construction section.
- [Pre-approved DADUs](#) – References factory-assembled structures in the L&I-approved DADUs section. The pre-approved plans include the Urban Cottage Prefab and WOOD Studio design.

[Seattle: Guide to Building a Backyard Cottage](#) (2010) – See page 19.

[Seattle Tip Sheet 305: Factory-Assembled Structures for Residential and Commercial Use](#) (2023) – Includes a comparison of the three types of factory-assembled structures, local requirements, and fees.

[Insider: A new collection of minimalist tiny homes from \\$37,500 is available in the US for the first time](#) (2023) – Article about affordable tiny homes from Latvia-based firm, MyCabin.

[Congress for the New Urbanism: Novel idea - Modular house that's cute](#) (2023) – Article describing a well-designed modular house that received an Urban Guild Award.

[HUD Office of Policy Development \(PD&R\): Factory-Built Accessory Dwelling Units for Affordable Housing Options](#) (2020) – Highlights communities that support factory-built ADU designs.

9. Streamline ADU permitting processes

Code examples

[Olympia Municipal Code Sec. 18.72.080](#) – Approves ADUs administratively.

[Pacific Municipal Code Sec. 20.92.057](#) – Single, straightforward application requirements for ADU development.

[Sequim Municipal Code Sec. 18.66.040](#) – Approves ADUs administratively.

Other resources

[Bellevue: ADU Registration](#) – This webpage notes that ADU registration, a floor plan, and site sketch/site plan are the minimum necessary to proceed with the ADU application process.

[Camas: ADU Application Form](#) – Two-page application form that includes applicable development standards and design guidelines.

[Lake Stevens: ADU Compliance Checklist](#) – This checklist provides a detailed overview of the permitting process.

[MRSC: Streamlining Local Permit Review Procedures](#) – This webpage provides examples of streamlined permit review processes.

[Seattle: Construction Permit – Addition or Alteration](#) – This webpage provides that to add within an existing house, a construction addition/alteration permit is needed; to build a detached unit, a construction addition/alteration permit is needed.

[Vancouver Municipal Code Sec. 20.920.060\(H\)](#) – Expedites permit review for infill development.

10. Offer incentives to encourage ADUs that are affordable to lower-income households

[Bellingham Housing Development: Guideline and Procedure Handbook](#) (2019) – Housing Levy funds are available to support purchases of homes with ADUs.

[Block Project](#) – Nonprofit with a mission to construct and find homeowners in Seattle willing to host an affordable ADU on their residential properties.

[Habitat for Humanity \(Seattle-King & Kittitas Counties\) - South Park Project](#) – This award-winning Habitat for Humanity project, funded in part through Seattle Housing Levy funds, includes ADUs.

[Fannie Mae: HomeReady Accessory Unit Income and Boarder Income Flexibilities](#) (2022) – Expands access to creditworthy low-income borrowers.

[Renton Municipal Code Sec. 4-9-030](#) – For owners seeking an exemption from owner occupancy requirements for ADUs, 50% of the total units must be designated as and remain affordable at 60% AMI.

Community land trust (CLT) examples

[National League of Cities: How One Colorado Community Land Trust Is Preserving Homeownership and Affordability](#) (2021) – Elevation Community Land Trust operates in partnership with a Denver Housing Authority initiative to support homeowners and prevent displacement. Their approach includes building ADUs to create more living space for family members or a new source of income.

[T.R.U.S.T. South LA \(& four other California CLTs\): Increasing Community Power and Health through Community Land Trusts](#) (2020) – The Community Land Trust Association of West Marin, in collaboration with the Housing Authority of Marin County, offers zero-interest loans, permit fee waivers, and other benefits for homeowners to create ADUs for use as affordable rental units.

[Shelterforce: Affordable ADUs: How It's Being Done](#) – Explores pilot programs and other strategies for financing ADUs for low- and moderate-income homeowners.

B. Counties (rural and natural resource lands)

Relevant Growth Management Hearings Board cases

[Peninsula Neighborhood Association v. Pierce County](#), Case No. 95-3-0071, Final Decision and Order (Mar. 20, 1996) – Local governments are required to include ADU provisions in their development regulations, but those regulations must be consistent with the GMA requirement that local governments reduce sprawl in rural areas.

[Yanisch v. Lewis County](#), Case No. 02-2-0007c, Order on Compliance Hearing (Mar. 12, 2004) – County definition of “rural character” must comply with GMA; subdivision or sale of ADU to family member may not be approved if doing so creates lots of less than five acres.

[Friends of San Juans, et al v. San Juan County](#), Case No. 3-2-0003c coordinated with [Nelson, et al v. San Juan County](#), Case No. 06-2-0024c, FDO/Compliance Order (Feb. 12, 2007) – Regulations allowing a detached ADU on substandard rural lots allowed residential use to predominate over rural uses and were therefore noncompliant.

[Kittitas County Conservation, et al v. Kittitas County](#), Case No. 07-1-0015, Final Decision Order (Mar. 21, 2008) – County ADU regulations must contain density provisions to preserve rural character—failure to do so would result in “urban-like” density in rural areas.

[Loon Lake Property Owners Association, et al v. Stevens County](#), Case No. 01-1-0002c, Compliance Order (May 30, 2008) – Allowing an ADU on all parcels—including substandard lots— can considerably increase density in rural areas; regulations should contain specific criteria to curtail indiscriminate increased density.

C. Other programmatic elements

1. Address the use of ADUs as short-term rentals

[La Conner Municipal Code Sec. 15.110.080](#) – ADUs may not be used as short-term rentals.

[Langley Municipal Code Sec. 5.40.030](#) – A maximum of 50 ADUs can be used as short-term rentals in Langley.

[Marysville Municipal Code Sec. 22C.180.030](#) – ADUs aren’t permitted as short-term rentals.

[Roslyn Municipal Code Sec. 18.140.030](#) – ADUs may be rented for a minimum of 60 days.

[Tukwila Municipal Code Sec. 18.50.220](#) – Doesn’t allow ADUs to be rented for periods of less than 30 days.

2. Provide user-friendly communication materials

[Bellingham: Homeowner’s Handbook to Building an ADU](#) – This handbook, developed by the Whatcom Housing Alliance and the City of Bellingham, includes ADU basics and information on permitting, design, construction, and costs.

[Jefferson County: The ABCs and 123s of ADUs](#) (2022) – This guide, developed by the Housing Solutions Network, includes information for homeowners considering ADU development, particularly for affordable housing.

[Lynnwood ADU Guide](#) – One-page guide with an overview of the city’s ADU requirements, including those related to size, design, and setbacks.

[Poulsbo Accessory Dwelling Units](#) – This webpage includes ADU basics, benefits of an ADU, code requirements, permitting process, handouts, and flow charts.

[Redmond ADU \(Handout\)](#) (2019) – This one-pager includes an overview of the city’s ADU requirements and permit process.

[San Juan County DADU Permit Application Checklist](#) (2018) – One-page overview of all permit application requirements.

[Seattle: A Guide to Building a Backyard Cottage](#) (2010)

[Spokane Accessory Dwelling Unit Current Allowances](#) (2022) – Includes quick facts.

[Tacoma ADU Tip Sheet](#) (2022) – Includes development standards, permit requirements, submittal and review process, and more.

[Tacoma Accessory Dwelling Units Design Guide](#) (2022) – A handbook for building ADUs.

Toronto, Canada:

- [Changing Lanes - Laneway Suites in the City of Toronto](#) – Provides requirements, reports, and other information for laneway suites (i.e., detached ADUs abutting a public laneway).
- [Garden Suites](#) – Offers rules and regulations, key considerations, and other information for garden suites (i.e., detached ADUs that do not abut a laneway).
- [YouTube - City of Toronto Garden Suites Draft Rules](#) – Video discussing the city’s draft rules for garden suites.

[Vancouver ADU Fact Sheet](#) (2022) – Includes FAQs.

3. Provide information on landlord-tenant laws for prospective ADU owners and ADU tenants

[A Regional Coalition for Housing \(ARCH\): Renting Out An ADU](#) – Information on finding tenants, rental agreements, landlord-tenant relationship, and more in East King County.

[Bellevue: Residential Rental Regulations](#) – Contains general guidelines for ADU rental terms.

[Kenmore Ordinance No. 22-0545](#) (2022) – Adopts tenant protections increasing notice for rent increases, capping late fees, capping move in fees and deposits, and more. The ordinance notes that “dwelling unit” has the same meaning as the state’s Residential Landlord-Tenant Act ([RCW 59.18.030](#)), which defines it as “...a structure of that part of a structure which is used as a home, residence, or sleeping place by one or two or more persons maintaining a common household...”

[Kirkland: Tenant Protections](#) – Includes new tenant protections related to notice of rent increases, maximum security deposit, and enforcement.

[Redmond: Living in Redmond](#) – Includes information on the city’s new tenant protections.

4. Provide information on ADU financing and funding programs

[Fannie Mae: HomeReady Accessory Unit Income and Boarder Income Flexibilities](#) (2022) – Expands access to creditworthy low-income borrowers.

[Freddie Mac: Accessory Dwelling Unit \(ADU\) FAQ](#) – Includes common questions about Freddie Mac’s ADU loan terms.

[UC Berkeley's Turner Center for Housing Innovation & USC's Lusk Center for Real Estate: ADU Construction Financing](#) (2022) – Includes product examples and considerations.

[A Regional Coalition for Housing \(ARCH\): ADU Lending Assistance](#) – Includes information about both private and public financial requirements and assistance.

[Local Investing Opportunities Network \(LION\)](#) – Provides loans for ADU development in Jefferson County.

5. Provide information on ADU condominium conversions

[Bellevue ADU Reform Land Use Code Amendment \(LUCA\)](#) – The city is updating its code to remove barriers for the construction of attached ADUs, including removing the prohibition on condominium conversion.

6. Create a program to encourage legalization of unpermitted ADUs

Code examples

[Burien Municipal Code Sec. 19.17.070](#) – ADUs without city approval may be legalized if the owner applies for the applicable permits.

[Enumclaw Municipal Code Sec. 19.34.240](#) – Allows ADUs that existed as of November 1, 2001, to be legally established with an application, inspection, and affidavit. Permit application fees were waived within the first year of the relevant ordinance being in effect.

[Kirkland Municipal Code Sec. 115.07](#) – An ADU inspection is required for issuance of an ADU permit if it was built without a final building permit.

[Langley Municipal Code Sec. 18.22.115](#) – An ADU that existed as of January 22, 2019, may be legally established and may continue to be used as an ADU with an application, inspection, and affidavit.

[Mukilteo Municipal Code Sec. 17.30.040](#) – ADUs built without proper permitting may become legal if the owners submit an application and fulfill parking and owner occupancy requirements, among others.

[Newcastle Municipal Code Sec. 18.31.050](#) – ADUs may become legal following an application and inspection process.

[Roslyn Municipal Code Sec. 18.140.030](#) – If an ADU was created without a building permit, the city requires a building inspection to determine if the structure is sound, will not pose a hazard to people or property, and complies with the ADU requirements and building code.

Other resources

[Casita Coalition: Legalizing an Unpermitted ADU](#) (2022) – Provides guidelines for homeowners to legalize existing ADUs.

[Seattle: Construction Permit – Establishing Use](#) – This webpage provides that to legalize an existing unit, a construction permit is needed to establish use; additionally, there could be a need to apply for electrical service changes or new services from Seattle City Light.

Seattle Department of Construction and Inspections:

- [Tip 217 - How to Legalize a Use Not Established by Permit](#) (2022) – Includes the rationale for applying for a permit to establish a use and how to document a use for the record.
- [Tip 606 - Illegal Dwelling Units](#) (2022) – Defines illegal dwelling units and the process to legalize or remove them.

7. Provide pre-approved ADU plans

[Lacey Accessory Dwelling Units](#) – Four pre-approved DADU plans are available.

[Raleigh, NC: ADU Fast Track Gallery](#) – Provides ADU plans at a lower cost than typical design processes.

Appendix B: Other ADU information and resources

Definitions

[RCW 36.70A.696](#) – Provides statutory definitions.

[Seattle Office of Planning & Community Development: Encouraging Backyard Cottages](#) – This webpage includes definitions for detached and attached ADUs.

[Vancouver Municipal Code Ch. 20.810](#) – See Sec. 20.810.020 for ADU definition.

Adopting ordinances

[Bremerton Ordinance No. 5410](#) (2020) – Amends [section 20.46.010](#), in response to [HB 1923](#).

[Bremerton Ordinance No. 5416](#) (2021) – Adopts amendments to the city’s ADU regulations, including increasing minimum size, removing parking requirements, removing owner occupancy requirements, and changing design standards.

[Langley Ordinance No. 1051](#) (2019) – Amends several sections of the Langley Municipal Code, including [section 18.22.155](#), to encourage housing options and increase housing affordability.

[Seattle Ordinance](#) (2019) – Amends multiple sections of the Seattle Municipal Code to remove barriers for attached and detached accessory dwelling units and add a floor area ratio requirement in certain single-family zones.

[Spokane Ordinance No. C36225](#) (2022)– Amends multiple sections of the Spokane Municipal Code to increase flexibility for ADUs. Changes to the ADU regulations were a Washington State Department of Commerce grant deliverable.

[Tacoma Ordinance No. 28576](#) (2019) – Amends multiple sections of the Tacoma Municipal Code to allow DADUs in single-family zones, simplify regulatory requirements, reduce regulatory barriers, and increase flexibility in building design, size and location.

See also the pre-amble to early versions of HB 1337, which provides a number of finding support ADU ordinances.

Code reform processes

[Bellevue ADU Code Reform](#) – The city’s land use code amendment will remove barriers and encourage the construction of attached ADUs..

[Bellingham Staff Report - ADU Ordinance Amendments](#) (2022) – Staff report proposing several changes to the city’s ADU regulations, including those related to occupancy, size, height, and parking.

[Everett ADU Amendments](#) – Includes project documents for process to simplify ADU regulations.

Policies in housing and comprehensive plans

[Burien Comprehensive Plan: Chapter 2 - Plan Policies](#) (2022) – See the housing element (2.4) goals specifically focused on ADUs: Pol. HS 1.3, Pol. HS 1.10 and Pol. HS 1.11.

[Everett Housing Action Plan](#) (2021) – ADUs are noted as a key strategy to increase housing variety. See section related to ADUs: "Increasing Housing Variety" Recommendation 1.1.

[Kent Housing Options Plan](#) (2021) – See information related to ADUs in page 71 (Table 5.3) and pages 146-148.

[Langley Comprehensive Plan](#) (2018) – See land use (LU), housing (H), and utilities and capital facilities (UCF) goals and policies related to ADUs: LU-4.8, H-1.1, H-4.1, H-4.4, and UCF-1.3.

[Olympia Housing Action Plan](#) (2021) – ADUs are a key implementation strategy for increasing the variety of housing choices (see Chapter 2: Strategy 4).

[Seattle 2035 Comprehensive Plan](#) (2020) – See the policies related to ADUs: Land Use (LU) policy LU 7.5, Greenwood/Phinney Ridge (G/PR) housing policy G/PR-P11, Queen Anne (QA) policy QA-P13, Wallingford (W) housing policy W-P14, and Westwood Highland Park (W/HP) housing policy W/HP-P21.

[Spokane Comprehensive Plan - Housing Chapter](#) (2017) – See H 1.19 (Senior Housing), H 1.20 (ADUs).

Regional and national reports and websites

[accessorydwellings.org](#) – A one-stop source about accessory dwelling units, multigenerational homes, laneway houses, ADUs, granny flats, and in-law units.

[American Association of Retired Persons \(AARP\): All About Accessory Dwelling Units](#) – Free publications, and more, about how ADUs expand housing options for people of all ages.

[American Planning Association \(APA\): Accessory Dwelling Units](#) – Webpage with reports, briefing papers, articles, case studies, videos, and more.

[A Regional Coalition for Housing \(ARCH\): Accessory Dwelling Unit](#) – A comprehensive, user-friendly website from an affordable housing partnership organization focused on serving East King County.

[MRSC: Accessory Dwelling Units](#) – Webpage that provides a good summary about ADUs.

[Puget Sound Regional Council Housing Innovations Program: Accessory Dwelling Units](#) (2020) – Guide that includes an overview of ADUs in the Puget Sound region, along with model policies and regulations.

[Shelterforce: ADUs - Laws and Uses, Do's and Don'ts](#) – Summary of some key debates pertaining to ADU rentals.

[University of Toronto: "The Citizen Developer" video \(YouTube\)](#) – Short video discussing the benefits of small-scale housing.



THE CITY OF FIRCREST

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Memo

DATE: August 14, 2023
TO: Dawn Masko, City Manager
Bob Jean, Consultant
FROM: Jeff Boers, Planning Consultant
SUBJECT: Housing Planning Tools Overview

Background

In 2023, the Washington State Legislature passed, and the Governor signed, at least eight bills that substantially change the way cities in metropolitan areas of Washington are to plan for housing. Legal counsel Robert Zeinemann has prepared a legal summary of six these new housing laws that by July 2025 require Fircrest to adopt and implement new regulations and processes, several of which are mandates that preempt certain aspects of local government control over planning and zoning.

These new laws promise to make the next few years challenging ones for cities now required to revisit how they regulate housing. Cities will need to explore ways of revising their codes to accommodate a range of housing types that may not have been permitted in “single-family” zones historically. Not surprisingly, community members will be concerned with how these changes may impact their neighborhoods.

Fortunately, Fircrest has a tradition of refining its codes to stay consistent with evolving State law while assertively requiring new development to meet standards intended to ensure that it will fit well within the community. The City has the capacity to meet the latest housing legislation requirements head on, and successfully, while preserving much of what is near and dear to Fircrest residents.

Housing-Related Zoning Efforts in Fircrest

During the past 30 years, Fircrest has adopted comprehensive plan goals and policies and zoning regulations with the intent of achieving high quality housing design and neighborhood preservation. Beginning with its first GMA Comprehensive Plan in 1996 and GMA Land Development Code (zoning and subdivision) in 2000, a central focus of the City’s planning

efforts has been to find ways of maintaining Fircrest’s predominantly single-family residential character. The City has worked toward ensuring that future growth and development protects this character while enhancing its residents quality of life.

During this period, the State has imposed increasingly demanding regulatory requirements, development pressures have increased, and housing marketplace realities have evolved. With the passage of the recent housing legislation, Fircrest is required to revise its regulations to accommodate more housing types at greater densities than what it has traditionally permitted. This will require carefully crafted code language that achieves consistency with the new State law while ensuring that Fircrest will remain “Fircrest.” The following summarizes efforts the City has made previously to respond changing conditions.

1990s

In the 1990s, Fircrest enacted interim design guidelines and Comprehensive Plan policies that enabled the City to guide the design of The Commons at Fircrest neighborhood. The Commons includes housing that meets today’s E2SHB 1110 definition of “middle housing”.

2000s

Land Development Code. In 2000, the City adopted a *Land Development Code (LDC)* that applied an *R-10-TCD Zone* to The Commons at Fircrest, and Fircrest Greens, neighborhoods. This zone permits a range of housing types, including small lot detached single-family, duplex, and small scale multifamily structures – each of which are types of “middle housing.”

Accessory Dwelling Unit Standards. The 2000 LDC enacted *Accessory Dwelling Unit (ADU)* standards that the City has relied upon in approving attached and detached ADUs. The standards have worked well, although staff believes the approval process is overly time-consuming and expensive relative to the scale and affordable nature of these units. HB 1337 will require code amendments that streamline the ADU approval process, provide greater design latitude, and allow more units within the community.

Design Guidelines. The LDC includes design guidelines that apply to residential and non-residential development. These have been refined multiple times and continue to provide a basis for the City to require higher standards for new development than would otherwise be possible with conventional zoning. However, more recently adopted codes in the 2010s and 2020s have superseded many of the original design guidelines – and those remaining are less effective than they were when first adopted.

2010s

Small Lot and Multifamily Development Standards. During the 2010s, Fircrest received multiple inquiries concerning potential development and redevelopment of large sites (for Fircrest) that prompted the City to explore more intentional ways of regulating future project designs to ensure a better design “fit” for the community. Detailed (and demanding) *Design Standards and Guidelines For Small Lot and Multifamily Development* were enacted in 2015 to provide explicit design direction for project designers of multi-family and “small lot” attached and detached single-family projects. The City has reviewed small lot project designs proposed for the R-4-C zoned property located between Holly Drive, Orchard, and Emerson (next to the Holding Basin). However, the City has yet to receive a formal application.

A companion code -- *Design Standards and Guidelines for Streetscape Elements* – was also enacted in 2015 to ensure that streets would be appropriately scaled and designed to work well within small lot developments and other neighborhoods.

Cottage Housing Standards. Fircrest adopted *cottage housing standards* (FMC 22.58.027) in 2015 to provide another type of “middle housing” opportunity. The code states, in part: *“These standards are intended to address the changing composition of households and the need for smaller, more diverse, and, often, more affordable housing choices. Providing for a variety of housing types also encourages innovation and diversity in housing design and site development, while ensuring compatibility with surrounding single-family residential development.”* Cottage housing may be constructed in the R-4-C, GC, and MUN zones, as a free standing project or as part of a small lot development – depending on the zone.

Cottage housing designs may include small detached single-family dwellings, ADU-sized “carriage” units above detached garages, and “two/three unit” homes. The design intent for the “two/three unit” homes is to allow duplexes and triplexes within buildings scaled to fit single-family neighborhoods. This is accomplished by limiting the floor area of each unit and the number and size of garages. Thoughtful design and placement of driveways, doorways and other architectural elements can disguise the number of units within a single building.

As the City respond to the mandates of E2SHB 1110, it can explore tweaks to the City’s cottage housing standards to achieve the intent of state law while respecting community design objectives and preferences.

Infill Housing Standards. The final group of code amendments adopted in 2015 applies to infill housing – primarily detached single-family homes being constructed on individual lots of record. Fircrest experienced an increasing number of teardowns and replacements in the 2000s and 2010s. Often, the new homes were larger than the homes being demolished and were viewed by residents as being out of scale and detrimental to neighborhood character. The

Planning Commission and Council agreed with this sentiment and directed staff to explore ways of regulating construction so that new homes would be more in keeping with the scale and design of existing neighborhood residences.

One of the outcomes was a *floor area ratio* standard (FMC 22.58.026). The code states, in part: *“The intent of FAR standards is to ensure the size of detached single family dwellings will be scaled proportionally to the size of the lots on which they are situated so that new infill development will be consistent in scale and proportion with previously constructed homes and neighborhoods in the city. FAR standards should be used in conjunction with other bulk requirements and design standards and guidelines to be effective in achieving this intent.”*

Fircrest’s FAR standards apply to detached single-family dwellings, which is rare in this region. However, they have worked well in Fircrest and can be adapted and applied to the types of “middle housing” the City is now obligated to accommodate under E2SHB 1110.

Another outcome of the 2015 focus on infill housing was the adoption of *exterior wall modulation, articulation, and maximum height/minimum roof pitch* standards that apply to development in the R4, R6, and other residential zones.

The *articulation* standards require the use of architectural design elements to visually and/or functionally break up flat, blank or undifferentiated elevations. The *modulation* standards require designs to incorporate building wall plane projections or recesses. Together, these are intended to reduce building mass to human scale and increase visual detail and interest. The *maximum height* standard, when combined with a *minimum roof pitch* requirement, results in single-family homes that fit their second floors under rooflines that reduce the apparent scale and volume of the homes – when compared with two-story homes that have two full floors covered by an expansive roof that accommodates an attic that is effectively a third floor.

The current provisions have worked as intended but can be improved upon and adapted to address more challenging design compatibility issues posed by “middle housing” types that would be allowed under E2SHB 1110.

2020s

In 2020, the City adopted a new *Form Based Code (FBC)* that applies to the 19th and Mildred area. One of the intentions was to jump-start high quality redevelopment in an area originally developed to much lower Pierce County standards and subsequently annexed by Fircrest in the 1990s. The *FBC* states, in part: *“The purpose of this chapter is to establish form-based standards that will implement goals, policies, and objectives set forth in the Fircrest comprehensive plan relating to preservation of community character and community vitality, appropriate urban form, and design principles emphasizing pedestrian orientation, integration of land uses,*

treatment of streetscapes as community living space, and environmentally sensitive building design and operation”.

Adoption of the FBC expanded the types of uses allowed in this area – especially residential uses (including “middle housing”) within mixed-use development. Application of the FBC to the 19th and Mildred area has enabled the City to show it can accommodate enough new housing units to meet its regionally required housing targets for the 20-year planning horizon in the current Comprehensive Plan.

Redevelopment would have occurred in the 19th and Mildred area without the FBC. However, under the prior zoning, projects would have been held to a lower standard – and the design solutions would likely have proven to be less satisfactory to the community. The value and benefit to Fircrest in terms of open space amenities and services the area had to offer residents would have been reduced. And, gains to the City’s tax base would have been lower.

Expansion of the FBC area to additional properties located on 19th Street could increase the City’s residential development capacity, specifically including “middle housing” required per E2SHB 1110. The Regulating Plan in Figure RP.1 would need to be amended but few other revisions to the text or graphics should be required. The more housing the 19th Street corridor can accommodate through expansion of the FBC boundaries, the less pressure there will be on the City to accommodate “middle housing” in existing single-family neighborhoods.

Other Local Housing Regulations

As Fircrest undertakes a code update that responds to the challenges presented by passage and adoption of recent housing bills, it may want to look to other municipalities for practical ideas it might adapt and include as part of its toolbox of housing regulations.

Tacoma has been working hard the past couple of years on its “Home in Tacoma” program of Plan and code amendments that will expand housing options in that city. Some of their smaller-scale design solutions may be worth reviewing for inspiration.

Since its incorporation in 1995, University Place has allowed duplexes in its “single-family” zones. However, the predominantly “single-family” character of these neighborhoods has been maintained in spite of the opportunity for duplexes to be constructed.

Ruston adopted a set of architectural standards in 2013 (RMC 25.06.040). These apply to new development not including new and existing detached single-family homes. This contrasts with Fircrest regulations that do, in some instances, apply to detached single-family homes.

For non-single-family buildings exceeding 7,000 sf, Ruston applies “mass reduction” standards that are *“intended help reduce the apparent mass of structures and achieve a more human*

scale environment by providing physical breaks in the building volume that reduce large, flat, geometrical planes on any given building elevation.” These might be adapted to smaller homes in Fircrest, including those meeting the definition of “middle housing.”

Ruston applies roofline standards to *“ensure that roofline is addressed as an integral part of building design to avoid flat, unadorned rooflines that can result in an industrial appearing, monotonous skyline. Roofline features are also intended to further reduce apparent building volume and further enhance features associated with residential and human scale development.”* Again, these might be adapted to apply to future “middle housing” in Fircrest.

Conclusion

Fircrest is well-positioned to tackle the challenges posed by the recent legislation. The City has been ahead of the curve in terms of applying FARs and other architectural standards to new single-family homes so their scale will fit well within the context of existing neighborhoods. Fircrest has enacted cottage housing regulations and small lot and multifamily design standards and guidelines that support the development of “middle housing” envisioned in E2SHB 1110. And, the City has adopted a form-based code that supports the development of “middle housing”. These regulations are rare among cities the size of Fircrest in this region.

The City may have difficult choices to make as to how best to meet the intent of the 2023 legislation while preserving (and ideally enhancing) what is most valued and appreciated about the community today. However, Fircrest has a proven history of responding to state mandates in creative and successful ways – and it has the capacity to tackle this new challenge.

Appendix: Additional Background Slides



Land Capacity Acreage

Zone	Gross Developable Land (acres)			Infrastructure/ Market Factor Deductions			Net Developable Land (acres)			
	Vacant	Partially-utilized	Under-utilized	Vacant	Partially-utilized	Under-utilized	Vacant	Partially-utilized	Under-utilized	Total
Residential-4, R-4	1.22	0.00	0.00	15%	25%	25%	1.0	0.0	0.0	1.0
Residential-4-Conservation, R-4-C	15.33	0.00	0.00	15%	25%	25%	13.0	0.0	0.0	13.0
Residential-6, R-6	0.46	0.00	0.00	15%	25%	25%	0.4	0.0	0.0	0.4
Residential-8, R-8	0.00	0.00	0.00	15%	25%	25%	0.0	0.0	0.0	0.0
Residential-10-Traditional Community Design, R-10-TCD	0.00	0.00	0.00	15%	25%	25%	0.0	0.0	0.0	0.0
Residential-20, R-20	0.00	0.00	0.00	15%	25%	25%	0.0	0.0	0.0	0.0
Residential-30, R-30	0.00	0.00	2.68	15%	25%	25%	0.0	0.0	2.0	2.0
Neighborhood Office, NO	0.00	0.00	0.00	15%	25%	25%	0.0	0.0	0.0	0.0
Neighborhood Commercial, NC	0.00	0.00	0.00	15%	25%	25%	0.0	0.0	0.0	0.0
Mixed-Use Neighborhood, MUN*	0.00	0.00	5.40	15%	25%	25%	0.0	0.0	4.1	4.1
Mixed-Use Urban, MUU*	0.00	0.00	3.62	15%	25%	25%	0.0	0.0	2.7	2.7
Park, Recreation and Open Space, PROS	0.00	0.00	0.00	15%	25%	25%	0.0	0.0	0.0	0.0
Golf Course, GC	0.00	0.00	0.00	15%	25%	25%	0.0	0.0	0.0	0.0

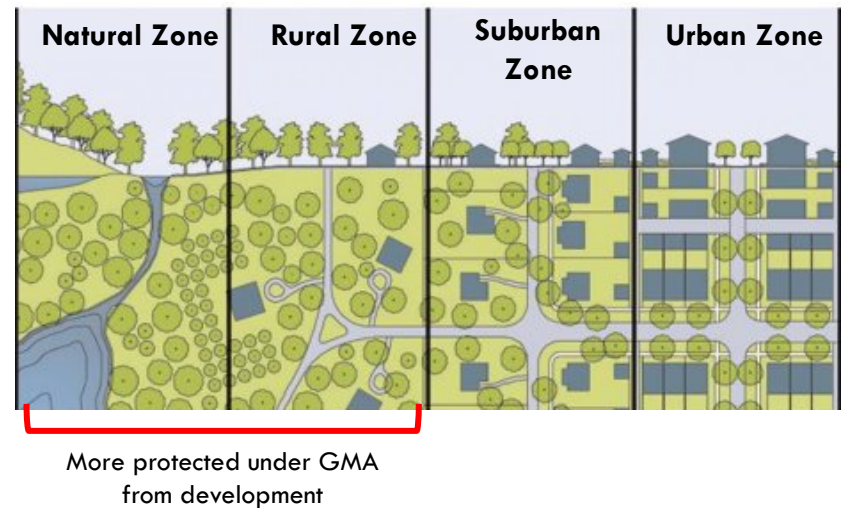
*Does not include Prose property acreage

Density Assumptions

Zone	Assumed density (du/acre)	Pipeline and recent units added
Residential-4, R-4	4	
Residential-4-Conservation, R-4-C	4	
Residential-6, R-6	5.5	
Residential-8, R-8	8	
Residential-10-Traditional Community Design, R-10-TCD	10	
Residential-20, R-20	20	
Residential-30, R-30	30	
Neighborhood Office, NO	6	
Neighborhood Commercial, NC	6	
Mixed-Use Neighborhood, MUN	59	156
Mixed-Use Urban, MUU	59	235
Park, Recreation and Open Space, PROS	0	
Golf Course, GC	15	

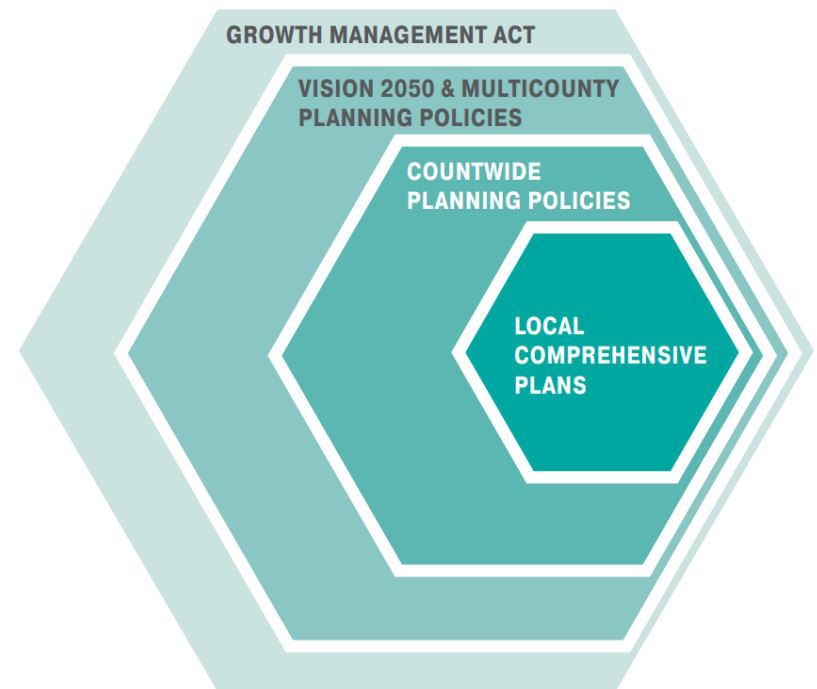
Background: Growth Management Act (GMA)

- Adopted in 1990
- Requires long-range planning
- Limit sprawl
- Protect the state's natural resources
- Provide services efficiently



GMA and the Comprehensive Plan

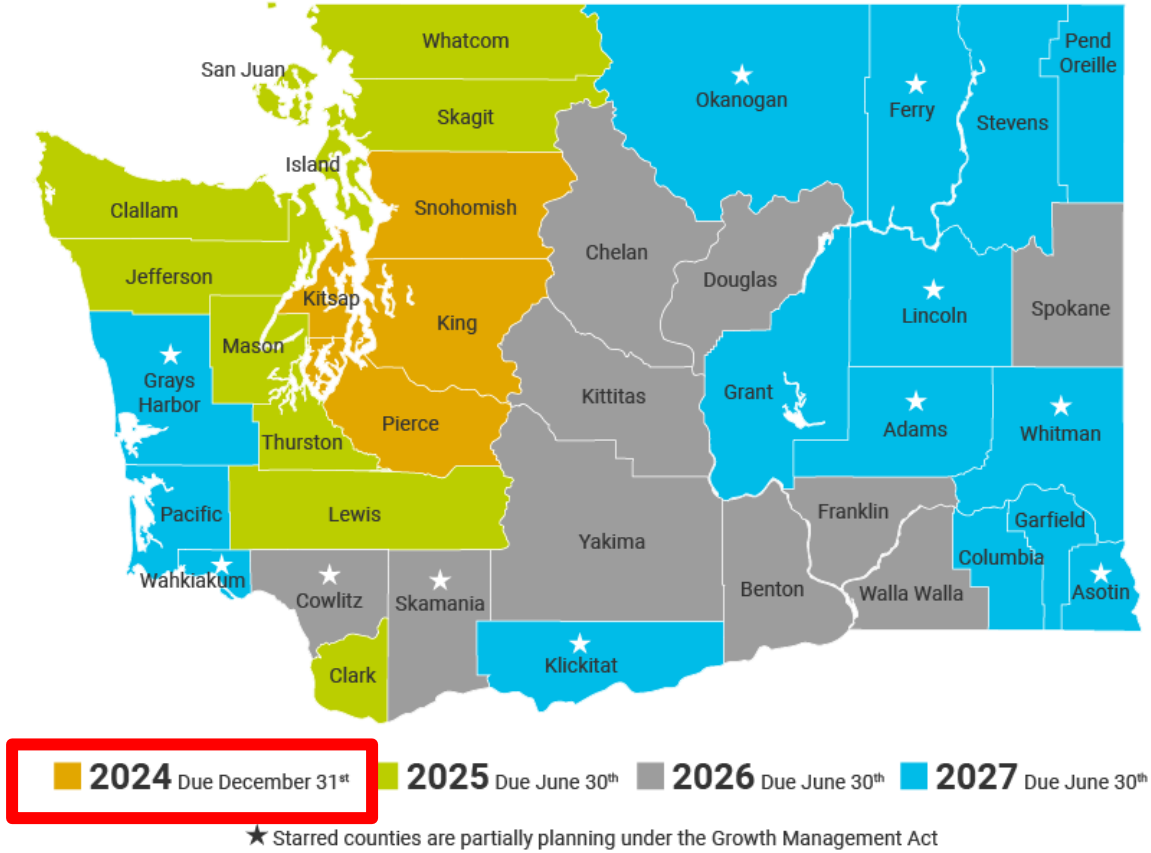
- Growth Management Act requirements:
 - Vision, goals, policies
 - Cooperation (Regional and County-Wide)
 - Elements (Specific policy direction)
- WA Department of Commerce:
 - Guidance
 - Funding
 - Certification
- Comprehensive Plans benefit the community, the municipality, and the region



Source: VISION 2050, <https://www.psrc.org/sites/default/files/2022-11/vision-2050-plan.pdf>

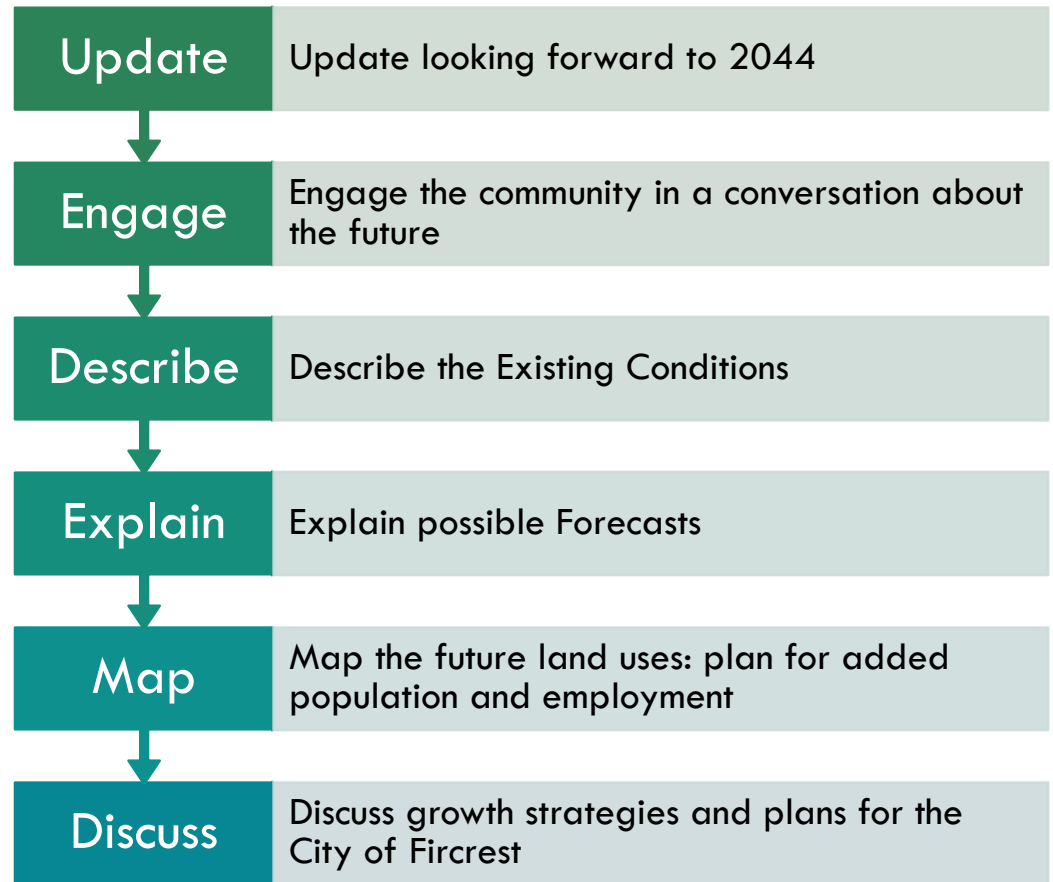
Fircrest's Comprehensive Plan Update

- Last Adopted: 2016
- Last Amended: 2019
- December 31, 2024: New updates due



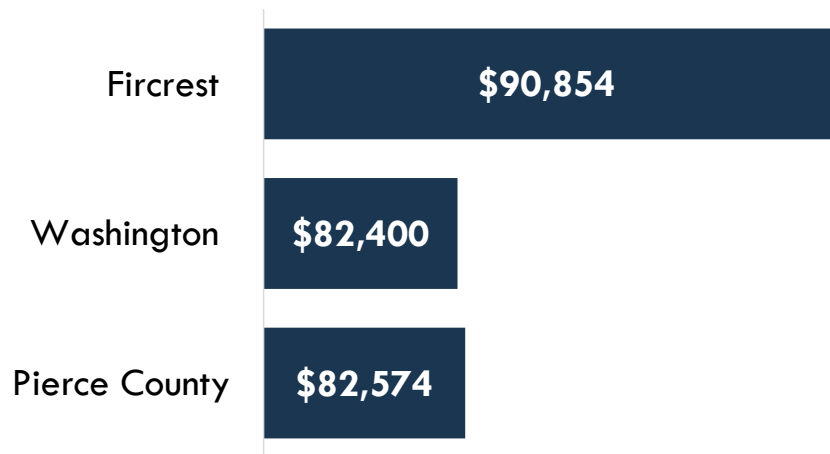
Source: Department of Commerce

Comprehensive Plan: 2024 Update Process



Existing Conditions: Income and Households

Median Household Income (2021 dollars)

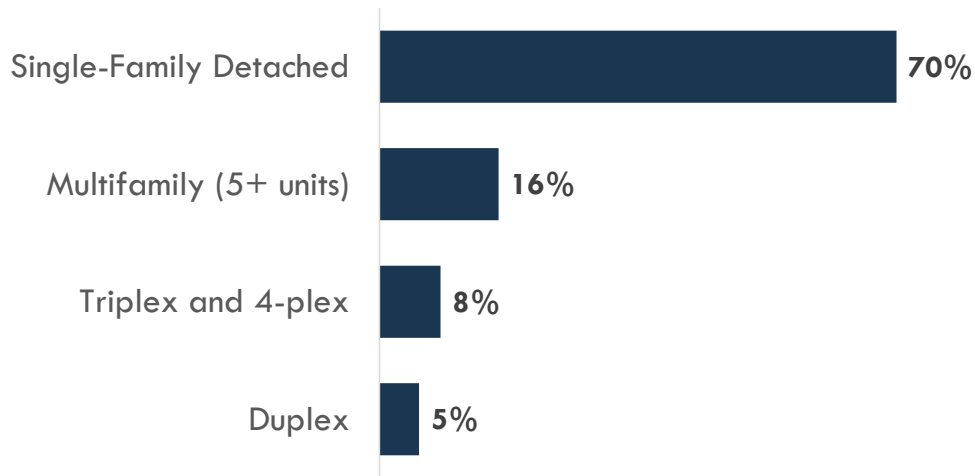


- 2,800 households in Fircrest
- The average household size in Fircrest is 2.5 people, slightly lower than the county's 2.6
- 32% of households were families with children in 2021

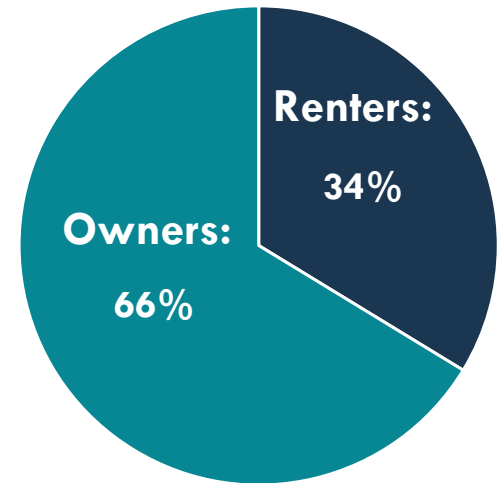
2021 ACS, 5-Year Estimates

Existing Conditions: Housing

Housing Stock Types

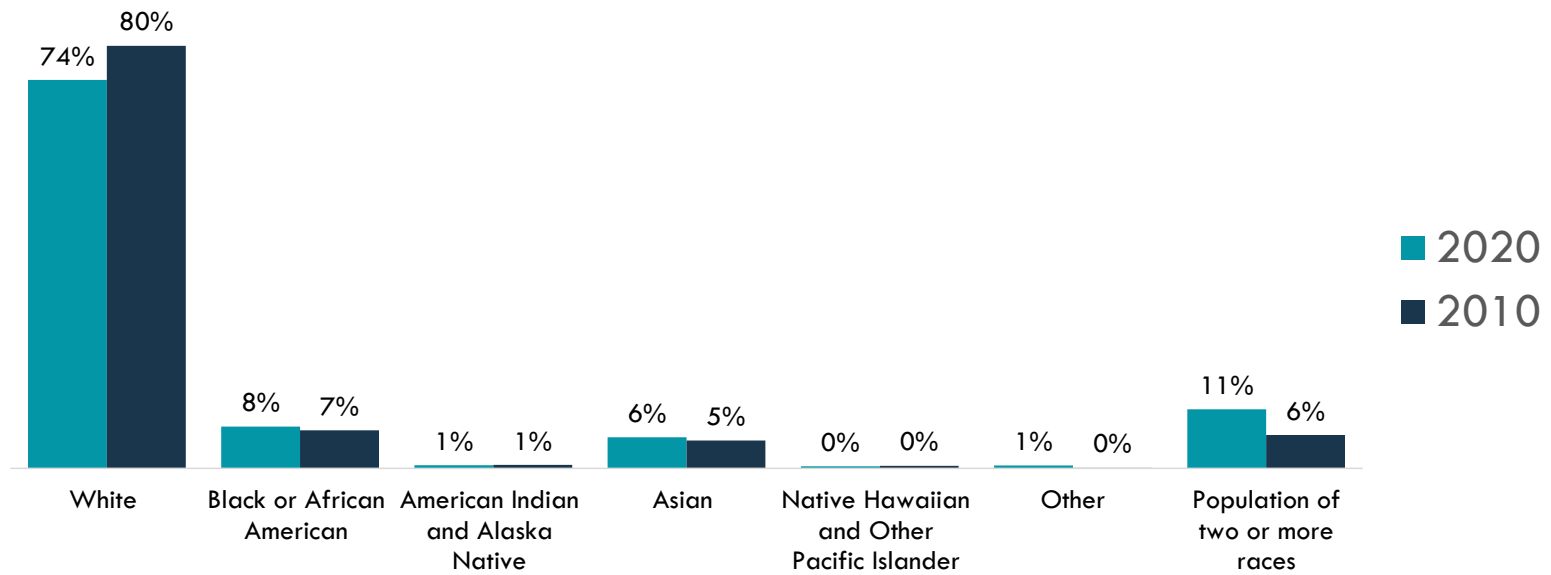


Owner / Renter Split



Source: 2021 ACS, 5-Year Estimates

Existing Conditions: Race



Source: 2020 and 2010 Decennial Census