



**CITY OF FIRCREST
PLANNING COMMISSION
MEETING AGENDA**

**TUESDAY, DECEMBER 5th, 2023
6:00 P.M.**

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

Pg. #

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PLEDGE OF ALLEGIANCE**
- 4. APPROVAL OF THE MINUTES**
 - A. [November 7th, 2023 Regular Minutes](#) 2
- 5. CITIZEN COMMENTS (FOR ITEMS NOT ON THE AGENDA)**

(Please state your name and address for the record and refer to the Rules and Decorum laminated sheet at the dais and table.)
- 6. PUBLIC HEARING**
 - A. None
- 7. UNFINISHED BUSINESS**
 - A. None
- 8. COMMISSIONER COMMENTS/ROUNDTABLE UPDATES**
- 9. NEW BUSINESS**
 - A. [Microphone Soundcheck](#) 6
 - B. [January 2024 Election of Chair and Vice Chair](#) 7
 - C. [MMH Model Ordinance Public Comment Period](#) 10
 - D. [BHC Comprehensive Plan Update Presentation Recap](#) 111
 - (1) [Planning Commissioner Binders and Element Review Discussion](#) 138
- 10. ADJOURNMENT**

**CITY OF FIRCREST PLANNING COMMISSION
REGULAR MEETING MINUTES**

Tuesday, November 7th, 2023
6:00 PM

Fircrest City Hall
115 Ramsdell Street

1. CALL TO ORDER

Commissioner Hamel called the regular meeting of the Fircrest Planning Commission to order at 6:02 PM.

2. ROLL CALL

A. Planning Commissioners Present: Commissioner Sarah Hamel, Commissioner Ben Ferguson, Commissioner Kathy McVay, Commissioner Eric Lane. Commissioner Hamel moved to excuse the absence of Chair Shirley Schultz. Commissioner Ferguson seconded. **Planning Commission Chair Shirley Schultz was excused by a vote of 4-0.**

City Staff Present: Community Development Director Mark Newman, Permit Coordinator Kristin Rosario.

B. Planning Commissioner Ferguson moved to appoint Planning Commissioner Sarah Hamel as Chair Pro Tem for the November meeting. Commissioner Lane seconded. **Commissioner Sarah Hamel was appointed Chair Pro Tem by a vote of 4-0.**

Commissioner McVay asked staff to review the Fircrest Municipal Code regarding appointment of a Vice Chair for instances where the Chair is absent. Community Development Director Newman stated that this topic would be researched and added to the December 5th, 2023 regular meeting agenda.

3. PLEDGE OF ALLEGIANCE

4. APPROVAL OF MINUTES

The minutes for the regular meeting of October 3rd, 2023 were presented for approval.

Commissioner Ferguson moved to approve the minutes. Commissioner Lane seconded. **The minutes from October 3rd, 2023 were approved by a vote of 4-0.**

5. CITIZENS COMMENTS

None.

6. PUBLIC HEARING

None.

7. UNFINISHED BUSINESS

None.

8. COMMISSIONER COMMENTS/ROUNDTABLE UPDATES

None.

NEW BUSINESS

A. BHC Comprehensive Plan Update Presentation

Community Development Director Newman provided the Planning Commission with information on the upcoming November 20, 2023 study session presentation by BHC Consultants on the 2024 Comprehensive Plan Update. He explained that the presentation will provide City Council an overview on all work items completed thus far, along with remaining items and next steps for 2024. Community Development Director Newman invited the Planning Commission to attend this meeting.

B. HB 1337 Applicability to Fircrest

Community Development Director Newman presented an overview of House Bill 1337 (Affordable Housing Development on Religious Organization Property) and its applicability to Fircrest. He discussed how the Fircrest Municipal Code addresses this law and provided examples from other cities that have approved such housing in conjunction with density bonuses or other enticements for promoting inclusionary zoning.

Commissioner Ferguson asked staff to explain the law's applicability to building multi-family housing on religious institutions that have an underlying single-family residential zoning as well as whether spacing requirements for temporary shelter apply when in the proximity of schools.

Community Director Newman stated that the City of Fircrest has received no development applications or inquiries regarding HB 1337 to date from religious institutions and that the law frequently triggers lawsuits regarding the extent that a City can regulate permanent shelters and affordable housing. Examples include a City requiring a temporary or conditional use permit or design standards. Director Newman stated that there is no spacing requirement in effect in Fircrest.

C. SHAA3P Updates and 2024 Federal and State Legislative Agenda Priorities

Community Development Director Newman gave a brief overview of the South Sound Housing Affordability Partners (SHAA3P) 2024 legislative agendas at the federal and state levels.

Commissioner Ferguson stated that he is a member of the SHAA3P Advisory Board and that 2024 priorities were already in place and are a continuation of existing priorities. He clarified that 2025 priorities will be driven more directly by the Advisory Board.

D. Grant Updates

(1) Missing Middle Housing (MMH) Grant

Director Newman announced the City of Fircrest was selected for a grant in the amount of \$50,000 to assist with the adoption of policies, codes, and development regulations to

implement missing middle housing strategies to promote accessory dwelling units (ADUs) and duplexes. He stated that the grant contract is forthcoming from Commerce prior to the kickoff and selection of a consultant.

Chair Pro Tem Hamel asked staff to clarify the date to implement the MMH grant. Director Newman stated that work would commence in 2024 and end by the end of June 2025.

Commissioner Ferguson asked staff to edit the MMH to include a public participation plan scope of work to ensure that outreach, such as a mailer, reaches a majority of the public. Director Newman agreed and presented outreach options like a mailer, QR code, Town Topics, and website/social media outreach.

(2) Climate Change Planning Grant

Director Newman discussed the climate change planning grant offered by the Department of Commerce to implement HB 1181 to plan for climate change. The city applied for an initial amount of \$100,000 to draft an urban forest management plan as a supplement to the City's Comprehensive Plan.

Planning Commissioners Ferguson and Lane both provided feedback to staff on instituting a tree permit review process to verify that any new permit regulations are equitable and not burdensome to homeowners and applicants. Commissioner McVay provided comment that the City already has a tree retention and removal code in place which should be looked at before making any modifications. Director Newman took these comments into consideration.

(3) EV Charging Station Grants

Director Newman shared an update on the two (2) EV Charging Station Grants that the City has applied for through the Department of Commerce and the Department of Ecology. He shared his plans for four (4) EV charging parking spaces to be located at the Community Center, should the grant be awarded to the City.

Commissioner Ferguson asked for and received staff clarification on long-term maintenance, parking enforcement, warranties, and City responsibilities.

(4) Pierce County Community Development Block Grant (CDBG)

Director Newman explained what the CDBG was and what it is intended to be used for. The grant would be able to assist with upgrades to failing utility lines, affordable housing rehabilitation and remodeling, and social services needed to improve living conditions for qualifying residents.

ADJOURNMENT

Commissioner McVay moved to adjourn the meeting. Commissioner McVay seconded. **The motion to adjourn the meeting at 7:06 PM passed by a vote of 4-0.**

Sarah Hamel, P.E.
Chair Pro Tem, Fircrest Planning Commission

Mark Newman
Community Development Director



ITEM 9A – MICROPHONE SOUND CHECK

This is a friendly reminder to all Planning Commissioners, City Staff, and members of the public to make sure the microphone is turned on while speaking. Press the Push button and double-check that the green light is turned on before speaking. Please lean in to speak clearly and loudly into the microphone. It is important that audio is recorded for staff to be able to review at a later date when preparing the meeting minutes, and to preserve the public record in accordance with the Open Public Meetings Act. Thank you for your attention to this matter.



**Chapter 23.08
PLANNING COMMISSION***

Sections:

[23.08.010 Creation.](#)

[23.08.020 Appointment.](#)

[23.08.030 Terms – Vacancies.](#)

[23.08.040 Terms – Beginning – Termination.](#)

[23.08.050 Removal from office.](#)

[23.08.060 Members – Requirements.](#)

[23.08.070 Officers.](#)

[23.08.080 Rules of business.](#)

[23.08.090 Meetings.](#)

[23.08.100 Repealed.](#)

[23.08.110 Powers and duties.](#)

[23.08.120 Repealed.](#)

* For statutory provisions for planning commissions, see Chapter 35.63 RCW.

Planning administrator, see Chapter 2.18 FMC.

23.08.010 Creation.

There is created in the city an administrative body to be known and hereafter designated as the Fircrest planning commission. (Ord. 622 § 1, 1970).

23.08.020 Appointment.

The planning commission shall consist of five members, who shall be registered voters residing within the city. All members of the planning commission shall be appointed by the mayor and confirmed by the city council. (Ord. 742 § 1, 1980; Ord. 622 § 2, 1970).

23.08.030 Terms – Vacancies.

The members of the planning commission shall be appointed and serve for a term of six years, except that of the

members appointed at this date, one shall serve until June 15, 1981, one until June 15, 1982, one until June 15, 1983, one until June 15, 1984, and one until June 15, 1985. Vacancies occurring otherwise than through the expiration of terms shall be filled for the unexpired term. (Ord. 742 § 2, 1980; Ord. 622 § 3, 1970).

23.08.040 Terms – Beginning – Termination.

All appointments to the planning commission shall be made and acted upon at the first regular council meeting in June of each year, and all terms of office shall begin on June 16th of the year of appointment and terminate on June 15th of the last year of the term. (Ord. 622 § 4, 1970).

23.08.050 Removal from office.

Members of the planning commission may be removed from their membership by the appointing official with the approval of the council, for inefficiency, neglect of duty or malfeasance in office. Prior to any such action being taken, written notice shall be sent to the member involved at least 10 days in advance of the hearing date, advising him that his removal from membership is contemplated, setting forth the grounds on which such action is based, and advising him that he may demand a public hearing before the council. No member shall be removed until after such a hearing has either been held or waived by the member, either expressly or through his failure to demand such hearing. (Ord. 622 § 5, 1970).

23.08.060 Members – Requirements.

All members of the planning commission shall serve without compensation, and shall be selected without regard to age, sex, race or political affiliation. All members shall be required to take an oath of office. (Ord. 622 § 6, 1970).

23.08.070 Officers.

The planning commission shall each year elect its own chairman or presiding officer to hold such position for a term of one year, and may, in addition, create and fill such other offices, for such terms as it may determine. (Ord. 622 § 7, 1970).

23.08.080 Rules of business.

The planning commission may adopt rules for the transaction of its business which are consistent with the provisions of this chapter or the laws of the state of Washington relating to planning commissions. (Ord. 622 § 8, 1970).

23.08.090 Meetings.

The planning commission shall hold at least one regular meeting in each month, and may hold additional meetings as it may determine. It shall keep regular minutes and records of its proceedings. A regular meeting may be cancelled by the chair, or in the chair's absence the vice-chair, if there are no business items scheduled or if there is a lack of a quorum. Notice of cancellation shall be provided to commission members, any applicant who has an item pending at the meeting and any parties of record. Additional notice shall be posted on the bulletin board at City Hall. Notice shall be provided at least 72 hours prior to the scheduled meeting date. (Ord.

1489 § 1, 2009; Ord. 622 § 9, 1970).

23.08.100 Budget – Request for appropriations.

Repealed by Ord. 1489. (Ord. 622 § 10, 1970).

23.08.110 Powers and duties.

The planning commission shall have the following powers and duties; namely:

(a) It shall act as a research and fact-finding agency for the city, as requested or required by the city council. It may, within the scope of its powers and duties, make inquiries, investigations and surveys, assemble and analyze data obtained, formulate plans, cooperate and act with other planning commissions or public agencies, and make such reports and recommendations to the city council with respect to such activities.

(b) It may participate in the activities of regional planning commissions to the extent permitted by the laws of the state of Washington.

(c) It shall study, promulgate, develop and update coordinated plans, including the comprehensive plan, for the physical development of the city as deemed necessary in the interest of the public health, safety, morals and the general welfare of the community; and to such end it may make recommendations to the city council regarding the regulation of and restrictions on the use of land, the location, construction and use of buildings, and other related matters which are or might properly be incorporated into city ordinances dealing with zoning, building, plats and subdivisions, parks and annexation.

All regulations shall be worked out as parts of a comprehensive plan which the commission shall prepare for the physical and other generally advantageous development of the municipality and shall be designed, among other things, to encourage the most appropriate use of land throughout the municipality; to lessen traffic congestion and accidents; to secure safety from fire; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to promote a coordinated development of the unbuilt areas; to encourage the formation of neighborhood or community units; to secure an appropriate allotment of land area in new developments for all the requirements of community life; to conserve and restore natural beauty and other natural resources; to facilitate the adequate provision of transportation, water, sewerage and other public uses and requirements.

(d) It shall have the power generally to do all things necessary to accomplish the powers and duties hereinabove outlined and set forth, which shall include the right to employ persons and to purchase materials or supplies within the framework of its budget and appropriations. (Ord. 1639 § 1, 2019; Ord. 798 § 1, 1984; Ord. 622 § 11, 1970).

23.08.120 Variance hearings.

Repealed by Ord. 1489. (Ord. 622 § 12, 1970).

HB 1110 added new requirements for 77 cities across the state of Washington to address zoning requirements for middle housing. The Department of Commerce has published this draft User Guide to accompany the model ordinances to elaborate on model ordinance concepts, offer resources where additional information may be found and offer recommendations for issues to consider as local ordinances are developed.

Commerce is accepting comments through December 6, 2023 on revisions or additions to both the model ordinances and this user guide.

A public webinar on this draft will take place Thursday, November 9, 1:30 – 3:00 PM on Zoom. For more information and to register, visit the project webpage:

<https://www.commerce.wa.gov/serving-communities/growth-management/growth-management-topics/planning-for-middle-housing/>



Washington State
Department of
Commerce

We strengthen communities

User Guide for Middle Housing Model Ordinances

DRAFT November 6, 2023

MIDDLE HOUSING MODEL
ORDINANCES

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Table of Contents

User Guide Purpose	3
1.0 – Introduction	4
1.1 – Applicability	7
1.2 – Deadlines	10
1.3 – The Two Model Ordinances	11
2.0 – Model Ordinance and Annotations	12
2.1 – Purpose	13
2.2 – Definitions	14
2.3 – General Provisions	18
2.4 – Applicability	19
2.5 – Middle Housing Types Allowed	21
2.6 – Unit Density and Affordable Housing	23
2.7 – Parking Standards	28
2.8 – Zoning Dimensional Standards	32
2.9 – Design Standards	39
2.10 – Subdivision	45
2.11 – Infrastructure Standards	49
3.0 – Additional Considerations	52
3.1 – Existing Zones and Overlay Zones	52
3.2 – Major Transit Stops	53
3.3 – Declarations and Governing Documents	57
3.4 – SEPA	57
3.5 – Building Code	58
4.0 – Integration with Other State Law Requirements	59
4.1 – Accessory Dwelling Units and HB 1337	59
4.2 – Housing Elements and HB 1220	59
4.3 – Land Use Elements and Land Capacity	60
4.4 – Critical Areas	62
4.5 – Design Review and HB 1293	63
4.6 – Condominium Buildings, SB 5058, and SB 5258	64
4.7 – “Family” Definition and SB 5235	64
4.8 – Impact Fees and SB 5258	65
4.9 – Shoreline Master Programs and Regulations	66
5.0 – Affordable Housing	68
5.1 – Development Feasibility Analysis of Default Requirements	68
5.2 – Alternatives to HB 1110 Affordability Requirements	72
6.0 – Alternative Compliance	73

User Guide Purpose

This User Guide is intended to support planners, advisory bodies, elected officials, and interested parties in implementing code amendments related to RCW 35.70A.635 and related sections, and to help the readers understand the organization and reasoning for recommended standards in the model code ordinances. The User Guide uses diagrams, references to public informational documents, and real-world examples to offer recommendations and best practices for the development of middle housing.

How To Use the User Guide

Section 2.0 of the User Guide, entitled Model Ordinance Annotations, has 12 subsections that correspond to the applicable section in the model code ordinances. Each subsection starts with a copy of the Model Ordinance (from both versions of the Model Ordinance) and is followed by annotations that provide context and recommendations related to that code subsection topic.

Annotations are organized using the following format:

- Local Policy Choice – Describes code options cities could consider to achieve desired local outcomes, including developing more housing.
- Discussion – Describes in more detail reasoning for what is in the model code, relevant research and considerations cities should consider, and recommendations for cities that want to consider code amendments that go beyond the minimum requirements of HB 1110.
- References – Provides citations and links to research, articles, local codes, and real-world examples that may be helpful for readers.

The remaining User Guide sections provide additional detail and discussion matters outside of the scope for specific zoning standards in the Model Ordinance. These are topics planners, administrators, and elected officials should review as they update their local zoning codes. For example, Section 4.2 addresses how middle housing requirements can be integrated with the requirements to plan for housing under HB 1220.

1.0 – Introduction

Background

House Bill 1110 (HB 1110) was passed by the Legislature and signed by Governor Inslee in 2023. It requires 77 jurisdictions across the State of Washington to adopt development regulations allowing for middle housing on all lots zoned predominantly for residential use, including establishing minimum unit per lot densities, establishing maximum parking requirements, and requiring administrative design review in cases where design review is used. The requirements of HB 1110 have been codified in RCW 36.70A.635 through RCW 36.70A.638.

In passing HB 1110, the Legislature’s findings are:

"...Washington is facing an unprecedented housing crisis for its current population and a lack of housing choices, and is not likely to meet the affordability goals for future populations. In order to meet the goal of 1,000,000 new homes by 2044, and enhanced quality of life and environmental protection, innovative housing policies will need to be adopted.

Increasing housing options that are more affordable to various income levels is critical to achieving the state's housing goals, including those codified by the legislature under chapter 254, Laws of 2021.

There is continued need for the development of housing at all income levels, including middle housing that will provide a wider variety of housing options and configurations to allow Washingtonians to live near where they work.

Homes developed at higher densities are more affordable by design for Washington residents both in their construction and reduced household energy and transportation costs.

While creating more housing options, it is essential for cities to identify areas at higher risk of displacement and establish antidisplacement policies as required in Engrossed Second Substitute House Bill No. 1220 (chapter 254, Laws of 2021).¹

The state has made historic investments in subsidized affordable housing through the housing trust fund, yet even with these historic investments, the magnitude of the housing shortage requires both public and private investment.

In addition to addressing the housing shortage, allowing more housing options in areas already served by urban infrastructure will reduce the pressure to develop natural and working lands, support key strategies for climate change, food security, and Puget Sound recovery, and save taxpayers and ratepayers money."

The Model Ordinance and User Guide have been written to assist jurisdictions in implementing HB 1110. The Model Ordinance and User Guide offer guidance to create increased housing capacity, promote high housing production, increased densities, ensure functional and livable developments, protect the environment, and encourage the development of housing affordable at different income levels.

The Model Ordinance development regulations are designed to optimize the regulatory framework for middle housing, and local jurisdictions may make adjustments based on their local policy priorities. The User Guide

¹ Department of Commerce guidance for implementing House Bill 1220: <https://www.commerce.wa.gov/serving-communities/growth-management/growth-management-topics/planning-for-housing/updating-gma-housing-elements/>

outlines options cities have for meeting HB 1110 requirements, code changes necessary to implement these new requirements, and a suite of recommendations to assist in making sure changes to development regulations work well when implemented. The Department of Commerce hired a consultant team for this body of work. The model ordinances were shaped by engagement with stakeholders along with the project team's expertise in middle housing policy, land use planning, development regulations, and economic analysis.

Benefits of Middle Housing

The construction of new middle housing has many benefits, including:

- Contributing to undoing historic economic and racial exclusion by opening up traditionally single-family neighborhoods to more diverse housing and household types.
- Providing housing that is typically more affordable both in their construction costs and reduced household energy and transportation costs than traditional detached single-family homes.
- Adding to the diversity of housing options.
- Supporting efforts to address climate change
- Providing housing that better complements transit and walkability.
- Housing that generally has less environmental impact per unit, with lower carbon footprints, than a detached single-family home.
- Additional housing in urban areas without reducing land for farms, forests, and rural uses.
- Contribute to meeting new Housing Element requirements focused on providing more housing for people at different income levels.

For these reasons, middle housing is an effective way to help accommodate housing needs for the state's growing population.

General Considerations

Effective implementation of HB 1110 requires thoughtful amendments to many sections of code. How those amendments are drafted will vary given that cities have various code frameworks for how their zoning regulations are organized and administered. Some cities, for example, may rely on use tables; others on lists of uses. Other cities may use floor area ratio (FAR) to regulate bulk; others may not.

While some cities have seen middle housing development, this type of development will be new for other cities. Development standards that work well for larger scale residential development, may preclude infill development on small lots. The User Guide outlines approaches to evaluate code amendments in a manner that removes barriers to the development of middle housing types.

For example, if a permit application was submitted to build a triplex on the rear of an existing residential lot, while retaining the existing home upfront, would your road standards permit driveway access narrow enough so there is enough room between the existing home and the side property line?

In amending development regulations for middle housing, cities should review their development regulations for potential barriers to middle housing. As a start, RCW 36.70A.635(6)(b), establishes a guardrail for how middle housing requirements are to be applied in relation to development standards required for single family residences and states:

(b) Except as provided in (a) of this subsection, any city subject to the requirements of this section...shall not require through development regulations any standards for middle housing that are more restrictive than those required for detached single-family residences, but may apply any 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.

Development regulations that cities use to regulate land use vary widely. The model ordinances and this User Guide do not address every possible type of development regulation. Below are some questions that may assist cities in determining whether their code complies with HB 1110 and actively accommodates middle housing (some of these are expanded upon later in the User Guide):

- Are there “transitional” standards that require multi-unit developments to have increased setbacks or upper-story setbacks from adjacent lots with existing detached single-family residences, but which do not apply to the development of new single-family developments? This is not allowed for middle housing.
- Do established building setbacks, especially rear setbacks, need to be modified to accommodate development on small lots?
- Do current road standards account for the need for narrow driveways to access development on the rear of a lot when the primary home is retained? Will there typically be enough room between the retained home and the side property line?
- Are there subdivision standards which require large landscape buffers or park space requirements? These may be appropriate for traditional low-density single-family subdivisions, but could be challenging to implement for infill subdivisions with middle housing. See more on subdivisions in Section 2.10 – Subdivision.
- Do guest parking standards apply differently to middle housing than for detached single-family residences? Guest parking should be considered as part of a total parking count for the purposes of complying with HB 1110. See more on parking in Section 2.7 – Parking Standards.
- Are tree protection regulations accommodating to middle housing development on small lots? Are code adjustments necessary to facilitate this type of development?

Economic Considerations

Allowing middle housing types widely across cities is a step towards realizing the benefits associated with these housing types. However, how development standards, fee structures, and infrastructure investments are required with the permitting of middle housing can greatly impact the outcomes of allowances. These standards, fees, and infrastructure requirements play an important role in whether desired housing types are built and at price points that are needed to support housing for a diversity of income needs in a community. Cities need to be thoughtful about their desired development types and where they want development to occur to both realize desired housing outcomes and mitigate for unintended consequences.

When crafting development standards, dimensional regulations, fee structures, and process requirements it is important to consider what the desired outcome are for these housing types. Is the community trying to create more lower barrier opportunities for first time homeowners? Create more housing in high-opportunity locations? Increase the variety of housing built across the city? Leverage other housing programs to support affordability? These types of questions around desired outcomes are a helpful place to start to make sure that regulations advance desired outcomes.

1.1 – Applicability

Of the 281 cities and towns in Washington, 77 are subject to the requirements of RCW 36.70A.635. The statute uses 2020 Washington State Office of Financial Management (OFM) data to identify cities initially subject to the statute.² Only cities which are within "fully planning" counties under the Growth Management Act are subject to RCW 36.70A.635.

The statute describes three categories of cities, primarily based on population but one category also accounts for whether a city is or is not within an urban growth area of the largest city in a county, if the county is 275,000 in population or greater. For the purposes of the Model Ordinances and this User Guide, the Department of Commerce has named these categories "tiers." The tiers are:

- Tier 1: Cities with a population of at least 75,000
- Tier 2: Cities with a population of at least 25,000 but less than 75,000
- Tier 3: Cities with a population less than 25,000, located in a county with a population of at least 275,000, and in a contiguous urban growth area with the largest city in the county

The list of cities subject to RCW 36.70A.635 follows.

Tier 1 Cities

These are cities with a population of at least 75,000.

City	City 2020 Population Census	City 2023 OFM Population Estimate
Seattle	737,015	779,200
Spokane	228,989	232,700
Tacoma	219,346	222,400
Vancouver	190,915	199,600
Bellevue	151,854	154,600
Kent	136,588	139,100
Everett	110,629	114,200
Renton	106,785	107,900
Spokane Valley	102,976	107,400
Federal Way	101,030	102,000
Yakima	96,968	98,650
Kirkland	92,175	96,920
Bellingham	91,482	95,960
Auburn	87,256	88,820
Kennewick	83,921	86,470
Pasco	77,108	81,280

² Office of Financial Management population data for 2020: <https://ofm.wa.gov/washington-data-research/population-demographics/population-estimates/historical-estimates-april-1-population-and-housing-state-counties-and-cities>

Tier 2 Cities

These are cities with a population of at least 25,000 but less than 75,000.

City	City 2020 Population Census	City 2023 OFM Population Estimate
Redmond	73,256	77,490
Marysville	70,714	73,780
Sammamish	67,455	68,280
Lakewood	63,612	64,150
Richland	60,560	63,320
Shoreline	58,608	61,120
Olympia	55,382	56,900
Lacey	53,526	59,430
Burien	52,066	52,560
Bothell	48,161	49,550
Bremerton	43,505	44,640
Puyallup	42,973	43,420
Edmonds	42,853	43,370
Issaquah	40,051	41,290
Lynnwood	38,568	40,790
Longview	37,818	38,130
Lake Stevens	35,630	41,260
Wenatchee	35,575	35,850
Mount Vernon	35,219	35,590
University Place	34,866	35,580
Walla Walla	34,060	34,310
Pullman	32,901	33,060
Des Moines	32,888	33,260
SeaTac	31,454	31,740
Maple Valley	28,013	29,250
Camas	26,065	27,420
Mercer Island	25,748	25,800
Tumwater	25,573	27,100
Moses Lake	25,146	26,210

Tier 3 Cities

These are cities with a population less than 25,000, located in a county with a population of at least 275,000, and in a contiguous urban growth area with the largest city in the county. Those counties and their largest cities are the following:

County	Largest City in the County (as of 2020)	County 2020 Population Census	County 2023 Population Estimate
King	Seattle	2,269,675	2,347,800
Pierce	Tacoma	920,393	946,300
Snohomish	Everett	827,957	859,800
Spokane	Spokane	539,339	554,600
Clark	Vancouver	503,311	527,400
Thurston	Olympia	294,793	303,400
Kitsap	Bremerton	275,611	283,200

The list of Tier 3 cities follows.

City	County	City 2020 Population Census	City 2023 OFM Population Estimate
Kenmore	King	23,914	24,230
Tukwila	King	21,798	22,780
Mukilteo	Snohomish	21,538	21,590
Mountlake Terrace	Snohomish	21,286	23,810
Mill Creek	Snohomish	20,926	21,630
Covington	King	20,777	21,600
Arlington	Snohomish	19,868	21,740
Washougal	Clark	17,039	17,490
Port Orchard	Kitsap	15,587	17,480
Lake Forest Park	King	13,630	13,660
Woodinville	King	13,069	13,830
DuPont	Pierce	10,151	10,180
Newcastle	King	13,017	13,610
Edgewood	Pierce	12,327	13,590
Liberty Lake	Spokane	12,003	13,150
Fife	Pierce	10,999	11,150
Airway Heights	Spokane	10,757	11,280
Sumner	Pierce	10,621	10,800

City	County	City 2020 Population Census	City 2023 OFM Population Estimate
Milton	King/Pierce	8,697	8,715
Pacific	King/Pierce	7,235	7,270
Fircrest	Pierce	7,156	7,235
Normandy Park	King	6,771	6,840
Steilacoom	Pierce	6,727	6,825
Brier	Snohomish	6,560	6,610
Black Diamond	King	4,697	6,880
Algona	King	3,290	3,315
Clyde Hill	King	3,126	3,115
Medina	King	2,915	2,925
Millwood	Spokane	1,881	1,925
Woodway	Snohomish	1,318	1,340
Yarrow Point	King	1,134	1,135
Ruston	Pierce	1,055	1,065
Hunts Point	King	457	460
Beaux Arts Village	King	317	315

1.2 – Deadlines

RCW 36.70A.635(11)(a) and (b) state that a city must comply with the requirements of RCW 36.70A.635 the latter of:

- Six months after the city’s next periodic comprehensive plan update required under RCW 36.70A.130 if the city meets the population threshold based on the 2020 Office of Financial Management population data; or
- 12 months after the city’s next implementation progress report required under RCW 36.70A.130 after a determination by the Office of Financial Management that the city has reached a population threshold established under RCW 36.70A.635(1).

When a city moves into a new population tier it must comply with the applicable requirements of RCW 36.70A.635 no later than one year after the next implementation progress report required under [RCW 36.70A.130](#), and those reports are due five years after the review and revision required by of their comprehensive plan required under RCW 36.70A.130.

For example:

- Redmond, which is currently Tier 2, crossed the 75,000 resident threshold after 2020. The city will need to comply with Tier 1 requirements 12 months after its next implementation progress report required under RCW 36.70A.130.
- Bainbridge Island, which is currently not subject to the requirements of HB 1110, crossed the 25,000 resident threshold after 2020. The city will need to comply with Tier 2 requirements 12 months after its next implementation progress report required under RCW 36.70A.130.

1.3 – The Two Model Ordinances

The two model ordinances are similar. The key differences are listed in the table below.

Standard	Tier 1 and 2 Cities Model Ordinance	Tier 3 Cities Model Ordinance
Middle Housing Types	At least six of nine middle housing building types must be allowed	At least four of nine middle housing building types must be allowed, subject to review by the city's attorney
Base Unit Density	<u>Tier 1</u> 4 units per lot <u>Tier 2</u> 2 units per lot	2 units per lot
Increased Unit Density	<u>Tier 1</u> 6 units per lot when near major transit or when at least 2 affordable units are provided <u>Tier 2</u> 4 units per lot when near major transit or when at least 1 affordable unit is provided	No increase required
Floor Area Ratio	A standard is included	A standard is not included
Lot Coverage	A standard is included. Lot coverage maximum is higher than the Tier 3 model ordinance and is based on the number of units.	A standard is included. Lot coverage maximum is lower than the Tier 1 and 2 model ordinance.
Setbacks	Minimum front and rear setbacks are less than the Tier 3 model ordinance and are based on the number of units.	Minimum front and rear setbacks are higher than those in the Tier 1 and 2 model ordinance.

2.0 – Model Ordinance and Annotations

In this User Guide, most sections of the model code are followed by annotations. These annotations provide alternative approaches to model ordinance provisions, optional additional provisions, and discussion that provides more context related to code elements.

Model ordinance text in **bold** represents provisions from RCW 36.70A.635 and related sections of state law. These provisions are mandatory for cities subject to the law, except where the context indicates otherwise. Some provisions are rewritten for ease of use and to translate state law into local code format. For example, RCW 36.70A.635(1)(a)(i):

- (1) *Except as provided in subsection (4) of this section, any city that is required or chooses to plan under RCW [36.70A.040](#) must provide by ordinance and incorporate into its development regulations, zoning regulations, and other official controls, authorization for the following:*
 - (a) *For cities with a population of at least 25,000 but less than 75,000 based on office of financial management population estimates:*
 - (i) *The development of at least two units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies;*

This provision for Tier 2 cities is written in the Model Ordinance as:

- A. The permitted unit density on all lots zoned predominantly for residential use is:**
 - 1. Two units per lot, unless zoning permitting higher densities or intensities applies.**

2.1 – Purpose

Model Ordinance Text

The purpose of this middle housing ordinance (“ordinance”) is to:

- A. Implement Engrossed Second Substitute House Bill 1110, codified in RCW 36.70A.030, 36.70A.280, 36.70A.635, 36.70A.636, 36.70A.637, 36.70A.638, 43.21C.495, and 43.21C.450, 64.32, 64.34, and 64.38, and 64.90, by providing land use, development, design, subdivision, and other standards for middle housing developed on all lots zoned predominantly for residential use in applicable cities.
- B. **Supersede, preempt, and invalidate local development regulations should the city fail to have passed ordinances, regulations or other local controls to implement House Bill 1110 within the time frame required by RCW 36.70A.635(11), until such time the city takes all actions necessary to implement RCW 36.70A.635.³**

Discussion

These are basic and necessary purpose statements.

³ [RCW 36.70A.636\(2\)](#)

2.2 – Definitions

Model Ordinance Text

The following definitions shall apply for the purposes of this ordinance, notwithstanding other definitions in the development regulations:⁴

“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 meeting or 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.

“All lots zoned predominantly for residential use” means all lots within a zoning district in which residential dwellings are the predominant use and which implements a residential Comprehensive Plan map designation. This excludes lands zoned primarily for commercial, industrial, and/or public uses, even if those zones allow for the development of detached single family residences. This also excludes lands zoned primarily for mixed uses, even if those zones allow for the development of detached single family residences, if the zones are intended for and permit by-right multifamily use and a variety of commercial uses, including but not limited to retail, services, eating and drinking establishments, entertainment, recreation, and office uses.

“Cottage housing” means residential units on a lot with a common open space that either: (a) Is owned in common; or (b) has units owned as condominium units with property owned in common and a minimum of 20 percent of the lot size as open space.

“Courtyard apartments” means up to four attached dwelling units arranged on two or three sides of a yard or court.”

“Duplex” means a development with two attached dwelling units.

“Fiveplex” means a development with five attached dwelling units.

“Fourplex” means a development with four attached dwelling units.

“Lot, parent” means a lot which is subdivided into unit lots through the unit lot subdivision process.

“Lot, unit” means a subdivided lot within a development as created from a parent lot and approved through the unit lot subdivision process.

“Major transit stop” means a stop on a high capacity transportation system funded or expanded under the provisions of chapter 81.104 RCW, commuter rail stops, stops on rail or fixed guideway systems, and stops on bus rapid transit routes.⁵

⁴ [RCW 36.70A.030](#)

⁵ See Section

“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.

“Public works department” means the public works or engineering department or other department, division, or agency of the city which reviews and approves infrastructure improvements associated with development.

“Single-family zones” means those zones where single-family detached residences are the predominant land use.

“Sixplex” means a development with six attached dwelling units.

“Stacked flat” means dwelling units in a residential building of no more than three stories on a residential zoned lot in which each floor may be separately rented or owned.

“Triplex” means a development with three attached dwelling units.

“Townhouses” means buildings that contain three or more attached single-family dwelling units that extend from foundation to roof and that have a yard or public way on not less than two sides.

“Unit density” means the number of principal dwelling units on a lot, regardless of lot size.

“Unit lot subdivision” means the creation of two or more unit lots within a development which are created from a parent lot and approved through the unit lot subdivision process.

Discussion

Recommended Terms

The definitions have a mix of terms defined in state law (**bold**) and additional recommended terms (not bold). The additional recommended terms are added where an essential phrase of term in RCW 36.70A.635 through .638 is not defined in state law. “All lots zoned predominantly for residential use” is an example of a critical term that affects which lots RCW 36.70A.635(1) applies to but is not defined by statute, and so it is necessary to offer guidance on its meaning. As another example, only four the nine middle housing building types are defined in statute. It is helpful to offer guidance on the five remaining middle housing types to help distinguish them.

All Lots Zoned Predominantly for Residential Use

The Model Ordinance middle housing standards apply to “all lots zoned predominantly for residential use.” RCW 36.70A.635(1) does not specify when to apply applicable requirements to lots created in the future. However, the word “all” implies the whole amount of lots are subject to RCW 36.70A.635(1) which includes all lots currently existing and all lots created in the future. Therefore, the Model Ordinance proposes a new term to help cities know where the Model Ordinance applies.

Note that [RCW 36.70A.681](#)(1)(c), regarding the minimum number of accessory dwelling units allowed in cities, also applies to “all lots.”

Lots in the City that are Primarily Dedicated to Single-Family Detached Housing Units

This term is not defined in the GMA or the Model Ordinance. Refer to Section 6.1 for guidance on this term as it relates to the alternative density option.

Unit Density

Cities choosing to voluntarily opt-in to count accessory dwelling units as part of unit density can consider updating the definition of “unit density” to include both principal and accessory units, if the term is adopted in local code. This approach has potential challenges. See also Section 4.1 – Accessory Dwelling Units .

Middle Housing Building Types

Different middle housing building types could allow the same number of units and, in this respect, would be similar. Unless middle housing building type definitions are carefully reviewed and drafted, the following examples could result:

- A three-story stacked flat building (with one unit per floor) could also be considered a triplex.
- A four-unit courtyard apartment building could be considered a fourplex building.
- A townhouse building with six units on a single lot could also be considered a sixplex.

This could have implications for allowed land uses, especially when a city is choosing which of the nine middle housing building types it will allow in a zone. It also affects any applicable design standards; for example, a four-unit courtyard apartment building is subject to common area design standards, but a fourplex building is not.

However, while different middle housing types may allow the same number of units, those middle housing types that are defined in statute, at least, have distinguishing characteristics in terms of building form that distinguish them from other middle housing types. Cities need to pay careful attention to the following specific features of the GMA definitions for cottage housing, courtyard apartments, townhouses, and stacked flats when writing local ordinances. As defined in the GMA:

- Cottage housing has common open space a minimum of 20 percent of the lot size.
- Courtyard apartments have a yard or court surrounded on two or three sides by dwelling units. They are a maximum of four units.
- Townhouses are a minimum of three units and may overlap with multiple types of other buildings depending on the number of units (e.g., triplexes, sixplexes). However, the definition of townhouses includes, in part, “...attached single-family dwelling units...”. This means townhouse buildings include features of single-family dwelling units such as each dwelling unit being placed on its own lot.
- Stacked flats: Each floor may be separately owned or rented. The traditional concept of stacked flats is a multi-floor building where each floor is a separate dwelling unit. Because the definition limits stacked flat buildings to three floors, this means a stacked flats building can only have two or three units.

Cities should still define duplex, triplex, fourplex, fiveplex and sixplex. In doing so, and to avoid overlap with other middle housing types, the definition of duplex and triplex could be written to exclude stacked flats. Cities seeking to avoid overlap could specify that a building with more than one unit per floor would be considered a “plex” (e.g., two units per floor in a three-story building would, for instance, be considered a sixplex).

Major Transit Stop

See discussion of major transit stops, including future major transit stops not yet in operation, in Section

References

- [“A Planners Dictionary”, American Planning Association](#)
- [Growth Management Act definitions – RCW 36.70A.030](#)

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2.3 – General Provisions

Model Ordinance Text

- A. **Nothing in this ordinance prohibits the city from permitting detached single-family residences.**⁶
- B. **Nothing in this ordinance prohibits the city from requiring any development, including middle housing development, to provide affordable housing, either on-site or through an in-lieu payment, nor limit the city's ability to expand or modify the requirements of an existing affordable housing program enacted under RCW 36.70A.540.**⁷
- C. **Nothing in this ordinance requires the issuance of a building permit if other federal, state, and local requirements for a building permit are not met.**⁸
- D. **Nothing in this ordinance affects or modifies the responsibilities of the city to plan for or provide urban governmental services as defined in RCW 36.70A.030.**⁹
- E. **The city shall not approve a building permit for middle housing without compliance with the adequate water supply requirements of RCW 19.27.097.**¹⁰
- F. **The same development permit and environmental review processes shall apply to middle housing that apply to detached single-family residences, unless otherwise required by state law including, but not limited to, shoreline regulations under chapter 90.58 RCW, building codes under chapter 19.27 RCW, energy codes under chapter 19.27A RCW, or electrical codes under chapter 19.28 RCW.**¹¹
- G. **Conflicts.** In the event of a conflict between this ordinance and other development regulations applicable to middle housing, the standards of this ordinance control.

Discussion

These are basic and necessary general provisions which are stated by HB 1110.

Model Ordinance section 3, subsection (G), regarding conflicts, is necessary because the Model Ordinance cannot account for every existing development regulation a city may apply to middle housing.

⁶ [RCW 36.70A.635\(9\)](#)

⁷ [RCW 36.70A.635\(2\)\(c\)](#), [RCW 36.70A.635\(3\)](#)

⁸ [RCW 36.70A.635\(10\)](#)

⁹ [RCW 36.70A.638\(9\)](#), [RCW 36.70A.638\(11\)](#)

¹⁰ [RCW 36.70A.638\(10\)](#)

¹¹ [RCW 36.70A.635\(6\)\(c\)](#)

2.4 – Applicability

Model Ordinance Text

- A. The provisions of this ordinance shall apply to all lots zoned predominantly for residential use.**
- B. The provisions of this ordinance shall not apply to:**¹²
- 1. Lots designated with critical areas designated under RCW 36.70A.170 or their buffers as required by RCW 36.70A.170.**¹³
 - 2. A watershed serving a reservoir for potable water if that watershed is or was listed, as of July 23, 2023, as impaired or threatened under section 303(d) of the federal clean water act (33 U.S.C. Sec. 1313(d)).**¹⁴
 - 3. Lots that have been designated urban separators by countywide planning policies as of July 23, 2023.**
-

Local Policy Choice

Alternative Compliance

In the Model Ordinance, Section 4, subsection (A) may not apply, or may be revised, in cities which use an alternative compliance option that applies the standards of RCW 36.70A.635 to a different set of lots and/or applies different standards than those in RCW 36.70A.635. For instance, the alternative to density requirements in RCW 36.70A.635 (4)(a) applies to “lots in the city that are primarily dedicated to single-family detached housing units”. For more information see Section 6.1 – Alternative to Density Requirements.

Critical Areas

Cities are encouraged to apply critical area regulations to middle housing in the same manner such regulations are applied to detached single-family residences. Cities have the option to delete Model Ordinance Section 4, subsection (B)(1). However, cities should still plan for natural hazards and open space preservation. See Section 4.4 for more information.

Cities choosing not to adopt subsection (B)(1) must still include lots designated with critical areas or their buffers in the 25 percent of lots excluded through the “Alternative to Density Requirements” option. For more information see Section 6.1 – Alternative to Density Requirements.

Discussion

“Critical areas” as defined by RCW 36.70A.030 include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas. “Fish and wildlife habitat conservation areas” does not include such artificial features or constructs as irrigation delivery

¹² [RCW 36.70A.635\(8\)](#)

¹³ [RCW 36.70A.170](#)

¹⁴ More information on impaired and threatened watersheds can be found through the Department of Ecology: <https://ecology.wa.gov/Water-Shorelines/Water-quality/Water-improvement/Assessment-of-state-waters-303d>

systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

Model ordinance Section 4 Subsections (B)(2) and (B)(3) address intergovernmental topics. Cities can consider striking these subsections from the ordinance if it is known that no part of the city is in an impaired or threatened watershed as defined by the Clean Water Act and if it known that no lots have been designated as “urban separators” in the countywide planning policies.

References

- Washington State Department of Commerce - [Critical Areas Handbook](#)

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2.5 – Middle Housing Types Allowed

Model Ordinance Text

On all lots zoned predominantly for residential use the following uses are permitted by-right:

- A. Duplexes.
 - B. Triplexes.
 - C. Fourplexes.
 - D. Fiveplexes.
 - E. Sixplexes.
 - F. Townhouses.
 - G. Stacked flats.
 - H. Courtyard apartments.
 - I. Cottage housing.
-

Local Policy Choice

For jurisdictions that do not meet the statutory deadline for compliance with RCW 36.70A.635, all nine types of middle housing are permitted by-right on all lots zoned predominantly for residential use until such time the city takes all actions necessary to implement RCW 36.70A.635.

Other cities follow the directions below.

Tier 1 Cities

Amend allowed use standards to permit at least **six** of the nine middle housing types within the definition of “Middle Housing” per RCW 36.70A.635(5).

Tier 2 Cities

Amend allowed use standards to permit at least **six** of the nine middle housing types within the definition of “Middle Housing” per RCW 36.70A.635(5).

In Tier 2 cities authorizing only the two unit per lot density required in RCW 36.70A.635(1)(a), middle housing building types which are defined as containing more than two dwelling units (e.g., triplexes, townhouses, or fourplexes) may have a supplemental standard saying they are only allowed in major transit stop areas or if the affordable housing requirement is met in any location.

Tier 3 Cities

Tier 3 cities must allow two units per lot (RCW 36.70A.635(1)(c)). Amend allowed use standards to permit the **four** of the nine middle housing types within the definition of “Middle Housing” that allow for two units per lot.

This guidance follows that portion of RCW 36.70A.635(5) which states cities are only required to allow as many middle housing types that also meet the minimum density requirement per lot. However, this guidance recommends that cities consult with their city attorney on this approach given the requirement, also in RCW36.70A.635(5), that cities allow at least six of nine middle housing to achieve the unit density requirements. Tier 3 cities may still choose to allow more than two units per lot to achieve the six building type minimum, such as triplexes and fourplexes.

Housing Uses Allowed By-Right

[RCW 36.70A.600](#)(1) encourages cities to update use matrices and allowable use tables that eliminate conditional use permits and administrative conditional use permits for all housing types, including single-family homes, townhomes, multifamily housing, low-income housing, and senior housing, but excluding essential public facilities.

Discussion

As different cities' development regulations take on different formats to identify allowed uses (i.e., itemized list, use tables), the specific code amendment format will vary.

To address housing need by promoting a variety of residential densities and housing types, jurisdictions are encouraged to include more than the six middle housing types in their code.

If a jurisdiction allows more than six types of middle housing, then at least six should be allowed in each area zoned predominantly for residential use.

References

- Middle housing images ([Commerce](#); [Sightline Institute](#))
- Department of Commerce - [Middle housing informational posters](#)
- Department of Commerce - Middle housing [building types](#) and [block models](#)

2.6 – Unit Density and Affordable Housing

Model Ordinance Text

Tier 3 Cities

- A. The permitted unit density on all lots zoned predominantly for residential use is two units per lot, unless zoning permitting higher densities or intensities applies.¹⁵
- B. The standard of subsection (A) does not apply to lots after subdivision below 1,000 square feet unless the city has a smaller allowable lot size in the zone.¹⁶

Tier 1 Cities

- A. The permitted unit density on all lots zoned predominantly for residential use is:¹⁷
 - 1. Four units per lot, unless zoning permitting higher densities or intensities applies.
 - 2. Six units per lot on all lots within one-quarter mile walking distance of a major transit stop, unless zoning permitting higher densities or intensities applies.
 - 3. Six units per lot if least two units on the lot are affordable housing meeting the requirements of Section 6 of this ordinance, unless zoning permitting higher densities or intensities applies.
- B. The standards of subsections (A) do not apply to lots after subdivision below 1,000 square feet unless the city has enacted an allowable lot size below 1,000 square feet in the zone.¹⁸

Tier 2 Cities

- A. The permitted unit density on all lots zoned predominantly for residential use is:¹⁹
 - 1. Two units per lot, unless zoning permitting higher densities or intensities applies.
 - 2. Four units per lot on all lots within one-quarter mile walking distance of a major transit stop, unless zoning permitting higher densities or intensities applies.
 - 3. Four units per lot if least one unit on the lot is affordable housing meeting the requirements of this Section 6 of this ordinance, unless zoning permitting higher densities or intensities applies.
- B. The standards of subsections (A) do not apply to lots after subdivision below 1,000 square feet unless the city has enacted an allowable lot size below 1,000 square feet in the zone.²⁰

¹⁵ [RCW 36.70A.635\(1\)\(c\)](#)

¹⁶ RCW 36.70A.635(6)(g)

¹⁷ [RCW 36.70A.635\(1\)\(b\)](#)

¹⁸ RCW 36.70A.635(6)(g)

¹⁹ RCW 36.70A.635(1)(a)

²⁰ RCW 36.70A.635(6)(g)

Tier 1 and 2 Cities²¹

- C. To qualify for additional units under the affordable housing provisions of Section 6(A) above, the applicant shall commit to renting or selling the required number of units as affordable housing and meeting the standards of subsections (D) through (I) below:²²**
- D. Dwelling units that qualify as affordable housing shall have costs, including utilities other than telephone, that do not exceed 30 percent of the monthly income of a household whose income does not exceed the following percentages of median household income adjusted for household size, for the county where the household is located, as reported by the United States Department of Housing and Urban Development:^{23, 24}**
 - 1. Rental housing: 60 percent.**
 - 2. Owner-occupied housing: 80 percent.**
- E. The units shall be maintained as affordable for a term of at least 50 years, and the property shall satisfy that commitment and all required affordability and income eligibility conditions.**
- F. The applicant shall record a covenant or deed restriction that ensures the continuing rental of units subject to these affordability requirements consistent with the conditions in chapter 84.14 RCW for a period of no less than 50 years.²⁵**
- G. The covenant or deed restriction shall address criteria and policies to maintain public benefit if the property is converted to a use other than which continues to provide for permanently affordable housing.**
- H. The units dedicated as affordable shall:**
 - 1. Be provided in a range of sizes comparable to other units in the development.**
 - 2. The number of bedrooms in affordable units shall be in the same proportion as the number of bedrooms in units within the entire development.**
 - 3. Generally be distributed throughout the development and have substantially the same functionality as the other units in the development.**
- I. Affordable housing incentive programs.**
 - 1. If the city has enacted a program under RCW 36.70A.540, the terms of that program govern to the extent they vary from the requirements of subsections (C) through (H) above.**

²¹ The affordable housing provisions are not required to be adopted by Tier 3 cities.

²² [RCW 36.70A.635\(2\)](#)

²³ <https://www.huduser.gov/portal/datasets/il.html>

²⁴ [RCW 36.70A.030](#)

²⁵ Refer to for the Department of Commerce website for guidance on covenant and deed restrictions related to chapter 84.14 RCW. <https://www.commerce.wa.gov/serving-communities/growth-management/growth-management-topics/planning-for-housing/multi-family-housing-property-tax-exemption-program/> [21-23 Work Products and Updates]

2. If the city has enacted a program under RCW 36.70A.540, subsection (A) above does not preclude the city from requiring any development to provide affordable housing, either on-site or through an in-lieu payment, nor limit the city's ability to expand such a program or modify its requirements.

Local Policy Choice

Major Transit Stop Area

In Model Ordinance Section 6, subsection (B), Tier 1 and 2 cities are encouraged to replace “one-quarter mile” with “one-half mile” for where the higher density requirement in proximity to transit applies. This aligns with the one-half mile walking distance standard for the elimination of off-street parking requirements in Model Ordinance Section 7 and increases housing capacity. See Section 2.1 for guidance on how walking distance is measured.

Cities should also consider going beyond these requirements near major transit stops and permitting transit-oriented densities, multifamily housing, and a variety of non-residential uses.

Combined Increase

Tier 1 and 2 cities must allow a two-unit density increase on lots zoned predominantly for residential use near major transit stops. Tier 1 and 2 cities must also allow a two-unit increase when affordable housing units are provided.

Tier 1 and 2 cities may consider combining the allowed unit density increases to increase housing capacity and affordable housing near major transit stops. This means:

- In a Tier 1 city, a lot located within one-quarter mile (or half-mile) of a major transit stop and which has at least two affordable units would be permitted a minimum of eight units on the lot.
- In a Tier 2 city, a lot located within one-quarter mile (or half-mile) of a major transit stop and which has at least one affordable unit would be permitted a minimum of six units on the lot.

Cities are encouraged to consider going beyond the requirements of RCW 36.70A.635 near major transit stops and permitting transit-oriented densities, multifamily housing, and a variety of non-residential uses.

Alternative Affordability Requirements or Incentives

Model Ordinance Section 6, subsection (I), references two provisions in the statute which allow cities to adopt alternate affordability program terms for middle housing development required by RCW 36.70A.635. See the discussion of affordable housing in Section 5.0 of this User Guide.

Criteria for Not Applying the Affordability Requirement

Tier 1 and 2 cities have specific housing affordability requirements (RCW 36.70A.635 (1)(a)(iii)) and (RCW 36.70A.635 (1)(b)(iii)). Outside of transit areas, Tier 1 cities must allow at least six units per lot, if two units are “affordable housing”, while for Tier 2 cities, the requirement is a minimum of four units per lot if at least one unit is “affordable housing”. For both Tier 1 and Tier 2 cities, there is no affordable housing requirement for lots within one-quarter mile walking distance of a major transit stop. There is also no housing affordability provision for Tier 3 cities.

The affordable housing requirement for Tier 1 and 2 cities includes the statement, “...unless zoning permitting higher densities or intensities applies...” The context of this language can be reasonably interpreted to mean

that if the city's zoning permits a greater number of units than the minimum two units per lot otherwise required by RCW 36.70A.635(1)(a)(i) and four units per lot in RCW 36.70A.635(1)(b)(i), and that unit per lot number is greater than the affordable housing requirement of four units per lot for Tier 2 cities (RCW 36.70A.635(1)(a)(iii)) and six units per lot for Tier 1 cities (RCW 36.70A.635(1)(b)(iii)), then the affordable housing requirement does not apply for development proposals that exceed the Tier 1 and Tier 2 affordable housing unit per lot requirements.

In other words, a city subject to RCW 36.70A.635 may have zoning regulations that permit housing units per lot without necessarily requiring them to be affordable, but only when:

- a) A jurisdiction permits unit per lot densities or intensities greater than the minimum number of units that would otherwise be required by RCW 36.70A.635 (1)(a)(i) or RCW 36.70A(1)(b)(i); and
- b) That unit per lot densities required by RCW 36.70A.635 (1)(a)(i) or RCW 36.70A(1)(b)(i) exceed the four unit per lot requirement in RCW 36.70A.635 (1)(a)(iii) and six unit per lot requirement in RCW 36.70A(1)(b)(iii).

In these cases, the affordable housing requirement would still apply to a four-unit development proposal (outside of a transit area) in a Tier 2 city and to a six-unit middle housing development proposal (again, outside of a transit area) for a Tier 1 city. However, a five-unit (or greater) middle housing development proposal for example, in a Tier 2 city or a seven-unit (or greater) middle housing development proposal for in a Tier 1 city need not require affordable housing.

However, to plan for and accommodate housing for all income levels, cities choosing this option should consider a variety of ways to increase housing affordability. Providing an affordable housing incentive to achieve higher densities could also assist cities in meeting new Growth Management Act (GMA) Housing Element requirements. This includes identification of the number of housing units necessary to manage projected growth by income band (RCW 36.70A.070(2)). See the discussion of affordable housing in Section 5.0 of this User Guide.

Cottage Housing Density Bonus

A unit density bonus is critical for cottage housing to be financially viable. Cities should review their existing cottage housing regulations, and if applicable apply a cottage housing density bonus. A two-for-one bonus is common in Washington cities, with some cities going lower or higher. Address this by adopting an additional subsection that states:

X. A cottage housing unit is counted as 0.5 units for unit density purposes when the unit has less than 1,600 square feet of net floor area (garages are excluded)

The 1,600 square foot standard in the provision above can be modified to fit local circumstances. House Bill 1337 invalidates maximum ADU floor area limits less than 1,000 square feet.²⁶ A cottage housing floor area limit above 1,000 square feet would be reasonable.

²⁶ [RCW 36.70A.681\(1\)\(f\)](#)

Subdivisions and Lot Size

Cities are required to meet the unit density standards on legal lots which are 1,000 square feet in area or which meet the minimum lot size for the zone, whichever is larger.

Unit lots are only required to have a single dwelling unit. See the discussion under Section 2.10 – Subdivision for examples of how unit density applies to subdivisions and unit lot subdivisions.

Discussion

Code Format

As different cities' development regulations take on different formats to identify allowed uses and number of units (i.e., itemized list, tables), the specific code amendment format will vary. Existing maximum density limits which conflict with the provisions of RCW 36.70A.635 are invalidated in the model ordinance.

Small, Medium, and Large Middle Housing

The statute focuses on “small” and “medium” scale middle housing, as described by the [Department of Commerce](#), generally including two to six dwelling units that are compatible with the form, character and scale of single-family dwellings.. “Large” middle housing includes small apartments, multiplexes, and courtyard apartments with up to 20 dwelling units. Research from the University of California Berkeley’s Turner Center for Housing Innovation suggests middle housing projects with eight to twelve dwelling units is the ideal project size to best achieve economies of scale in housing production.

As cities prepare to amend development regulations to comply with RCW 36.70A.635, they may consider allowing larger middle housing developments, especially in areas near transit, commercial services and job centers, and other amenities. Cities interested in larger middle housing projects should also review [Senate Bill 5491](#) regarding single-stair multifamily structures.

References

- Department of Commerce - [Middle housing building types](#)
- University of California Berkely Turner Center - [Housing Innovation Brief, 2022 \(page 9\)](#)
- *Local, regional, and national trends showing the decline in two-to-nine-unit projects over the last 20 years* ([Urban Institute, 2023, pg. 51](#); Eye on Housing, [2017](#) & [2021](#)).

2.7 – Parking Standards

Model Ordinance Text

Off-street parking for middle housing shall be subject to the following:

- A. **Transit proximity.** The city shall not require off-street parking as a condition of permitting development of middle housing within one-half mile walking distance of a major transit stop.²⁷
- B. **Base parking standards.**
1. The city 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.²⁸
 2. The city 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.²⁹
 3. In a unit lot subdivision with middle housing units, the standards of subsections (B)(1) and (2) above apply to the parent lot, and not to individual unit lots.³⁰
- C. **Exemptions.** The off-street parking requirements of (A) and (B) shall not apply in the following locations:
1. Portions of the city within a one-mile radius of a commercial airport in Washington with at least 9,000,000 annual enplanements in accordance with RCW 36.70A.635(7)(b).^{31, 32}
 2. Portions of the city certified for a safety exemption from the Department of Commerce in accordance with RCW 36.70A.635(7)(a).³³

Local Policy Choice

Exemptions

The inclusion of Model Ordinance section 2.7, subsection (C), will depend on whether it applies to your jurisdiction. Subsection (C)(1) is not applicable to cities not within one mile radius of Seattle-Tacoma International Airport, which is the only applicable airport in the state with at least 9,000,000 annual enplanements. Subsection (C)(2) is not relevant to cities which do not apply for an exemption to the parking standards of RCW 36.70A.635 by submitting an empirical parking study. Guidance on how the parking study exemptions will be applied, including submittal materials and required findings for review, is forthcoming from the Department of Commerce.

²⁷ [RCW 36.70A.635\(6\)\(d\)](#). This standard applies only to middle housing, not all development. However, elimination of adjustment of other parking standards near major transit stops is encouraged. See the local policy choice and discussion sections.

²⁸ [RCW 36.70A.635\(6\)\(e\)](#).

²⁹ [RCW 36.70A.635\(6\)\(f\)](#).

³⁰ See Section 10 of the Model Ordinance (Section 2.10 in this User Guide) for unit lot subdivision standards.

³¹ This only applies to Seattle-Tacoma International Airport. Enplanement data is provided by the Federal Aviation Administration: https://www.faa.gov/airports/planning_capacity/passenger_allcargo_stats/passenger

³² [RCW.70A.635\(7\)\(b\) The Department of Commerce is working on guidance for this provision which will be completed by May 1, 2024.](#)

³³ [RCW.70A.635\(7\)\(a\). The Department of Commerce is working on guidance for this provision which will be completed by May 1, 2024.](#)

Lots Exactly 6,000 Square Feet

A lot exactly 6,000 square feet is not addressed by RCW 36.70A.635(6)(e) and (f). Cities may choose whether to apply RCW 36.70A.635(6)(e) or RCW 36.70A.635(6)(f) to lots exactly 6,000 square feet in area developed with middle housing. Because of how much parking may affect middle housing development, address this by adopting this alternative to subsection (B)(1), which would require one off street parking space per middle housing unit:

The city shall not require more than one off-street parking space per unit as a condition of permitting development of middle housing on lots 6,000 square feet or smaller.

On-Street Parking Credit

To add flexibility and reduce construction costs, consider allowing on-street parking to count toward any minimum off-street parking requirements. This could be addressed by adopting an additional subsection:

X. If on-street parking spaces meet all of the following conditions they shall be counted toward the minimum off-street parking requirement.

- 1. On-street parking is allowed and abuts the subject site.*
- 2. The space must be a minimum of 20 feet long.³⁴*
- 3. The space must not obstruct a required sight distance area.*
- 4. The on-street parking shall not be deeded, or for exclusive use, to any property.*

Affordable Housing

Affordable housing is difficult to finance without subsidy, and parking represents a substantial cost of developing housing. Lower-income people (who are intended for occupation of affordable housing units) own fewer vehicles than moderate- and higher-income people.³⁵ Therefore, consider removing off-street parking requirements for affordable housing units. This could be accomplished by adopting an additional subsection to (B):

X. The city shall not require off-street parking spaces per affordable housing unit as a condition of permitting development of middle housing.

Conversions

To encourage preservation and rehabilitation of existing structures, consider exempting off-street parking requirements for middle housing conversion projects up to a certain size. This would allow greater flexibility for conversions or additions where the existing building placement makes it difficult or not possible to add new parking. The following provision would address the most common scenarios:

X. No additional off-street parking shall be required for conversion of a detached single-family residence to a middle housing type with up to four units (whether additional units are attached or detached with the original structure).

³⁴ Item (X)(2) could be revised to the standard length of a parallel parking space in the city if it is different than 20 feet.

³⁵ "Socioeconomics of urban travel in the U.S.: Evidence from the 2017 NHTS." Transportation Research Part D: Transport and Environment, Volume 116, 2023. <https://www.sciencedirect.com/science/article/pii/S13611920923000196?via%3Dihub>

Covered Parking

To allow greater flexibility in design choices and to reduce the cost of providing housing, consider not requiring that parking be covered or indoors. Outdoor parking is common in residential neighborhoods.³⁶ This could be addressed by adopting an additional subsection:

X. Parking for middle housing is not required to be located within a garage, carport, or other structure.

Discussion

Eliminating Off-Street Parking Requirements

Off-street parking takes up lots of space and can create both physical and economic feasibility barriers to the development of middle housing and desired housing types.

The cost of providing surface parking can increase the per-unit construction cost of middle housing between approximately \$5,000 and \$25,000 per unit depending on the type of parking, stalls required, drive aisle area, and turnaround space. Enclosed parking spaces can add even more costs to the construction cost of a housing unit depending on the level of conditioning and finishing requirements. Off-street parking requirements also have a direct relationship to setback requirements when drive aisles or parking spaces are required to be far from property lines, impacting design and floorplate efficiency, land efficiency, and can create significant physical barriers to middle housing development on infill sites. These physical limitations translate to economic impacts to development feasibility that can greatly reduce the overall financial yield to development that can cause middle housing to be built at lower densities or not be feasible at all.

Reducing parking requirements can prove extremely helpful in supporting diverse housing types at lower price points. Beyond one-half mile distance of a major transit stop, consider eliminating minimum off-street parking requirements entirely for middle housing (and other residential land uses) to ease administration, reduce the costs and physical complexity of providing housing, and reduce the costs of owning and renting housing. This is a particular opportunity where local transit service is strong, bike and pedestrian infrastructure is well-connected, and residential areas are mixed or within close proximity to jobs centers and shopping areas. Housing providers will continue to build some parking even without regulatory requirements for parking.

In summary:

- Parking is expensive. Parking space construction ranges from \$5,000 - \$6,000 a stall for surface parking, \$20,000 - \$25,000 a stall for structured parking, and \$30,000 - \$50,000 a stall for underground parking ([Cascadia Partners, 2023](#); [VTPI, 2022](#); & [City of Lacey, 2021](#)).
- High parking mandates negatively impact financial feasibility of middle housing development.
- High parking mandates are spatially difficult to fit on a lot and compete against larger livable space.
- No minimum parking requirements is the best parking standard for seeing middle housing produced at scale.

³⁶ "One in Three Garages Has No Car in It." Sightline Institute, April 27, 2022. <https://www.sightline.org/2022/04/27/one-in-three-garages-has-no-car-in-it/>

SEPA Exemption

HB 1110 amends [RCW 43.21C.495](#), a section of the State Environmental Policy Act (SEPA). It adds subsection (6) to read:

The following nonproject actions are categorically exempt from the requirements of this chapter:

...

(6) Amendments to development regulations to remove requirements for parking from development proposed to fill in an urban growth area designated according to RCW 36.70A.110.

This means implementation of subsection (A) in the Model Ordinance, which removes minimum parking requirements within ½ mile of major transit stops, does not require SEPA review. It also means that other actions which go beyond subsection (A), such as removing minimum parking requirements for any use and in any location within an urban growth area, do not require SEPA review.

Zero Lot Line Subdivision and Lot Splits

RCW 36.70A.635(6)(e) and (f) establish parking requirements based on lot size “...before any zero lot line subdivisions or lot splits.”

A “lot split” is refers to a specific type of subdivision. There is currently no authorization for lot splits in Washington.

The reference to “zero lot line subdivisions” should be interpreted to refer to a unit lot subdivision, which creates the option for zero lot line conditions. See further discussion in Section 2.10 of this User Guide.

In a unit lot subdivision the Model Ordinance, Section 7, subsection (B)(3), states that the lot size used as the basis for parking standards is the size of the parent lot, rather than individual unit lots. For example, consider a 10,000 square foot lot where the minimum lot size in the zone is 5,000 square feet.

- If the 10,000 square foot lot is developed with townhouses using a unit lot subdivision, the city may require up to two parking spaces per unit.
- If the 10,000 square foot lot is divided into two 5,000 square foot legal lots, and then one of those new legal lots is developed with townhouses using a unit lot subdivision, the city may require up to one parking space per unit.

Accessory Dwelling Unit Parking Requirements

Note that HB 1337, passed in 2023, also has very similar parking requirements for accessory dwelling units that RCW 36.70A.635 has for middle housing. See RCW [36.70A.681](#)(2).

References

- Cost per space for parking ([Cascadia Partners, 2023](#); [VTPI, 2022](#); & [City of Lacey, 2021](#)).
- Middle Housing Implementation Pro-Forma Calibration and Assumptions ([Cascadia Partners](#))
- Middle Housing Implementation Pro-Forma Sensitivity Testing ([Cascadia Partners, 2023](#))
- Portland Middle Housing Case Study ([Cascadia Partners, 2023, pg. 27](#))
- City of Olympia Washington reduces parking minimums for all residential units [Ordinance 7366](#) (2023)
- [A Business Case for Dropping Parking Minimums](#), 2022, Planning Magazine
- [Parking Reform Network](#)

2.8 – Zoning Dimensional Standards

Model Ordinance Text

Tier 1 and 2 Cities

A. Applicability.

1. Middle housing shall meet clear and objective zoning standards that apply to detached single family residences in the same zone. This includes, but is not limited to, lot size and dimensions, impervious surfaces, and tree canopy and retention requirements.
2. Any zoning standards that apply only to middle housing development are invalid.
3. Zoning dimensional standards invalidated by this section are replaced by the zoning dimensional standards provided in this section.
4. In no case shall development regulations and standards for middle housing be more restrictive than for detached single family residences, except as provided for in RCW 36.70A.635(6)(a).

B. Density. Minimum and maximum densities measured as units per acre, lot area per unit, or similar methods are invalid for middle housing.

C. Units per structure. Minimum and maximum numbers of units per structure for middle housing are invalid, except as provided by the definitions of middle housing types in Section 2.³⁷

D. Maximum building height. A maximum height limit for middle housing of less than 35 feet is invalid.

1. Building height shall be measured in accordance with the development regulations.
2. Rooftop appurtenances shall be regulated and measured in accordance with the development regulations.

E. Setbacks.

1. Minimum principal building setbacks from property lines for middle housing greater than the following are invalid:
 - a. Street or front: 15 feet, except 10 feet for lots with a unit density of three or more.
 - b. Garage door (where facing the front of the lot): 20 feet.
 - c. Side street: Five feet, and zero feet for attached units.³⁸
 - d. Side interior: Five feet, and zero feet for attached units.

³⁷ Note: Model Ordinance Section 6 addresses units per lot.

³⁸ For the purposes of the Model Ordinance, a “side street” setback is a setback from any street other than the street from which a lot takes its address.

- e. Rear, without an alley: 15 feet, except 10 feet for lots with a unit density of three or more.
 - f. Rear alley: Five feet.
2. Setback projections.
 - a. Covered porches and entries may project up to five feet into required front and rear setbacks.
 - b. Balconies and bay windows may project up to three feet into required front and rear setbacks.
 - c. Other setback projections shall be regulated and measured in accordance with the development regulations.
 3. Nothing in this subsection affects setbacks for accessory dwelling units and other accessory structures.
 4. Flag lots, through lots, unusually-shaped lots, and setback measurements are regulated in accordance with the development regulations.
- F. Maximum lot coverage. Maximum lot coverage for middle housing less than the following is invalid:
1. For lots with a unit density of five or more: 50 percent.
 2. For lots with a unit density of four or less: 45 percent.
- G. Maximum floor area ratio (FAR). Maximum FAR for middle housing less than the following is invalid:

Unit density on the lot	Maximum floor area ratio (FAR)
2	0.6
3 or 4	0.8
5 or more	1.0

Tier 3 Cities

A. Applicability.

1. Middle housing shall meet clear and objective zoning standards that apply to detached single family residences in the same zone. This includes, but is not limited to, lot size and dimensions, impervious surfaces, and tree canopy and retention requirements.
2. Any zoning standards that apply only to middle housing development are invalid.
3. Zoning dimensional standards invalidated by this section are replaced by the zoning dimensional standards provided in this section.

B. Density. Minimum and maximum densities measured as units per acre, lot area per unit, or similar methods are invalid for middle housing.

C. Units per structure. Minimum and maximum numbers of units per structure for middle housing are invalid, except as provided by the definitions of middle housing types in Section 2.³⁹

D. Maximum building height. A maximum height limit for middle housing of less than 35 feet is invalid.

1. Building height shall be measured in accordance with the development regulations.
2. Rooftop appurtenances shall be regulated and measured in accordance with the development regulations.

E. Setbacks.

1. Minimum principal building setbacks from property lines for middle housing greater than the following are invalid:

- a. Street or front: 20 feet.
- b. Garage door (where facing the front of the lot): 20 feet.
- c. Side street: Five feet.⁴⁰
- d. Side interior: Five feet, and zero feet for attached units.
- e. Rear, without an alley: 20 feet.
- f. Rear alley: Five feet.

2. Setback projections.

- a. Covered porches and entries may project up to five feet into required front and rear setbacks.

³⁹ Note: Model Ordinance Section 6 addresses units per lot.

⁴⁰ For the purposes of the Model Ordinance, a "side street" setback is a setback from any street other than the street from which a lot takes its address.

- b. Balconies and bay windows may project up to three feet into required front and rear setbacks.
 - c. Other setback projections shall be regulated and measured in accordance with the development regulations.
3. Nothing in this subsection affects setbacks for accessory dwelling units and other accessory structures.
 4. Flag lots, through lots, unusually-shaped lots, and setback measurements are regulated in accordance with the development regulations.
- F. Maximum lot coverage. Maximum lot coverage for middle housing less than the following is invalid: 40 percent.
-

Local Policy Choice

Pitched Roofs

Cities that want to incentive pitched roofs could consider an addition to subsection (D):

- #. *The maximum height limit for middle housing is 40 feet where all roof forms above 35 feet have a minimum 3:12 roof pitch.*

Setbacks

Cities may employ a code policy of providing consistent standards regardless of the housing type or they may offer standards that offer some extra flexibility to help incentivize middle housing development. The Model Ordinance applies a progressive approach for required front and rear setbacks using “unit density” as the metric for greater flexibility.

Cities that want to simplify the code could adjust the front and rear setback standards under subsection (E) to be a consistent number regardless of unity density on the lot. Lower setbacks (e.g. 10 feet for Tier 1 and 2 cities) are recommended to provide flexibility for middle housing development.

Cities might also consider a different set of setback standards that apply to new dwelling units placed within or towards the rear of the lot, provided they preserve some usable open space on the lot. This could be similar to many cities’ approaches for detached ADU’s, where rear setbacks for primary structures might be 20 feet, but a detached ADU could be within five or 10 feet of a rear property line provided it meets other dimensional and design standards.

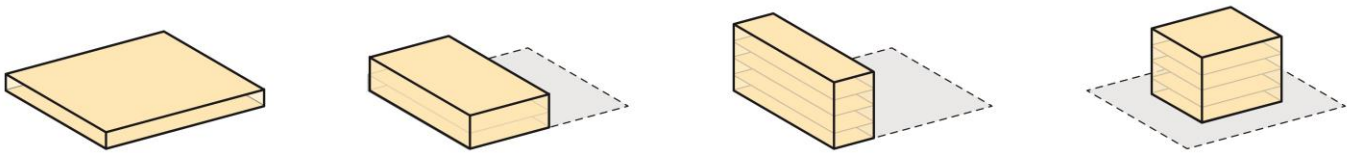
Lot Coverage and/or Floor Area Ratio (FAR)

Most cities subject to RCW 36.70A.635 apply lot coverage as one of several tools to manage the bulk and scale of development on a lot. Though FAR is less common, it is an increasingly popular tool to manage the bulk and scale of development on a lot with the integration of middle housing. As it is a somewhat more complicated tool, some cities have resisted adding it, particularly with staffing limitations for development review purposes. Consequently, the Model Ordinance uses both lot coverage and FAR for Tier 1 and 2 Cities, but only lot coverage for Tier 3 Cities, opting for the simplified approach for smaller cities.

Lot coverage, for the purposes of this Model Ordinance, refers to the area of a lot covered by a building.

Floor area ratio refers to the total interior floor area of a building or structure, excluding basements, in relation to the amount of site area, after subtracting any required or planned dedication of public rights-of-way and/or designation of private rights-of-way. For example, a floor area ratio of 1.0 (1 to 1) means one square feet of floor area for every one square foot of site area. The graphic below illustrates what a 1.0 FAR looks like on a site in a variety of configurations.

FAR 1.0



The table below identifies the basic advantages and disadvantages to using lot coverage and FAR.

Tool	Advantages	Disadvantages
Lot coverage	<ul style="list-style-type: none"> • Relatively simple to understand and calculate • Can help ensure that there’s some amount of open space 	<ul style="list-style-type: none"> • Less effective than FAR in managing the overall bulk of buildings on a lot • Can promote surface parking areas over structured parking
Floor area ratio	<ul style="list-style-type: none"> • More effective than lot coverage in managing the overall buildings on a lot. 	<ul style="list-style-type: none"> • A little more complicated to understand and calculate, particularly where any exemptions are available

The specific Model Ordinance provisions were developed based on a review of numerous city codes, including codes that accommodate middle housing building types and those that do not. Numerous lot development scenarios were developed to test how setbacks, heights, lot coverage and FARs worked together on a variety of lot sizes. Lot coverage, in order to be effective as a tool, needs to be somewhat more restrictive than using the basic building envelope after calculating minimum setbacks to help manage the extent of buildings on a lot and ensure some desirable amount of open space. Lot coverage percentages below those provided in the Model Ordinance become more challenging for developing middle housing, particularly on lots which are smaller than 5,000 or even 6,000 square feet.

Each tool comes with some policy options, which are described below.

Should cities use one or the other, or both tools?

Cities may choose to use just lot coverage or FAR, or they may opt to choose both. Employing both naturally adds more complexity to the code. The model code uses both tools for Tier 1 and 2 Cities, but just uses lot coverage for Tier 3 cities, again, assuming that the larger cities might prefer the added protection of using both tools. With Tier 3 cities, the model code opts for the simplified approach.

Consistent standards versus progressive standards (to incentivize middle housing)

Cities may employ a code policy of providing consistent standards regardless of the housing type or they may offer standards that offer some extra flexibility to help incentivize middle housing development. The Model Ordinance for Tier 1 and 2 cities applies a progressive approach for both lot coverage and FAR using “unit density” as the metric for greater flexibility. For example, for lot coverage, the model code would invalidate any existing standard less than 45 percent for lots with up to four units and 50 percent for lots with five or more units. For FAR, the model code uses three different tiers to incentivize more middle housing units on a lot.

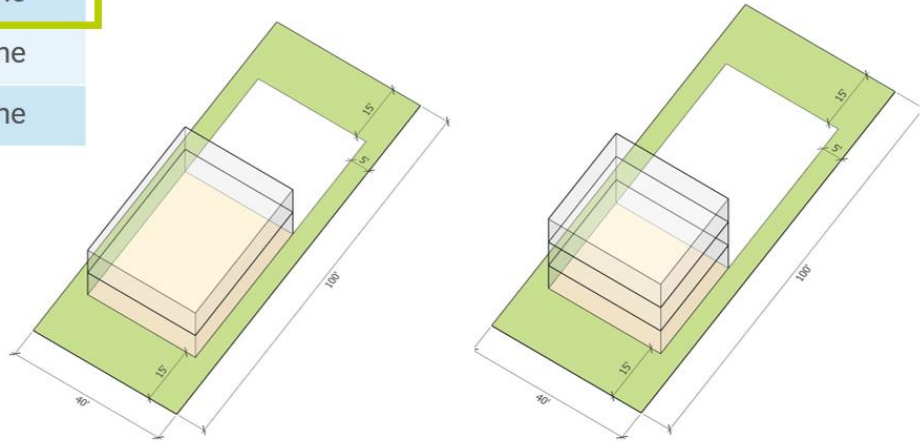
Tiered standards based on lot size

Cities could also employ tiered lot coverage and/or FAR standards by lot size, as the lot size can help or hurt the ability to meet such standards. For example, the Oregon Middle Housing Model Code for Large Cities uses five different FAR tiers based on different lot sizes (from below 3,000 square feet to those 20,000 square feet or more and corresponding FARs between 0.4 to 1.4).

The Model Ordinance uses a consistent approach, after testing numerous development scenarios in the 3,000-5,000 square foot lot range with an assumption that if the lot coverage and FAR standards appeared to work well for lots in those ranges, they would be workable for the full range of lot sizes.

The graphic below illustrates what 0.6 FAR looks like in two-story and three-story scenarios on a 4,000 square foot lot. The table on the left illustrates FAR standards for Tier 1 and 2 Cities in the model code based on the number of units on a lot (unit density).

Unit density	Tier 1 & 2	Tier 3
2 units	0.6	None
3 or 4 units	0.8	None
5 or more units	1.0	None



Discussion

Economic Considerations

When cities are developing dimensional regulations for middle housing types, cities should develop dimensional standards that make the desired housing types and housing outcomes the easier choice. For example, if attainable homeownership is a priority for a city, the city should develop progressive dimensional standards that incent the production of that housing type over larger, less dense, and more expensive housing types. Dimensional standards should be thought of in terms of cumulative impact to the desired development types and should be crafted in a way to ensure that they leave room for a reasonable unit size to be feasible and create efficient floorplates for the desired development types.

Setback

The lower setbacks for three or more units in Tier 1 and 2 developments are intended to incentivize middle housing. Other types of incentives may be considered. For example, in some residential zones Bothell allows a reduced front setback only if the rear setback is increased by the same amount to help preserve trees, provide space for rain gardens, etc.

In unit lot subdivisions, setbacks apply to the parent lot (the original lot) rather than individual unit lots.

Definitions

On corner lots, some cities apply the front setback uniformly and do not have a separate “side street” setback. For the purposes of this model ordinance, a “side street” setback is a setback from any street other than the street from which a lot takes its address. Cities will need to make some interpretations or adjustments for other setback terms which may be defined at the local level.

Transitions

“Transitional” standards that require middle housing developments to have increased setbacks or upper-story setbacks from adjacent lots with existing detached single-family residences are not permitted by RCW 36.70A.635(6)(b), unless those same standards apply to detached single-family residential development.

References

- Portland Middle Housing Case Study ([Cascadia Partners, 2023, pg. 11](#)).
- [Portland’s development standards](#) for R2.5 & R5 zones that produced the most middle housing.
- [Oregon Middle Housing Model Code Large Cities](#)

2.9 – Design Standards

Model Ordinance Text

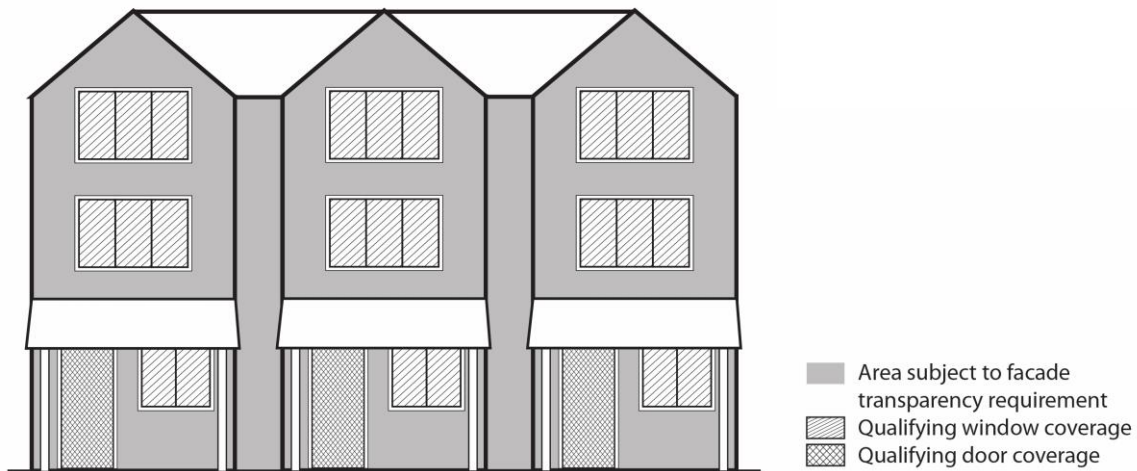
A. Generally.

1. These standards apply to all middle housing types.
2. Design review for middle housing shall be administrative.⁴¹
3. These design standards do not apply to the conversion of a structure to a middle housing type with up to four attached units if the floor area of the structure does not increase more than 50 percent.

B. Entries.

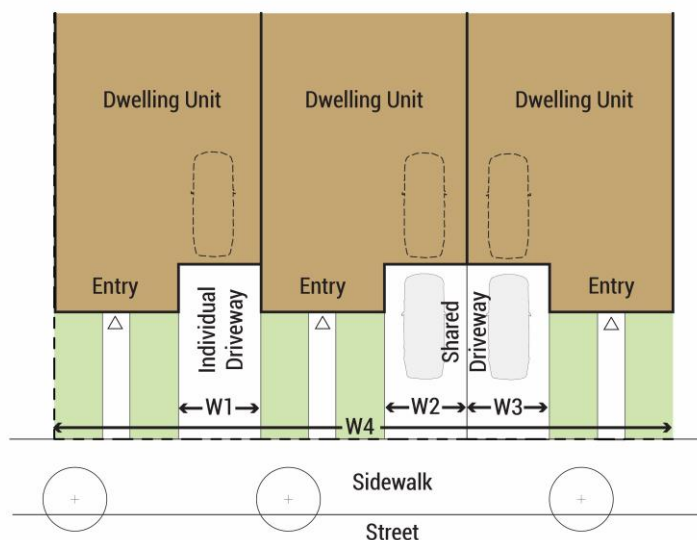
1. Each building shall incorporate a primary building entry or one or more private unit entries, such as a covered porch or recessed entry. Each entry shall feature minimum weather protection of three feet by three feet.
2. Cottage housing and courtyard apartments are exempt from this entry standard. See Section 9, subsection (H) for cottage housing entry standards and Section 9, subsection (I) for courtyard apartments entry standards.

- C. Windows and doors. A minimum of 15 percent of the area of the street-facing façade elevation shall include windows and doors. Facades separated from the street by a dwelling are exempt from this standard.



⁴¹ [RCW 36.70A.635\(6\)\(a\)](#). "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 [[RCW 36.70A.030](#)(3)]. See also [RCW 36.70A.630](#) for a description of "objective design and development standards."

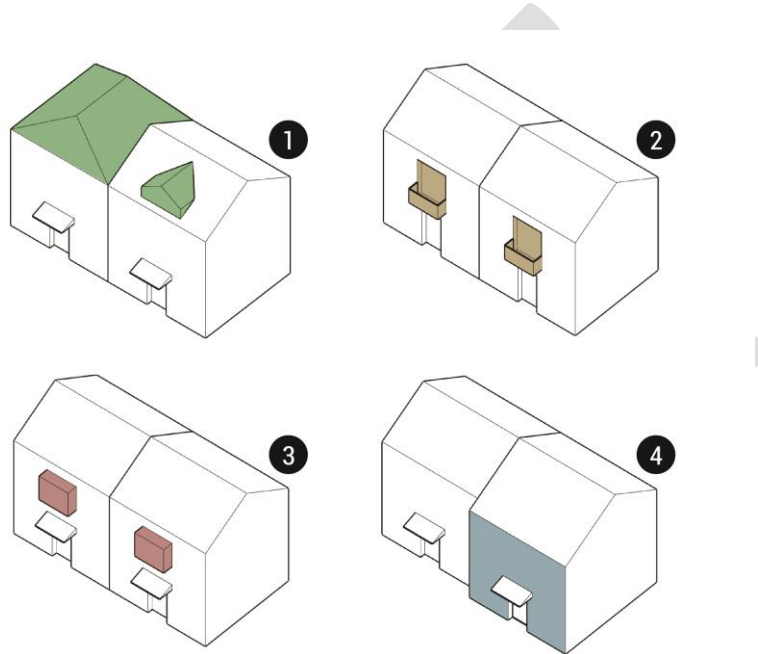
- D. Pedestrian access. A paved pedestrian connection is required between each middle housing building and the sidewalk (or the street if there is no sidewalk). Driveways may be used to meet this requirement.
- E. Access, carports, garages and driveways.
1. For lots abutting an improved alley that meets the city’s standards for width and surfacing, vehicular access shall be taken from the alley. Lots without access to an improved alley and taking vehicular access from a street shall meet the other standards of subsection (E)(2) through (5) below.
 2. Garages and off-street parking areas shall not be located between a building and a public street, except when either of the following conditions are met:
 - a. The garage or off-street parking area is separated from the street property line by a dwelling.
 - b. The combined width of all garages and outdoor on-site parking and maneuvering areas does not exceed a total of 60 percent of the length of the street frontage property line. This standard applies to buildings and not individual units.
 3. All detached garages and carports shall not protrude beyond the front building façade.
 4. The total width of all driveway approaches shall not exceed 32 feet per frontage, as measured at the property line. Individual driveway approaches shall not exceed 20 feet in width.
 5. Local jurisdiction requirements for driveway separation and access from collector streets and arterial streets shall apply.



$\frac{(W1+W2+W3)}{W4}$ must be no more than 60%
 $(W1+W2+W3)$ must not exceed 32 feet per frontage
 W1 shall not exceed 20 feet

F. Unit articulation. Each attached unit featuring a separate ground level entrance in a multi-unit building facing the street shall include at least one of the following. Facades separated from the street by a dwelling are exempt from this standard.

1. Roofline change or a roof dormer with a minimum of four feet in width.
2. A balcony a minimum of two feet in depth and four feet in width and accessible from an interior room.
3. A bay window that extends from the facade a minimum of two feet.
4. An offset of the facade of a minimum of two feet in depth from the neighboring unit.



G. Cottage housing.

1. Cottage size. Cottages shall each have no more than 1,600 square feet of net floor area, excluding attached garages.
2. Common open space.
 - a. At least one outdoor common open space is required.
 - b. Common open space shall be a minimum 20 percent of the lot size with a minimum dimension of 15 feet on any side.
 - c. Common open space shall be bordered by cottages on at least two sides.
 - d. Parking areas and vehicular areas do not qualify as a common open space.
3. Entries. All cottages shall feature a roofed porch at least 70 square feet in size with a minimum dimension of seven feet on any side facing the street and/or common open space.
4. Community building.

- a. A cottage housing development may contain one community building.
- b. A community building shall have no more than 2,400 square feet of net floor area, excluding attached garages.
- c. A community building shall have no minimum vehicle parking requirements.

H. Courtyard apartments.

1. Common open space.
 - a. At least one outdoor common open space is required.
 - b. Common open space shall be a minimum dimension of 15 feet on any side.
 - c. Common open space shall be bordered by dwelling units on two or three sides.
 - d. Parking areas and vehicular areas do not qualify as a common open space.
3. Entries. Ground-related courtyard apartments shall feature a covered pedestrian entry, such as a covered porch or recessed entry, with minimum weather protection of three feet by three feet, facing the street or common open space.

I. Trees.

1. The city shall not require through development regulations any tree standards for middle housing that are more restrictive than tree standards required for detached single-family residences, except as provided in this Model Ordinance.
2. Common open space for cottage housing and courtyard apartments shall include at least one new tree per 1,000 square feet of common open space. Required trees shall meet the following standards at the time of planting:
 - a. Deciduous trees shall be fully branched, have a minimum caliper of one and one-half inches (as measured six inches above the root ball), and a minimum height of six feet at the time of planting.
 - b. Evergreen trees shall be fully branched and a minimum of six feet in height, measured from the treetop to the ground, at the time of planting.
 - c. All required trees shall be in-ground, except when in raised planters. Trees shall be installed to current nursery industry standards. Where support is necessary, stakes, guy wires or other measures shall be removed as soon as the tree can support itself. Trees shall be protected by fencing until they are mature enough to withstand typical wildlife activity.

Discussion

Generally

Cities are not required to have design standards for middle housing or any other type of development. When a city applies design standards to middle housing, the standards must consider the requirement of RCW 36.70A.635(6)(b) which states that development regulations cannot be more restrictive for middle housing than detached single-family residences.

However, the definition of “middle housing” in RCW 36.70A.030 describes it as “...buildings that are compatible in scale, form, and character with single-family houses...”. In addition, RCW 36.70A.635(6)(a) provides an opportunity to use administrative design review and apply objective design standards for middle housing to address compatibility with single-family houses, even if there are no design standards for single-family houses in place. Design standards for middle housing should include objective, measurable standards which address compatibility issues of scale, form, and character. The Model Ordinance includes examples of objective standards. Subjective standards for middle housing – such as regulating exterior materials or building colors – should be minimized or avoided.

Trees

Trees have considerable benefits to a community. This includes, but is not limited to: stormwater management, soil erosion reduction, supporting climate change strategies, providing habitat, and fostering aesthetics. For these and many other reasons, communities have adopted urban forestry regulations to address the planting, maintenance, care, and protection of tree populations.

RCW 36.70A.635(6)(b) includes tree canopy and tree requirements as a standard that should not be more restrictive for middle housing than for detached single family residences. Jurisdictions should first look to their tree regulations to determine whether or not they are sufficient to address tree canopy, retention, and replacement for middle housing.

Rather than offer specific prescriptive recommendations for tree preservation and retention for one use (or subgroup of uses) like middle housing, cities should consider reviewing, updating existing tree regulations as a broader package across all uses and type of permit applications taking into account matters such as, but not limited to, local policy objectives, natural resources, and administrative and enforcement resources.

Significant trees provide numerous benefits to the environment, climate resiliency, livability, and aesthetic qualities but can also make the development of middle housing and affordable housing more challenging, especially on smaller lots. Existing trees are sometimes in a sub-optimal location which does not allow efficient site design or reduces the housing capacity on the site, which impacts the economic feasibility of development.

Some cities have tree standards that promote maintaining or growing the overall tree canopy, rather than focusing on individual trees. For example, in Port Orchard’s McCormick Village Overlay District, a minimum 25 percent tree canopy coverage is required to be planned for at the time of 20 years maturity. Significant trees are only required be retained if they are located with any perimeter landscaping requirement, critical area protection areas and required buffers. Both newly planted and existing trees on the site and in adjacent right-of-way contribute to meeting the standard.⁴²

⁴² [POMC 20.38.280](#)

Beyond specific tree planting and retention standards, cities should review their requirements for tree plans. Some cities exempt detached single family residences from providing a tree plan but require such plans for middle housing; this is not permitted by RCW 36.70A.635(6)(b).

References

- [Port Angeles Residential Infill Design Standards \(Chapter 17.21 PAMC\)](#)
- [Anacortes Housing Type Design Standards \(AMC 19.43.010\)](#)

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2.10 – Subdivision

Model Ordinance Text

- A. Generally. Regulations for subdivisions, short subdivisions, binding site plans, and planned unit developments shall not be more restrictive for middle housing than for detached single-family residences.
- B. Unit lot subdivisions. A lot may be divided into separately owned unit lots, provided the following standards are met.⁴³
1. **Approval Process**. Unit lot subdivisions follow the application, review, and approval procedures for a short subdivision or subdivision, depending on the number of lots.
 2. **Applicability**. Sites to be developed with middle housing, detached accessory dwelling units, and multiple detached single-family residences on a lot in which no dwelling units are stacked on another dwelling unit may be subdivided into individual unit lots as provided herein.
 3. **Development as a whole** on the parent lot, rather than individual unit lots, shall comply with applicable unit density and zoning dimensional standards.
 4. **Subsequent platting actions, additions, or modifications** to the structure(s) may not create or increase any nonconformity of the parent lot.
 5. **Access easements, joint use and maintenance agreements, and covenants, conditions and restrictions (CC&Rs)** identifying the rights and responsibilities of property owners and/or the homeowners' association shall be executed for use and maintenance of common garage, parking and vehicle access areas; underground utilities; common open space; shared interior walls; exterior building facades and roofs; and other similar features shall be recorded with the county auditor.
 6. **Within the parent lot, required parking** for a dwelling unit may be provided on a different unit lot than the lot with the dwelling unit, as long as the right to use the parking is formalized by an easement recorded with the county auditor.
 7. **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.
 8. **Notes shall be placed on the face of the plat or short plat** as recorded with the county auditor to state the following:
 - a. The title of the plat shall include the phrase "Unit Lot Subdivision."
 - b. Approval of the development on each unit lot was granted by the review of the development, as a whole, on the parent lot.
 9. **Effect of Preliminary Approval**. Preliminary approval constitutes authorization for the applicant to develop the required facilities and improvements, upon review and approval of construction drawings

⁴³ [RCW 58.17.060\(3\)](#)

by the public works department. All development shall be subject to any conditions imposed by the city on the preliminary approval.

10. Revision and Expiration. Unit lot subdivisions follow the revision and expiration procedures for a short subdivision.

Local Policy Choice

Short Subdivisions

At a minimum, Tier 1 cities must allow at least six lots to be created in a short subdivision to comply with RCW 36.70A.635(5), which states in part: *...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.*

Under [RCW 58.17.020\(6\)](#), a "short subdivision" is the division or redivision of land into four or fewer lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership. However, the legislative authority of any city or town may by local ordinance increase the number of lots, tracts, or parcels to be regulated as short subdivisions to a maximum of nine. This authority for cities and towns was established by Senate Bill 5832 in 2002. At a minimum, however, jurisdictions who limit short subdivisions to four lots are required to raise the number to six.

All cities and towns interested in streamlining the subdivision process and promoting middle housing should set the maximum number of lots that can be created in a short subdivision to nine lots, as authorized by RCW 58.17.020(6) and encouraged by [RCW 36.70A.600\(1\)\(k\)](#). Short subdivisions require administrative approval and are typically reviewed and approved on a faster timeline than a subdivision application.

Administrative Review of Preliminary and Final Plats

RCW 36.70A.600(1) encourages cities to:

- Adopt standards for administrative approval of final plats pursuant to RCW 58.17.100
- Adopt ordinances authorizing administrative review of preliminary plats pursuant to RCW 58.17.095

Discussion

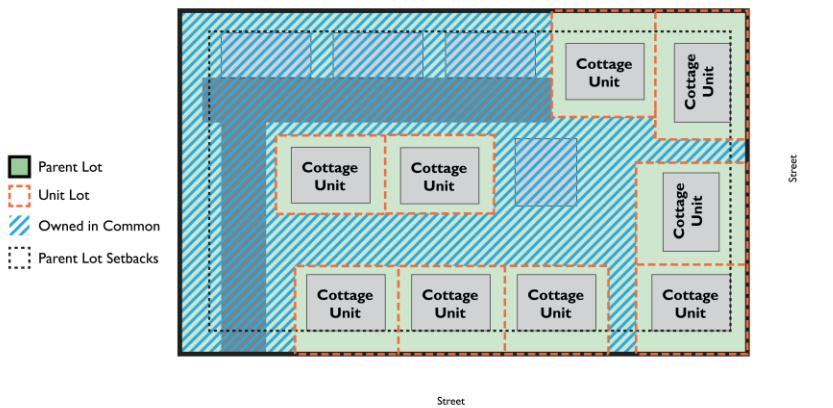
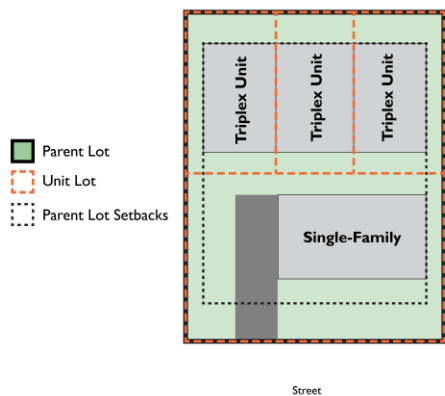
Unit Lot Subdivisions

RCW [58.17.060\(3\)](#), added by Senate Bill 5258 in 2023, creates a new requirement for subdivision regulations:

All cities, towns, and counties shall include in their short plat regulations procedures for unit lot subdivisions allowing division 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.

Senate Bill 5258 is effective July 23, 2023. Unit lot subdivisions are almost exclusively used in conjunction with middle housing, so cities are encouraged to provide standards for unit lot subdivisions like that provided in Section 10 of the Model Ordinances.

Below are conceptual examples of a unit lot subdivision plat showing how unit lots and parent lots interact differently with zoning dimensional standards.



Unit Density in Subdivisions

In the Model Ordinance, Section 10, subsection (B)(3), states that development on the parent lot of a unit lot subdivision conforms to unit density rather than individual unit lots. For example, consider an 8,000 square foot lot in a Tier 2 city near a major transit stop. The lot must be allowed to have four dwelling units. If the lot undergoes a unit lot subdivision that creates four 2,000 square foot lots, each lot is only permitted to have a single dwelling unit because that adds to a total of four dwelling units on the 8,000 square foot parent lot.

In a regular subdivision, the unit density standards apply to each legal lot. For example, a 40,000 square foot parcel in a Tier 2 city near a major transit stop is subdivided into ten 4,000 square foot lots. None of the ten new lots undergoes a unit lot subdivision. Each lot must be allowed to have four dwelling units.

Zero Lot Line

The term “zero lot line” is used in several times in RCW 36.70A.635. State law does not define “zero lot line” nor “zero lot line subdivision.”

Cities should interpret “zero lot line” to mean the physical state of a building located, or permitted to be located, on one or more property lines on a lot. This state can be achieved where a zoning setback requirement is zero feet, where attached townhouses on individual lots are allowed, or other code mechanisms. This can also be achieved development is part of a unit lot subdivision; subsection (B)(3) in the model ordinance specifically helps cities comply with RCW 36.70A.635(5).

Lot Split

The term “lot split” is used several times in RCW 36.70A.635 in the context of parking standards. Refer to the discussion of lot splits as it applies to parking standards under Section 2.7 of this User Guide.

Subdivision Alterations

Generally, when any person is interested in the alteration of an existing subdivision a subdivision alteration may be required pursuant to [RCW 58.17.215](#). However, a city may provide an exception to the subdivision alteration process for middle housing unit lot subdivisions under RCW 36.70A.635(5) if the unit lots created: 1) are not separate legal lots; 2) do not amend existing conditions of approval of previously platted property; 3) would not result in the violation of a condition on the face of the plat; and 4) would not result in the violation of a covenant of the plat. When new middle housing units are proposed to be subdivided, a short subdivision/subdivision or unit lot short subdivision/subdivision would be required in lieu of a subdivision alteration.

When a subdivision alteration is required, the statute provides options which could make the process easier to work through. A subdivision alteration application only requires the signature of a majority of those persons having an ownership interest of lots, tracts, parcels, sites, or divisions in the subject subdivision or portion to be altered. If the alteration only impacts a portion of the lots within a subdivision versus a proposal to remove an easement impacting all properties, for example, then only the majority of property owners within the area altered should have to sign the subdivision alteration application.

The statute also provides an option to make a hearing on the subdivision alteration optional. While notice of the alteration is required to be sent to all property owners in a subdivision, a hearing is only required if requested within 14 days of receipt of the notice.

References

- Examples of unit lot subdivision standards adopted by Washington cities:
 - [Snohomish Municipal Code 14.215.125](#)
 - [Shoreline Municipal Code 20.30.410\(B\)\(4\)](#)
 - [Wenatchee Municipal Code 11.32.080](#)
 - [Everett Municipal Code 19.27](#)
- [City of Algona - Unit Lot Subdivision Frequently Asked Questions and Tips \(Short\)](#)
- [City of Algona - Unit Lot Subdivision Frequently Asked Questions and Tips \(Long\)](#)
- [City of Bellevue – Unit Lot Subdivision Project Page and Code Amendments](#)

2.11 – Infrastructure Standards

Model Ordinance Text

- A. Transportation. Regulations for driveways, frontage improvements, alley improvements, and other transportation public works and engineering standards shall not be more restrictive for middle housing than for detached single-family residences, except as addressed by this ordinance.
- B. Lot Access/Road Standards.
1. Private driveway access shall be permitted for middle housing development with any number of units when any of the following conditions are met:
 - a. A fire apparatus access road is within 150 feet of all structures on the lot and all portions of the exterior walls of the first story of the buildings, as measured by an approved route around the exterior of the buildings; or
 - b. The building is equipped throughout with an approved automatic sprinkler system meeting International Fire Code requirements; or
 - c. No more than two homes are accessed via the same private driveway; or
 - d. Fire apparatus access roads cannot be installed because of location on property, topography, waterways, nonnegotiable grades or other similar conditions, and an approved alternative means of fire protection is provided.
 2. Private driveways shall not be required to be greater than 12 feet in width and have greater unobstructed vertical clearance than 13 feet six inches except when it is determined to be in violation of the International Fire Code or other fire, life, and safety standards, such as site distance requirements.
 3. Private driveway access, separate from access to an existing home, shall be permitted unless it is determined to be in violation of the Fire Code or other fire, life, safety standards, such as site distance requirements.
 4. This subsection is not intended to limit the applicability of the adopted fire code except as otherwise presented in this subsection.

Discussion

Public works and infrastructure standards that create conditions on development are a type of “development regulation” subject to RCW 36.70A.635(6)(b). This is provided by the definition of “development regulations” under RCW 36.70A.030.

To comply with RCW 36.70A.635(6)(b), public works and infrastructure standards applicable to development cannot be generally more restrictive for middle housing than for detached single-family residences.

However, some level of discretion is appropriate to account for functional and utilitarian differences between middle housing and detached single-family residences and to promote public health, safety, and welfare.

Differences in standards are most appropriate when they are based on the number of dwelling units (not based on the specific type of residential building) and where the impacts to buildable area and development costs are minimal. Differences are also appropriate where a middle housing development is large (e.g. more than 12 units) and begins to have similarities to multifamily development, which have greater impacts and larger economies of scale that can absorb additional costs.

Examples and further considerations are below.

Street Frontage and Alley Improvements

For example, the permitting for a fourplex cannot be conditioned upon an unpaved alley being paved or curb, gutter, and sidewalk being provided on a street frontage if a detached single-family residence on the same lot would not have the same condition.

However, street frontage and alley improvements could be required based upon technical metrics such as the number of PM peak hour vehicle trips estimated to be generated by a development. For example, one city in Washington requires that where a sidewalk is missing in front of a lot proposed for development the sidewalk must be provided if the development will generate 10 or more PM peak hour vehicle trips.

Cities should also consider addressing deficiencies in their pedestrian and bicycle networks in areas where an increase in density is expected as a result of complying with RCW 36.70A.635. City-led projects, such as creating an entire block of new sidewalk, can sometimes result in better mobility outcomes than waiting for piecemeal improvements contributed by individual private developments.

Lot Access/Road Standards

Cities may need to adjust their standards for shared access provisions, particularly for those lots that don't have direct access to a public right-of-way. The model ordinance sets a base minimum width for such a shared access lanes of 12 feet and seeks to ensure that such shared access lanes meet International Fire Code requirements. Cities should review current private road or driveway access standards to see if they would accommodate development of one or more housing units in the rear of a lot when the existing home is retained. Are required widths narrow enough to accommodate access between the side property line and existing house? Do current standards allow the number of units required to be allowed under RCW 36.70A.635(1)? Are there other road standards that might need to be adjusted to work when applied to small lot development?

Water and Sewer

Water and sewer utility purveyors (cities, special districts, and private purveyors) should have flexible requirements for the design of water and sewer connections to middle housing lots and buildings. There are advantages and disadvantages to centralized and shared lateral connections and metering, and there may be different ownership arrangements, cost implications, and other reasons that require a variety of approaches. For example, a sixplex developer should be able to choose between having a master meter maintained by a homeowner's association and having separate meters for each unit.

Stormwater

Cities should have flexible requirements where existing private stormwater conveyance and facilities in a subdivision have specific limitations for impervious surfaces. Some configurations of middle housing are relatively compact and do not necessarily increase impervious surface area beyond that of a typical detached single-family residence, and so the impact of redeveloping individual lots may be minimal.

Cities should allow on-site and off-site mitigation options when impervious surface resulting from middle housing development could approach or exceed the limitations for a stormwater system. For example, allowing pervious paving and grasscrete for driveways; reducing the amount of required off-street parking; allowing for vegetated roofs, rain gardens, and bioswales which capture or slow stormwater; allowing off-site strategies such as converting unused on-street parking to landscaped areas; allow the building of rain gardens or bioswales such as parks or street planter strips; or allowing modification or expansion of existing stormwater facilities to accommodate additional development.

Solid Waste

Because trash is a public health and safety concern, it is reasonable to have solid waste standards that scale with the size of development. For example, a cottage development may be required to provide a centralized trash dumpster area meeting environmental protection standards instead of each unit being permitted to have individual trash cans.

References

- [King County Capacity Charge](#). Example of a utility fee which is graduated based on the size and type of residential dwelling.

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3.0 – Additional Considerations

3.1 – Existing Zones and Overlay Zones

Cities have the option: to (1) amend their existing zones; (2) create a “middle housing overlay zone”; or (3) create a new zone or zones to comply with RCW 36.70A.635. There are advantages and disadvantages to each approach.

Amending existing zoning would mean changing the allowed uses and unit density to the extent required by RCW 36.70A.635. In a typical zoning district subject to the bill (which has lots zoned predominantly for residential use) where only detached single-family residences are currently allowed, the list or matrix of allowed uses in the code must be amended to add middle housing. The same dimensional standards and other standards in the zone could continue to apply, provided that standards for middle housing are no more restrictive than for single family detached housing and that the standards are objective. This has the advantage of being simple to implement and administer, since middle housing would be treated the same under the existing zoning framework.

However, existing zoning may not have dimensional standards which are accommodating for middle housing. For example, large setbacks and low height limits could limit the buildable floor area which is needed to develop an economically viable project, especially on smaller lots (e.g. 6,000 square feet or less). Cities should look to the applicable Model Ordinance for their tier (Section 2.8 of this User Guide) for recommended dimensional standards. Adjusting dimensional standards in the existing zone could have the consequence of allowing larger detached single-family residences; this can be mitigated by adjusting some dimensional standards based on the building type, as long as middle housing is treated equally or less restrictively than detached single-family residences, as shown in the Model Ordinance.

Creating a difference in dimensional standards between detached single-family residences and middle housing is one reason cities may be interested in creating an overlay zone with standards specific to middle housing. This has the advantage of collecting middle housing standards in a separate code section. However, this adds administrative and code user complexity. A middle housing overlay would affect a very large share of city limits in most cities, whereas a typical overlay applies to a limited sub-area. The code becomes larger and the overlay provisions would need to be repeatedly cross-referenced throughout the code. Cities must also consider that on their zoning map every zone subject to RCW 36.70A.635 would need to be shown with an overlay symbol.

An obvious third option is to create an entirely new zone or zones that suits the evolving local context and goals and complies with RCW 36.70A.635. Several Washington cities are already undertaking this effort in conjunction with larger comprehensive plan updates. Such cities are also updating zone names that emphasize the term “single family” in favor of more generalized terms that emphasize the intensity of development. Examples include R-1, R-2, R-3, etc., where the lowest number equates to the lowest density, or R-L, R-M, R-H, to emphasize low, medium and high density.

3.2 – Major Transit Stops

Types of Major Transit

The definition of “major transit stop” includes stops for at least the following types of transit systems:

- Light rail.
- Commuter rail.
- Streetcar.
- Monorail.
- Bus rapid transit.
- Trolley buses.
- Other transit funded or expanded under the provisions of chapter 81.104 RCW.

Chapter 81.104 RCW

This chapter of the RCW is for high capacity transportation systems, which are defined in the chapter as “a system of public transportation services within an urbanized region operating principally on exclusive rights-of-way, and the supporting services and facilities necessary to implement such a system, including interim express services and high occupancy vehicle lanes, which taken as a whole, provides a substantially higher level of passenger capacity, speed, and service frequency than traditional public transportation systems operating principally in general purpose roadways.”

For example, this applies to Sound Transit which operates high capacity transportation systems in King, Pierce, and Snohomish counties including light rail, commuter rail, and intercity express buses

Fixed Guideway Systems

Fixed guideway systems is not defined in the Growth Management Act (GMA), but is defined in the Washington Administrative Code (WAC). Under [WAC 173-424-110](#) fixed guideway means “a public transportation facility using and occupying a separate right of way for the exclusive use of public transportation using rail, a fixed catenary system, trolley bus, streetcar, or an aerial tramway.”

For further reference, under the [Code of Federal Regulations](#) fixed guideway means “a public transportation facility that uses and occupies a separate right-of-way or rail line for the exclusive use of public transportation and other high occupancy vehicles, or uses a fixed catenary system and a right of way usable by other forms of transportation. This includes, but is not limited to, rapid rail, light rail, commuter rail, automated guideway transit, people movers, ferry boat service, and fixed-guideway facilities for buses (such as bus rapid transit) and other high occupancy vehicles.”

The [trolley bus network](#) operated by King County Metro is an example of a fixed guideway system.

Bus Rapid Transit (BRT)

Bus rapid transit is not defined in the GMA, the Revised Code of Washington (RCW), or the WAC.

The Puget Sound Regional Council [Regional Transportation Plan](#), which applies to the central Puget Sound region (King, Pierce, Snohomish, and Kitsap counties) describes bus rapid transit as the following: “Bus rapid transit (BRT) routes in the region are distinguished from other forms of bus transit by a combination of features that include branded buses and stations, off-board fare payment, wider stop spacing than other local bus service, and other treatments such as transit signal priority and business access and transit (BAT) lanes.”

For further reference, the [Federal Transit Administration](#) defines BRT as: “a high-quality bus-based transit system that delivers fast and efficient service that may include dedicated lanes, busways, traffic signal priority, off-board fare collection, elevated platforms and enhanced stations.” This is consistent with a similar definition and BRT standards maintained by the [Institute for Transportation & Development Policy](#).

The following services operated by transit agencies in Washington are examples of BRT:

- King County [RapidRide routes](#).
- Community Transit [Swift routes](#).
- Spokane Transit Authority [City Line](#).
- C-TRAN [BRT routes](#).

Transit-Oriented Development

Cities should consider going beyond the requirements of RCW 36.70A.635(1) near major transit stops and permitting transit-oriented densities, multifamily housing, and a variety of non-residential uses. The Department of Commerce provides many transit-oriented development (TOD) resources, including grant funding for TOD planning and examples of TOD planning documents.⁴⁴ See also the TOD page from the Municipal Research Service Center.⁴⁵

Measuring the Major Transit Stop Radius

Cities with major transit stops (RCW 36.70.030(25)) must consider both unit density increases and specific middle housing parking requirements based on distance to the major transit stop. Tier 1 cities must allow at least six units per lot on all lots zoned predominantly for residential use within one-quarter mile walking distance of a major transit stop while Tier 2 cities must allow at least four units per lot within one-quarter mile walking distance of a major transit stop. For all cities subject to RCW 36.70A.635(1), no parking is required for middle housing within one half mile walking distance of a major transit stop.

Cities can measure distances from major transit stops in at least two different ways. Each method comes with advantages and disadvantages. The chosen methodology should be briefly identified in the code, perhaps within a definition of “walking distance”, to ensure the methodology is consistently applied and measured over time. Inclusion of the walking distance area on the zoning map, would offer greater certainty to property owners and others as to which parcels are and are not included in the walking distance requirements of a major transit stop. A potential down side to this approach is the need to go through a procedural process to amend the zoning map should the walking distance need to be amended over time due to physical improvements that change the walking distance or routes.

For both methods it is important to consider whether to place a center point of the major transit stop or use the perimeter of the major transit stop. In general, separate radii should be drawn for each boarding and alighting point if they are separated by more than 100 feet, such as a north-bound and a south-bound bus stops that are located at opposite ends of a block. For large major transit stops, such as a rail station, the most straightforward approach is to locate center points in the middle of the station or platforms. However, the optimal approach should always be determined using the best judgement of the jurisdiction.

⁴⁴ https://www.ezview.wa.gov/site/alias_2000/37739/library.aspx

⁴⁵ <https://mrsc.org/explore-topics/planning/development-types-and-land-uses/transit-oriented-development>

Simple Radius

In this approach, a circle is centered on the major transit stop and the radius of the circle is the required distance (1/4 mile or 1/2 mile). All lots zoned predominantly for residential use which are fully within the circle should be applicable. Lots which are partially within the circle should also be applicable in order to increase housing capacity near major transit stops, though a city can also set other criteria such as at least 50% of a lot or a minimum amount of lot area is in the circle for the lot to be included.

This method has the advantage of being simple to execute. A consideration is where precisely the circle is centered for large major transit stops, such as a rail station; the approximate center of the stop or platforms is most straightforward and avoids potential complexities with using pedestrian entrances and property boundaries - however, this should be determined on a case-by-case basis using the best judgement of the city.

This method has the disadvantage of not accounting for conditions that can constrain walkability and reduce the actual area that is in reasonable walking distance of the major transit stop, such as terrain, water bodies, missing pedestrian routes, or infrastructure barriers. This disadvantage could be overcome by first drawing the circle and then customizing it to remove areas which are not reasonably in walking distance due to local conditions. Areas which are removed should have documentation explaining why they are exempt.

Path-Finding

In this approach, actual walking paths extending from a major transit stop for the required distance (1/4 mile or 1/2 mile) are mapped using a geospatial analysis of the local street network and other pedestrian routes such as off-street trails. All lots zoned predominantly for residential use which touch the walking paths are applicable.

This method has the advantage of more accurately capturing lots within actual walking distance of major transit stops.

This method has the disadvantage of requiring access to geospatial analysis software and the skills, funding, and time to employ it. This method also requires that the analysis be repeated from time-to-time to account for changes to pedestrian infrastructure. In some cases, these disadvantages could be overcome by hiring an outside consultant who specializes in geospatial analysis. Network analysis results created for this purpose should be displayed on zoning maps and made available for download on public GIS databases, if possible.

This method has the disadvantage of requiring access to geospatial analysis software and the skills, funding, and time to employ it. This method also requires that the analysis be repeated from time-to-time to account for changes to pedestrian infrastructure. In some cases, these disadvantages could be overcome by hiring an outside consultant who specializes in geospatial analysis.

Future Major Transit Stops

The definition of “Major transit stop” (RCW 36.70A.030(25)) and references to “Major transit stop” in RCW 36.70A.635 do not specify when to apply applicable requirements to future major transit stops which are in planning or construction.

A new major transit stop under planning or construction, and which is not planned to open until a date following a jurisdiction’s HB 1110 compliance deadline, requires eventual compliance with the unit density and parking requirements of RCW 36.70A.635.

Cities should plan for transit-oriented development around future major transit stops. The extent and level of that planning may vary depending on the type of major transit stop. The opening of a light rail station may be preceded by years of station area planning to identify land use and zoning designations. Bus rapid transit facilities may involve a less elaborate and less detailed station area planning process.

Experience has shown that property acquisition and transit-oriented development anticipates and occurs far in advance of the opening of a major transit stop, particularly for high-capacity transit such as light rail. Cities should consider adopting higher densities (above those required by RCW 36.70A.635) near and around major transit stops to allow for a higher level of housing production, even in advance of the major transit stop opening.

For all major transit stops, implementation of parking requirement and unit per lot densities in RCW 36.70A.635 should be implemented as soon as the walking distance measurements can be accurately determined. Final design of the major transit stop should provide sufficient information to determine the one-quarter mile and one-half mile walking distances for lots subject to unit density and parking provisions in the model ordinance (see Model Ordinance Section 2.6 and 2.7). At the very latest, implementation of unit density and off-street parking requirements should occur no later than the opening of the major transit stop for use by the public.

DRAFT

3.3 – Declarations and Governing Documents

While cities may review declarations and governing documents as part of a subdivision process or other development application, cities do not have a role in regulating or enforcing them. Cities should, however, be aware of the following new provisions in state law and could help educate property owners and associations about these:

- Homeowners' association governing documents created after July 23, 2023 pursuant to Chapter 64.38 RCW may not actively or effectively prohibit the construction, development, or use of additional housing units as required in RCW 36.70A.635.⁴⁶
- Condominium declarations created after July 23, 2023 pursuant to Chapter 64.34 RCW may not actively or effectively prohibit the construction, development, or use of additional housing units as required in RCW 36.70A.635.⁴⁷
- Common interest community declarations and governing documents created after July 23, 2023 pursuant to Chapter 64.90 RCW may not actively or effectively prohibit the construction, development, or use of additional housing units as required in RCW 36.70A.635.⁴⁸
- Association of apartment owners declarations created after July 23, 2023 pursuant to Chapter 64.32 RCW may not actively or effectively prohibit the construction, development, or use of additional housing units as required in RCW 36.70A.635.⁴⁹

3.4 – SEPA

Under [RCW 36.70A.600](#)(1), cities are also encouraged to amend local environmental regulations and take the following actions to increase residential building capacity:

- Adopt a subarea plan pursuant to RCW 43.21C.420
- Adopt a planned action pursuant to RCW 43.21C.440(1)(b)(ii)
- Adopt increases in categorical exemptions pursuant to RCW 43.21C.229 for residential or mixed-use development.
- Adopt maximum allowable exemption levels in WAC 197-11-800(1)

The adoption of ordinances, development regulations and amendments to such regulations, and other non-project actions taken by a city to implement any actions specified in RCW 36.70A.600(1), with the exception of adopting subarea plans, are not subject to administrative or judicial appeal under chapter 43.21C RCW. See other SEPA information in Section 2.7 – Parking Standards.

⁴⁶ [RCW 64.38.150](#)

⁴⁷ [RCW 64.34.110](#)

⁴⁸ [RCW 64.90.340](#)

⁴⁹ [RCW 34.32.330](#)

3.5 – Building Code

Cities should be aware that structures with three or more units fall under the International Building Code (IBC) and are subject to a more extensive and costly process than one- or two-unit structures. Also, the International Residential Code (IRC) applies to buildings with one or two dwelling units and townhouses not more than three stories above grade and with a separate means of egress. Therefore, current building codes will negatively impact the construction and affordability of most middle housing types with three or more units in one structure.

Cities that want middle housing to provide as many housing options as possible should examine updating their locally-adopted version of the IRC and IBC to allow structures with up to six units to be built under the International Residential Code. Cities could also consider supporting any future version of 2023 [House Bill 1167](#), which would make middle housing related building code changes for the entire state and reduce the burden on individual cities to update their locally-adopted building codes.

- [A Trailblazing Reform Supports Small-Scale Development in Memphis.” Strong Towns. January 2022.](#)
- [Memphis, TN Amends Local Building Code to Allow up to Six Units Under Residential Building Code \(IRC\) to Enable Missing Middle Housing.” Opticos Design. January 2022.](#)
- [State of North Carolina changes IRC to allow up to four units.](#)
- *The political movement to limit multifamily by limiting the IRC code* ([Strong Towns, 2023](#); [Baar, 2007](#))

4.0 - Integration with Other State Law Requirements

4.1 – Accessory Dwelling Units and HB 1337

The Model Ordinances do not predetermine whether a city voluntarily opts-in to counting ADU's towards unit density under RCW 36.70A.635(5). RCW 36.70A.635(5) states, in part, "...A city may allow accessory dwelling units to achieve the unit density required in subsection (1) of this section." Cities choosing to voluntarily opt-in to this option should update the definition of "unit density" to include both principal and accessory units (see Section 2.2 of this User Guide).

However, cities choosing to allow ADU's county towards achieving unit density should be aware of potential challenges for non-compliance with RCW 36.70A.681(1)(c) which requires cities to allow at least two ADUs on all lots that are located in all zoning districts within an urban growth area that allow for single-family homes. This option reduces potential housing capacity on applicable lots.

Also refer to the [Department of Commerce ADU Guidebook](#).

4.2 – Housing Elements and HB 1220

Housing Units by Income Band	Area Median Income (AMI)
Emergency housing/shelters	NA
Extremely low	0-30% AMI, including some PSH*
Very low	>30-50%
Low	>50-80%
Moderate	>80-120%
Other	Above 120%

*PSH = permanent supportive housing

In 2021, the Washington Legislature changed the way communities are required to plan for housing. [House Bill 1220 \(2021\)](#) amended the Growth Management Act (GMA) housing goal to guide local governments to "plan for and accommodate" housing affordable to all income levels. This significantly strengthened the previous housing goal, which was to "encourage" affordable housing. HB 1220, codified in RCW 36.70A.020(4) and RCW 36.70A.070(2), directs the Department of Commerce to provide existing and projected housing needs for communities in Washington, including units for moderate, low, very low and extremely low-income households, and for emergency housing, emergency shelters and permanent supportive housing (see sidebar).

Some, but not all, middle housing types allowed under RCW 36.70A.635, and identified in Section 2.5 of this User Guide, can result in development outcomes that can help meet housing needs for moderate income households in the 80-120% AMI income band required under RCW 36.70A.070(2). While there is a wide range of housing affordability outcomes that could be possible through middle housing development given the diverse market conditions across the State of Washington, there are some middle housing types that have been documented through technical support materials developed by the Department of Commerce as well as city-led analysis to be both feasible and affordable for households in the 80-120% moderate-income band.

The housing types that could reasonably meet the housing need for households in the moderate-income band identified through a Housing Needs Analysis and are identified in Section 2.5 of this report include the following:

- Fourplexes
- Fiveplexes
- Sixplexes
- Townhouses
- Stacked flats

- Courtyard apartments
- Cottage housing

While these housing types could be built to meet the need for moderate-income housing identified in a Housing Needs Assessment, development standards that physically allow, and encourage, these housing types are required to actually see the housing development occur at income levels that cities are planning for. Development standards including parking requirements, square footage allowances, density allowances, minimum lot sizes, and other dimensional standards will need to be adopted. Additionally, fee structures and review procedures that encourage these housing types over other less dense, and more expensive, housing types such as detached single dwelling development.

In Kitsap, King, Pierce and Snohomish Counties, cities can use a pro-forma tool developed by Cascadia Partners in coordination with Commerce to determine how HB 1110 housing outcomes could be accounted for using city-specific custom regulatory inputs.⁵⁰ A jurisdiction can enter information about the density, height, setback, parking and other restrictions of a zone, in combination with land values, and determine what income level housing in that zone could serve. More details on this tool are available on Commerce's middle housing webpage under "Middle Housing Resources."⁵¹

If a city were to conduct their own analysis regarding the combined effectiveness of affordability requirements, density bonuses, and other regulatory and financial incentives a city may determine that it could reasonably count a share of housing built under HB 1110 in the low income (50-80%) AMI income bracket. If there is a precedent in a jurisdiction for affordable housing density bonuses to yield affordable housing, or a comparable jurisdiction with a similar housing market yields such housing, a jurisdiction may use this information to assume a very small percentage of new units might develop in the <80% AMI income bracket.⁵²

Under HB 1220, cities must also identify areas at higher risk of displacement and establish anti-displacement policies. Under HB1220, cities choosing the alternative density requirements in RCW 36.70A.635 (see Section 6.1– Alternative to Density Requirements) may apply to the Department of Commerce for an extension for areas at risk of displacement as determined by the city's anti-displacement analysis. The city must create a plan for implementing anti-displacement policies by their next implementation progress report required under HB1220. If it is determined that there is significant ongoing displacement risk in the impacted area, the city may receive one further extension.

Additional Resources on Displacement risk

- Washington Department of Commerce – Draft Displacement Risk Map
- Puget Sound Regional Council – Displacement Risk Mapping

4.3 – Land Use Elements and Land Capacity

Overview

Development feasibility analysis of middle housing types in communities across Washington has indicated that there is a wide range of potential development outcomes that could be reasonable to expect over a 20-year planning horizon. Development outcomes, and an understanding of potential development capacity, from middle housing allowances can vary greatly depending on macro-economic conditions as well as local

⁵⁰ Pro-forma tool for PSRC region: <https://deptofcommerce.box.com/s/csphjl2vbr47yovggxtszdd5s7w03g9o>

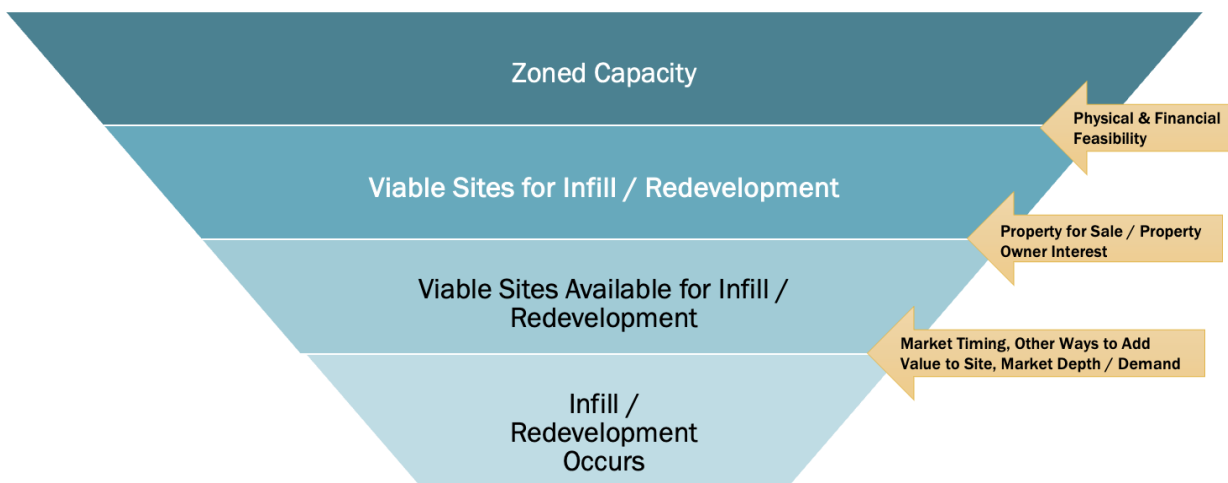
⁵¹ <https://www.commerce.wa.gov/serving-communities/growth-management/growth-management-topics/planning-for-middle-housing/>

⁵² <https://deptofcommerce.app.box.com/s/1d9d5l7g509r389f0mjpowh8isjpirlh> (page 35)

conditions such as market conditions like achievable pricing and demand as well as land availability for vacant, infill, and redevelopment sites. These analyses conducted across cities in Washington has estimated that a range of 3% to 15% of parcels across a city could reasonably be expected to develop or redevelop as middle housing over a 20-year planning horizon. In cities with few vacant sites or relatively few sites for infill development.⁵³

Additionally, analysis of middle housing development feasibility on greenfield sites in cities with high demand for housing indicates that nearly 50% of housing types built as part of larger planned development projects could likely be middle housing types with the remaining 50% built as traditional detached single dwelling development. In conversations with developers there are a variety of reasons why middle housing could make up a large share of overall housing types built on greenfield sites; middle housing allows developers to capture a broader range of market segments, housing can be offered at lower price points that have more demand when feasible, and it allows developers to increase the overall sales volume and productivity of development on greenfield sites.⁵⁴

Not all sites that are zoned for middle housing will develop or redevelop as middle housing. In addition to sites needing appropriate zoning for development, middle housing also needs to be physically and financially feasible, there needs to be builders who are familiar with building middle housing, sites need to be for sale or have property owner interest in selling, market timing must be appropriate, and there must be sufficient demand for middle housing types in these locations.



Source: ECONorthwest

Lessons Learned from Other States

Oregon’s implementation of HB 2001 through administrative rules can provide some guidance on how other states have thought about counting middle housing development land capacity analyses. Oregon Administrative Rule (OAR) identifies a maximum of 3% increase in the number of dwelling units produced due to middle housing allowances within the specified residential zone(s), above the baseline estimate of land capacity prior to allowing middle housing types. However, Oregon jurisdictions can conduct analyses to make

⁵³ City of Auburn. Housing Action Plan Implementation. Presentation to Planning Commission. January 4, 2023. <https://weblink.auburnwa.gov/External/DocView.aspx?id=485625&dbid=0&repo=CityofAuburn>

⁵⁴ Oregon Metro. 2040 Urban Growth Management Decision: Middle Housing Potential. MTAC Presentation, May, 2023. <https://www.oregonmetro.gov/sites/default/files/metro-events/MTAC-meeting-packet-May-17-2023-final.pdf>

a case for a higher share of dwelling units that could reasonably be delivered. This approach takes a conservative approach to accounting for development capacity while putting the burden of proof on cities to demonstrate why and increased middle housing development rate is warranted.

Some communities in Oregon did opt to conduct analyses to better understand how they can reasonably account for new middle housing allowances required under HB2001. For example, Washington County found that on average 3% of parcels are feasible for development across all urban unincorporated areas but that the rates of development feasibility ranged from less than 1% in some neighborhoods to more than 6% in other neighborhoods. Analysis conducted in Milwaukie, Oregon estimated that 8% of parcels are feasible for redevelopment while 14% of parcels may have feasible infill potential on vacant portions of sites when an existing house was retained.

Future Land Use Designations and Policies

The land use element of cities often have policies and land use designations based on unit-per-acre densities. Such unit-per-acre density numbers may be incompatible with the measure of “unit density” per lot introduced by RCW 36.70A.635, as “unit density” does not take into consideration lot size and land area.

Cities subject to RCW 36.70A.635 will need to consider how their land use element uses “density” to describe future residential land use designations, where the implementing zoning will now apply to the definitions of “all lots zoned predominantly for residential use” and “lots in the city that are primarily dedicated to single-family detached housing units” (see Section 2.2 – Definitions). For example, if a Tier 3 City currently describes a single-family land use designation as having a maximum density of five units per acre, then such language is now contrary to the provisions of RCW 36.70A.635. Since Tier 3 and Tier 2 cities are subject to a base unit density of two units per lot, the overall density on an approximately 8,700 square foot lot theoretically could double and be up to ten units per acre.

For applicable land use designations cities should avoid framing units-per-acre as a policy limitation or regulation. However, units-per-acre could still be referenced in other ways, such as existing conditions statistics for housing stock, describing a goal for the intensity of development in one area compared to other areas, or showing examples of desired development intensity and character. Alternatively, cities could refer to “lot density”, as in the number of lots per acre. Or they could focus on the permitted housing types and building height or other form-based standards.

4.4 – Critical Areas

“Lots designated with critical areas designated under RCW 36.70A.170 or their buffers as required by RCW 36.70A.170” are not subject to the provisions of RCW 36.70A.635. This could impact large areas of certain cities in Washington since “critical areas” includes, for example, areas that could encompass a wide area such as like aquifer recharge areas used for potable water and frequently flooded areas.

Frequently Flooded Areas

Floods occur often in Washington state. Due to the effects of climate change they are likely to increase in frequency and magnitude in the future, with increasing divergence from historical patterns. “Frequently flooded area” (FFA) is a critical area designation that can be applied by local officials to highlight areas with a known flood risk.

The Washington State Department of Commerce Critical Areas handbook states that classifications of frequently flooded areas should include, at a minimum, the 100- year floodplain designations of the Federal

Emergency Management Agency (FEMA) and the National Flood Insurance Program (NFIP), known as the “special flood hazard area.” Many communities have incorporated the NFIP standards into their frequently flooded area codes and deemed this sufficient. This can meet the minimum requirements if there are no special circumstances. However, FEMA maps do not address all of the flood risk in communities and frequently flooded area designation should be based on best available science. Local governments are encouraged to consider additional flood risks in their communities and address related regulatory issues in their frequently flooded areas. For more information, see the Critical Areas Handbook.⁵⁵

Reasonable Use

Reasonable use permitting is an alternative process that seeks to ensure that property owners can maintain a minimum “reasonable use” of their property, despite restrictions that are imposed by critical areas restrictions or other environmental laws. This process seeks to avoid a “taking” of property in contravention of rights established in the Fifth Amendment and Fourteenth Amendment of the U.S. Constitution and interpreted through decades of judicial rulings. For residential zones, a minimal reasonable use may be a modest single-unit house, the size of which must meet applicable reasonable use standards and criteria. It is unlikely that middle housing would be considered a reasonable use compared to a single-family dwelling in general, but especially if the middle housing proposal would have more impact on the critical area. For more information, see the Commerce Critical Areas Handbook.⁵⁶

4.5 – Design Review and HB 1293

If a city applies design review to middle housing, RCW 36.70A.635(6)(a) requires that only administrative design review be used. Administrative design review must follow the standards of [RCW 36.70A.630](#), which was established in 2023 under House Bill 1293 and is effective six months after a city’s next periodic comprehensive plan update.

The new requirements apply to all development projects for which a city conducts design review, and whether the design review process is administrative (conducted by city staff) or public (conducted by a design review board).

The key requirement is that the design review process may only apply “clear and objective development regulations” which govern the exterior design of new development. A “clear and objective” development meets the following criteria:

1. Must 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; and
2. May not result in a reduction in density, height, bulk, or scale below the generally applicable development regulations for a development proposal in the applicable zone.

The design standards in Section 9 of the Model Ordinances are compliant with these criteria.

⁵⁵ <https://deptofcommerce.app.box.com/s/rlysjrivrpxwnm9jvbcd3lc7ji19ntp>

⁵⁶ <https://deptofcommerce.app.box.com/s/rlysjrivrpxwnm9jvbcd3lc7ji19ntp>

4.6 – Condominium Buildings, SB 5058, and SB 5258

Effective July 23, 2023, the definition of a “multiunit residential building” in Washington’s condominium construction defect disputes law now exempts buildings with 12 or fewer units and with two stories or less. See [RCW 64.55.010](#)(6). This ends requirements for developers of such buildings to:

- Submit a building enclosure design document to the building authority before obtaining a building permit
- Obtain a building enclosure inspection by a qualified building inspector during construction or rehabilitative construction
- To obtain a building enclosure inspection by a qualified building inspector before conveyance of a condominium unit.

These requirements for condominium buildings typically add time and expense to the development of condominium units, as compared to middle housing or multifamily buildings with rental units which do not have these requirements. SB 5058 may have the effect of encouraging the development of 2-12 unit condominium buildings, including middle housing buildings, and therefore increasing homeownership opportunities.

[Senate Bill 5258](#) also revised condominium law to accelerate the timelines for the right-to-cure process when claims are made for construction defects and requires a written report from a qualified construction defect professional. The bill also exempts condominium and townhouse sales to first-time homebuyers from the real estate excise tax. See [RCW 64.50.030](#)(1) through (3) and [RCW 82.45.240](#).

To leverage these bills, cities could consider where there are opportunities to allow up to twelve units per lot and provide other incentives for condominium and townhouse development. See related information under Section 2.6 of this User Guide.

4.7 – “Family” Definition and SB 5235

Effective July 25, 2021, cities may not limit household occupancy based on the number of unrelated persons. This may affect the definition “family” and related terms like “single family” and “multifamily” in local development regulations.

[RCW 35.21.682](#) was added by Senate Bill 5235 with the following provision: *“Except for occupant limits on group living arrangements regulated under state law or on short-term rentals as defined in RCW 64.37.010 and any lawful limits on occupant load per square foot or generally applicable health and safety provisions as established by applicable building code or city ordinance, a code city may not regulate or limit the number of unrelated persons that may occupy a household or dwelling unit.”*

Cities may limit allowed occupant load per square foot for health and safety reasons. Refer to the state building code and any local building code amendments.⁵⁷

⁵⁷ [WAC 51-50-1004](#)

4.8 – Impact Fees and SB 5258

Senate Bill 5258 (2023) requires local jurisdictions which apply impact fees to residential development to have graduated rates for smaller dwelling units based on the number of trips generated (for transportation impact fees only), the square footage of a dwelling, or the number of bedrooms in a dwelling.

Jurisdictions must implement this bill within six months after the jurisdiction's next periodic comprehensive plan update required under RCW 36.70A.130. Similarly, House Bill 1337 (2023) also requires that impact fees for accessory dwelling units not be greater than 50% of the fees that would be charged for the principal unit on the lot (typically a single-family home).

More information on impact fees is available from the Municipal Research Service Center.⁵⁸ Local jurisdictions in Washington may impose impact fees for one or more of the following:

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

Middle housing dwelling units are generally smaller than new detached single-family residences. In some cases, impact fee schedules make no distinctions for middle housing types and by default they may be classified as single-family, therefore incurring higher costs and a disincentive to their development. As noted above, fee structures which accommodate middle housing can help make middle housing more economically feasible to develop.

Cities updating impact fees which may affect non-city service providers (e.g. school districts) should coordinate with those service providers on impact fee schedules and capital facilities plans.

⁵⁸ <https://mrsc.org/explore-topics/planning/land-use-administration/impact-fees>

The table below shows a typical example of park impact fees imposed by a city and options for adjustment under SB 5258.

Unit Type	Current By-Unit Parks Impact Fee	Option 1 \$2.35/square foot	Option 2 \$1,100 per bedroom
Single-family home, 2,500 square feet, four bedrooms	\$4,000 (\$1.60/SF)	\$5,875	\$4,400
Townhome unit, 1,500 square feet, three bedrooms	\$4,000 (\$2.66/SF)	\$3,525	\$3,300
Fourplex unit, 1,100 square feet, two bedrooms	\$2,500 (\$2.27/SF)	\$2,585	\$2,200
Apartment unit, 900 square feet, two bedrooms	\$2,500 (\$2.77/SF)	\$2,115	\$2,200
Accessory dwelling unit, 900 square feet, one bedroom	\$2,250 (\$2.50/SF)	\$2,115 Cannot be more than 50% of the fee for the principal unit on the site	\$1,100 Cannot be more than 50% of the fee for the principal unit on the site

4.9 - Shoreline Master Programs and Regulations

Shoreline master programs (SMP) are a type of “development regulation” subject to RCW 36.70A.635(6)(b). This is provided by the definition of “development regulations” under RCW 36.70A.030, and the statements of [RCW 36.70A.480](#)(1) which reads in part:

All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations.

RCW 36.70A.635(6)(c) creates a development permit and environmental review process exception to RCW 36.70A.635(6)(b) for shoreline regulations under Chapter 90.58 RCW. Generally, [Chapter 90.58 RCW](#) does not require that detached single-family residences be treated differently than middle housing, except that certain single-family residences can qualify for an exemption to a shoreline substantial development permit under [RCW 90.58.030](#)(3)(e)(vi). Overall, local discretion has historically allowed jurisdictions to regulate residential uses differently in shoreline environments.

To comply with RCW 36.70A.635(6)(b), local discretion in applicable cities cannot result in different land use allowances, shoreline setbacks, and other standards for middle housing which actively or effectively prohibit the development of middle housing in shoreline environments and meeting the density, parking, and other standards of RCW 36.70A.635.

However, jurisdictions may still use local discretion to regulate middle housing differently on other issues to protect shoreline ecological function to the extent permitted by Chapter 90.58 RCW and associated rules under [Chapter 173-26 WAC](#). For example, middle housing may trigger different types of shoreline development permits than detached single-family residences, may have different types of shoreline access requirements, or may have different limitations on the size of over-water structures.

Local governments should plan for any potential middle housing located within shoreline jurisdiction during a periodic review of their SMP. Review and update of an SMP is required every ten years but can be initiated by a local government outside of the required schedule. Chapter 90.58 RCW, Chapter 173-26 WAC, and Ecology-approved local shoreline master programs may restrict development under the goals, policies, purpose, and intent of the Shoreline Master Program.

Within shoreline jurisdiction, zoning code provisions can be applied, but they must be reviewed in addition to the bulk, dimensional, performance, and use standards of the SMP, and all new development and uses, including middle housing, can only be authorized through the shoreline permitting system outlined in [Chapter 173-27 WAC](#).

Each SMP contains residential use regulations and development standards which ensure that allowed uses and development remain compatible with the shoreline environment and SMP and allow no net loss of shoreline ecological function. Middle housing still would need to meet other SMP critical area, impervious surface, and vegetation conservation provisions. Local governments wanting to address middle housing under the authorities of their SMP should also consult Washington State Department of Ecology guidance and work closely with their Ecology shoreline planner.^{59,60,61}

⁵⁹ Department of Ecology – Shoreline planning and permitting staff. <https://ecology.wa.gov/Water-Shorelines/Shoreline-coastal-management/Shoreline-coastal-planning/Contacts>

⁶⁰ Department of Ecology – Shoreline Master Programs. <https://ecology.wa.gov/Water-Shorelines/Shoreline-coastal-management/Shoreline-coastal-planning/Shoreline-Master-Programs>

⁶¹ Municipal Research Service Center – Shoreline Management Act. <https://mrsc.org/explore-topics/environment/environmental-laws/shoreline-management-act>

5.0 – Affordable Housing

The affordability requirements of RCW 36.70A.635 are copied into Section 6 of the Model Ordinance. The requirements apply to Tier 1 and 2 cities and they function as a unit density increase as described in the table below.

City Tier	Base Unit Density	Increased Unit Density with Affordable Units	Number of Affordable Units Required for Increase
Tier 1	4 units per lot	6 units per lot	2 affordable units
Tier 2	2 units per lot	4 units per lot	1 affordable unit

What qualifies as an “affordable” unit defaults to the GMA definition under RCW [36.70A.030\(5\)](#), which is units that have costs, including utilities other than telephone, that do not exceed 30 percent of the monthly income of a household whose income does not exceed the following percentages of median household income (MHI) adjusted for household size, for the county where the household is located, as reported by the United States Department of Housing and Urban Development:

- Rental housing: 60 percent MHI
- Owner-occupied housing: 80 percent MHI

Depending on local market conditions, these default affordability requirements in RCW 36.70A.635 may work well in some Washington cities and not work well in others.

For affordable owner-occupied housing, cities should clearly define affordable sales prices, by bedroom size, using a budget-based approach that considers the same factors used by a mortgage lender to qualify a borrower. This would mean that additional monthly housing costs, like property taxes, insurance, and homeowners association or condominium owner's association fees, are included when determining an affordable sales price.

For rental housing cities should either apply their existing methodology for determining rental housing affordability if they have a current program, or refer to the U.S. Department of Housing and Urban Development department's methodology for determining rental limits.

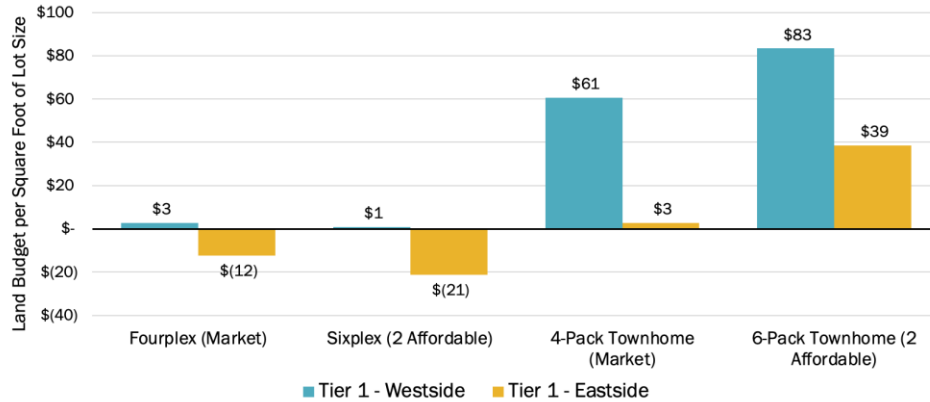
5.1 – Development Feasibility Analysis of Default Requirements

Development feasibility analysis conducted in support of this User Guide indicates that some of the affordability requirements in HB 1110 could be feasible depending on market conditions in Tier 1 and Tier 2 communities across the state. The analysis was conducted using a residual land value (“land budget”) approach, which models the budget a developer would have available to purchase land after accounting for all other predicted costs and revenues. If the land budget is equal to or greater than land costs in the area, the proposed development is likely feasible. If the land budget is zero, the development would only be feasible if the land were provided for free or with an equivalent subsidy. If the land budget is negative, the developer would require an additional subsidy to make the proposed development financially feasible.

This feasibility analysis found:

- In most markets across Washington, the ownership development types under HB 1110 are going to be the most feasible and subsequently, the affordability provisions are most likely to occur for ownership. Layering other affordable housing programs such as a Multifamily Tax Exemption program could potentially increase development value, particularly for rental housing. However, cities should carefully consider program affordability, set asides, and program lengths to ensure compliance across multiple programs.
- The affordability requirements and bonus for Tier 1 cities (both eastern Washington and western Washington comparison cities) seem to both be accretive to development, which means there is value in the additional density that exceeds the cost of the affordability requirements. It is possible that ownership prototypes with two units affordable (out of six total units in a development) at 80% MHI could be financially feasible. However, development feasibility under affordability requirements is still challenging in very high-cost markets where the gap between 80% MHI and achievable sales prices is very large.
- The affordability requirements and bonus for Tier 1 cities (on both the east and west sides of the state) for rental development types at 60% AMI are both not feasible and do not add value to a rental development type. The increase in density allowances with the affordability bonus do not create sufficient value to overcome the feasibility gap of two units at 60% MHI for rental prototypes.

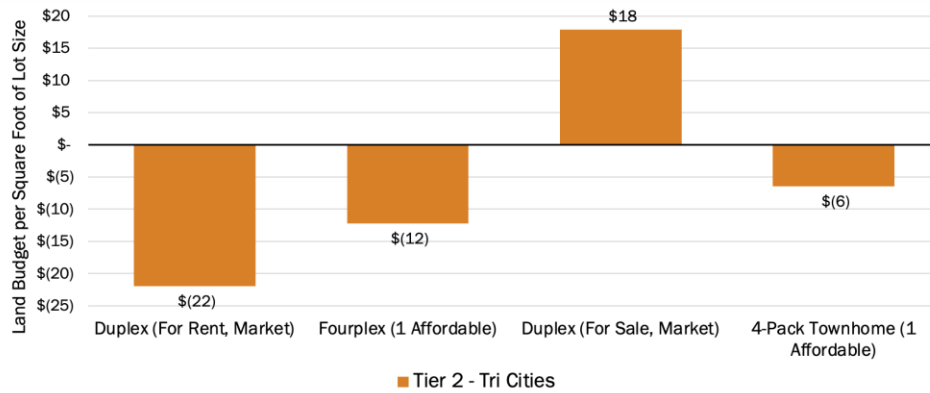
Summary Affordability Analysis Results – Tier 1 Cities



Source: ECOnorthwest, 2023.

- For Tier 2 cities, the affordability provision for ownership prototypes could be feasible; however, the bonus scenario ownership townhomes are less feasible than the base scenario ownership duplex, so there is likely no incentive for a market rate builder to choose the bonus/affordability option over the base allowances with no affordability requirement.
- For Tier 2 cities the affordability requirements/bonus for rental prototypes seem to be accretive to development, which means there is value in the additional density that exceeds the cost of the affordability requirement, but that they are not overall feasible because of broader market conditions.

Summary Affordability Analysis Results – Tier 2 Cities



Source: ECOnorthwest, 2023.

Considerations for Affordable Housing Program Implementation

Administering Affordable Home Ownership Programs with HB 1110

Administering an affordable homeownership program is generally more complex than managing an affordable rental program. Cities will need to establish a mechanism for preserving affordability when homeowners decide to sell their properties. These resale restrictions can be administratively complex and require ongoing monitoring and enforcement. The potential for property appreciation in homeownership programs can also create complexities related to how appreciation is managed and shared between the homeowner and the program, as it can affect the long-term affordability goals. Homeownership comes with ongoing expenses such as property taxes, homeowners' insurance, maintenance, and repairs. These costs can be unpredictable and add complexity for program administrators and homeowners, especially if homeowners are not adequately prepared for these financial responsibilities.

To administer and manage an affordable homeownership program, cities have a few options:

- Cities can comply with HB 1110 requirements by developing and administering its own program for monitoring and administering its affordable homeownership program. This approach is likely to have significant ongoing staff and administration costs for cities that do not have a current affordable housing program with existing capacity to manage a new affordable ownership program.
- The city can pay a third party to monitor and audit its affordable homeownership program though enforcement of non-compliance will still be required by the city itself.
- The city can engage with a regional partner to manage and monitor the program, such as South King Housing and Homelessness Partners (SKHHP) or A Regional Coalition for Housing (ARCH).
- The city can engage with a community land trust (CLT) or other nonprofit to manage the program. In this model, a nonprofit organization acquires and holds land specifically for the purpose of creating and maintaining affordable homes. Homebuyers can purchase the houses built on the CLT-owned land but do not own the land itself. Instead, they enter into long-term, renewable land leases, which keeps the cost of homeownership lower.

As a best practice, cities should conduct regular annual audits to ensure compliance with affordability requirements. In particular, cities will need to ensure that all income certifications were completed and valid at the point of sale. The city has a few options for enforcing compliance with program affordability requirements:

- Ensure the city has a deed restriction on file with the title of any affordable for-sale parcel.
- The city could put a lien on the property title equivalent to the lost affordability value; fees collected from liens could either go into an affordable housing fund or create a revolving enforcement and auditing fund.

- The city could combine affordable units in a development under one affordability contract such that if one unit lost its affordable status all affordable units in the property would convert to market rate, which would incent all property owners in the development to enforce income certification and other requirements.

Administering Affordable Rental Programs with HB 1110

Many cities across Washington currently regulate compliance for affordable rental housing programs through various programs that are authorized under RCW 36.70A.540. These programs might include inclusionary zoning programs, MFTE programs, or other regulatory or process incentive programs to encourage affordable housing. For cities that do have existing affordable housing compliance processes and programs, administration of the HB 1110 affordability requirements for rental housing could be a relatively low burden.

However, if Tier 1 and Tier 2 cities do not have an existing affordable housing program, the same options to compliance and administration exist as identified in the previous section for complying with these requirements. These options include:

- Developing and administering a city managed program for monitoring and administrating its affordable rental housing program. For cities that do not have an existing affordable housing rental program, this approach is likely to have significant ongoing staff and administration costs. For cities that have an existing affordable housing program under RCW 36.70A.540, this could likely be the easiest way to comply with HB1110 affordability requirements for rental housing.
- The city can pay a third party to monitor and audit its affordable rental housing program, though enforcement of non-compliance will still be required by the city itself.
- The city can engage with a regional partner to manage and monitor the program, such as South King Housing and Homelessness Partners (SKHHP) or ARCH.
- The city can engage with nonprofit or third-party provider to administer and manage the program.

Tools to Encourage Affordable Housing Development

Cities should also consider a variety of ways to increase housing affordability that could be implemented in coordination with HB 1110 affordability requirements.

Examples of strategies to promote affordable housing:

- Reduce off-street parking requirements beyond that provided for in HB 1110
- Increase SEPA threshold exemptions, adopt a SEPA infill exemption, and/or adopt a SEPA planned action
- Expedite the permit and subdivision process
- Adopt a multifamily tax exemption program
- Waive or reduce development review and utility connection fees
- Fund affordable housing with local taxes and/or levies
- Identify surplus land available for affordable housing development

References

- [Middle Housing in Washington. Technical Committee #4 Meeting. October 24, 2023.](#)
- [City of Tacoma - Draft Home in Tacoma Phase 2 Feasibility Analysis. Planning Commission Presentation. October 18, 2023.](#)
- [Department of Commerce - Middle Housing and Attainability in the Puget Sound Region](#)
- [Department of Commerce - Planning for Housing in Washington](#)
- [Department of Commerce - Guidance for Updating Your Housing Element](#)
- [Department of Commerce - Guidance for Developing a Housing Action Plan](#)

- [Department of Commerce - Guidance for Developing a Housing Needs Assessment](#)
- [AARP - Discovering and Developing Middle Housing. October 2023.](#)
- [South King County Housing and Homelessness Partnership - King County Regional Housing Action Plan. 2020.](#)

5.2 – Alternatives to HB 1110 Affordability Requirements

Local Affordable Housing Programs

Cities may adopt additional affordable housing incentives that are part of other affordable housing programs under RCW 36.70A.540. For cities that already have adopted affordable housing incentive program(s) under RCW 36.70A.540, the terms of that program govern to the extent they vary.

Under an RCW 36.70A.540 program, affordability requirements for rental units cannot exceed 80% AMI, and for ownership units cannot exceed 100% AMI. The 50-year affordability requirement that exists in HB 1110 is also present in RCW 36.70A.540 with the option to accept payment in-lieu of continuing affordability. Cities will need to meet the set-aside (share of units affordable), depth of affordability (AMI levels by tenure), and duration of affordability requirements identified in HB 1110 but can layer additional process, regulatory, or financial incentives that might be available and applicable through an existing adopted RCW 36.70A.540 program.

The affordability requirements of HB 1110 that must be met include:

- Tier 1 cities allow 6 units per lot when 2 units are affordable
- Tier 2 cities allow 4 units per lot when 1 unit is affordable
- Affordable rental housing available at or below 60 percent MHI
- Affordable owner-occupied housing available at or 80 percent MHI
- 50-year duration of affordability for both affordable rental housing and affordable owner-occupied housing

Additionally, the affordable housing requirements of RCW 36.70A.635(3) do not preclude cities from requiring any development to provide affordable housing, either on-site or through an in-lieu payment, nor limit the city's ability to expand such a program or modify its requirements. However, under current understanding of RCW 36.70A.635 cities may not allow a fee in-lieu option for developers as an alternative of meeting the on-site affordability requirements established by RCW 36.70A.635.

6.0 – Alternative Compliance

HB 1110 provides cities with two alternative compliance paths. A summary of these two paths follows, followed by more detailed description of each.

1. **Alternative to Density Requirements – RCW 36.70A.635(4).** This alternative permits a city to apply and implement the unit per lot density requirements (required in RCW 36.70A.635(1)) for at least 75 percent of lots in the city that are primarily dedicated to single-family detached housing units.

RCW 36.70A.635(4)(b) identifies those areas and lots where the unit per lot density requirements will not apply. RCW 36.70A.635(4)(c) identifies areas which may not be included in the 25 percent, unless the area has been identified as an area at higher risk of displacement under RCW 36.70A.070(2)(g).

2. **Alternative local action option – RCW 36.70A.636(3).** This alternative permits a city to seek approval from the Department of Commerce of alternative local actions “substantially similar” to the requirements in RCW 36.70A.635(1). This option requires submittal and approval by the Department of Commerce. When this process is utilized, actions taken by the city are not subject to administrative or judicial appeal under SEPA.

6.1 – Alternative to Density Requirements

RCW 36.70A.635(4)

This alternative provides flexibility for jurisdictions where it may not be currently appropriate to allow middle housing on every parcel primarily zoned for single-family detached housing units. The alternative requires that at least 75% of the “lots in the city that are primarily dedicated to single-family detached housing units” be subject to the unit per lot requirements of RCW 36.70A.635(1).

“Lots in the city that are primarily dedicated to single-family detached housing units” is not defined in the Growth Management Act (GMA). To identify these lots, it is recommended that those residential zoning districts where the permitted density is primarily focused on single family detached housing be included. This would typically be zoning districts with permitted densities at ten dwelling units per acre or less. Even if middle housing is permitted in these zones, lower density zones are those primarily dedicated to single-family detached units. Once identified, these lots will be the basis for how the “at least” 75 percent of the lots is determined.

Eligible Lots

This alternative requires identification of which lots must be included in the “at least” 75 percent of the lots and the 25 percent or less of the lots that may be excluded from the unit per lot requirements of RCW 36.70A.635(1).

Except for areas identified at higher risk of displacement under RCW 36.70A.070(2)(g), lots that must be included in the “at least” 75 percent include:

- Any areas for which the exclusion would further racially disparate impacts or result in zoning with a discriminatory effect
- Any areas within one-half mile walking distance of a major transit stop;
- Any areas historically covered by a covenant or deed restriction excluding racial minorities from owning property or living in the area, as known to the city at the time of each comprehensive plan update.

Jurisdictions should therefore review displacement risk work completed as part of its housing element update to ensure this requirement under RCW 36.70A.636(c) is met.

The 25 percent or less of the lots to be excluded from the unit per lot requirements of RCW 36.70A.635(1) must include but are not limited to:

- Lots designated with critical areas or their buffers⁶²
- Portion of a city within a one-mile radius of a commercial airport with at least 9,000,000 annual enplanements⁶³
- Areas subject to sea level rise, increased flooding, susceptible to wildfires, or geological hazards over the next 100 years⁶⁴
- Areas within the city for which the department has certified an extension of the implementation timelines under RCW **36.70A.637** due to the risk of displacement; due to the risk of displacement
- Areas within the city for which the department has certified an extension of the implementation timelines under RCW **36.70A.638** due to a lack of infrastructure capacity; due to a lack of infrastructure capacity

Since RCW 36.70A.635(4)(a) states the density requirement of RCW 36.70A.635(1) may be implemented for "...at least 75 percent" of the lots primarily dedicated to single family detached housing units, then cities that cannot meet this "at least" 75 percent threshold cannot use this alternative.

Displacement Risk

Cities choosing the alternative density requirements of RCW 36.70A.635(4) and considering requesting an extension of timelines for areas at risk of displacement under RCW 36.70A.637 must complete the anti-displacement analysis as required by RCW 36.70A.070(2). In requesting an extension, the city must create and submit a plan identifying its anti-displacement policies and when the policies will be implemented before their next implementation progress report required by RCW 36.70A.130(9). The area (mapped) at risk of displacement for which the extension is being requested, as determined by the anti-displacement analysis will need to be prepared. Additional Commerce guidance on the certification process will be forthcoming.

Lack of Infrastructure

Extensions for areas in lack of infrastructure requires that the city demonstrate a lack of capacity to accommodate the density required in RCW 36.70A.635 for one or more of the following: water, sewer, stormwater, transportation infrastructure, including facilities and transit services, or fire protection services. Among other items, a jurisdiction will need to document the extent of the infrastructure capacity deficiency, include one or more improvements within its capital facilities plan to adequately increase capacity or identify the applicable special purpose district responsible for providing the infrastructure, if the infrastructure is provided by a special purpose district. Additional applicable water system plan information is required for timeline extension requests associated with lack of water supply to allow for Commerce evaluation of the request.

⁶² This applies even if a city chooses to not apply the critical areas exemption (available under RCW 36.70A.635(8)(a)) to the requirements of RCW 36.70A.635(1). See related discussion in User Guide Section 2.4 – Applicability. Lots with critical areas or their buffers that a city allows to be developed with middle housing under the provisions of RCW 36.70A.635(1) cannot be counted in the minimum of 75 percent of lots that remain subject to RCW 36.70A.635(1).

⁶³ This only applies to Seattle-Tacoma International Airport. Enplanement data is provided by the Federal Aviation Administration: https://www.faa.gov/airports/planning_capacity/passenger_allcargo_stats/passenger

⁶⁴ See resource links below.

Water

To demonstrate a lack of capacity for water infrastructure in an area zoned predominantly for residential use, RCW 36.70A.638(9) identifies these conditions which may qualify:⁶⁵

- The area is currently served only by private wells
- The area is served by a group A or group B water systems with less than 50 connections^{66, 67}
- A city or water providers within the city do not have an adequate water supply or available connections to serve the zoning increase required under RCW 36.70A.635

In these instances, the city may limit the areas subject to RCW 36.70A.635 to match current water availability. This does not, however, affect or modify the responsibilities of cities to plan for or provide urban governmental services.

Sewer

To demonstrate a lack of capacity for sewer infrastructure in an area zoned predominantly for residential use, RCW 36.70A.638(11) identifies a condition which may qualify: the area is currently served only by on-site sewage systems.⁶⁸

In this instance, a city may limit development to two units per lot on lots subject to RCW 36.70A.635. This limitation may continue until either the landowner or local government provides sewer service or demonstrates a sewer system will serve the development at the time of construction. It is suggested that the code allow the number of units provided for in RCW 36.70A.635(1) but that a supplemental standard, footnote, or other notation provide that limited sewer service may limit redevelopment without improvements being made.

Generally

Commerce has no general approval authority for this alternative. However, if a jurisdiction seeks an extension of timelines for certain areas at risk of displacement (RCW 36.70A.637) or for areas lacking infrastructure capacity (RCW 36.70A.638), then Commerce certification of those time extensions is first necessary before those areas may be included in the 25 percent.

Other items identified in RCW 36.70A.638 documenting the lack of infrastructure capacity will be required. As noted above, the process to document an infrastructure capacity deficiency could include providing maps, capital facility plan information, and documentation from outside agencies regarding the current lack of capacity. Processes to address the capital facility or utility planning requirements may be found at [RCW 36.70A.070\(3\)-\(4\)](#) and [WAC 365-196-415](#) through WAC 365-196-420. Additional Commerce guidance on the certification process is forthcoming.

For cities considering this option, it is important to remember that just because new middle housing types may be allowed under RCW 36.70A.635 does not mean they can be built. For example, if an area lacks sewer currently, the allowance of additional middle housing units does not mean they will be permitted. However, allowing the middle housing uses could be a prompt for infrastructure improvements to be made by

⁶⁵ RCW 36.70A.638(9)

⁶⁶ Group A water systems information from the Washington Department of Health: <https://doh.wa.gov/community-and-environment/drinking-water/water-system-assistance/tnc-water-systems>

⁶⁷ Group B water systems information from the Washington Department of Health: <https://doh.wa.gov/community-and-environment/drinking-water/water-system-assistance/group-b>

⁶⁸ RCW 36.70A.638(11)

developers over time. Not allowing redevelopment for middle housing could be a barrier to improvements being made over time.

Resources

- **Displacement risk**
 - [Washington Department of Commerce – Draft Displacement Risk Map](#)
 - [Puget Sound Regional Council – Displacement Risk Mapping](#)
- **Racially disparate impacts and racially restrictive covenants**
 - [Washington Department of Commerce – Guidance to Address Racially Disparate Impacts](#)
 - [King County – Unlawful, discriminatory restrictive covenants](#)
 - [University of Washington – Racial Restrictive Covenants](#)
- **Infrastructure planning**
 - [Washington Department of Commerce – Capital Facilities Planning](#)
 - Capital facility and utility planning requirements: [RCW 36.70A.070\(3\)-\(4\)](#) and [WAC 365-196-415](#) through [WAC 365-196-420](#)
- **Flood risk**
 - [National Weather Service – Flooding in Washington](#)
 - [Washington Emergency Management Division – Flood Hazard Profile](#)
 - [Federal Emergency Management Agency – Flood Maps](#)
 - [First Street Foundation – Flood Factor](#)
- **Sea level rise risk**
 - [Washington Department of Ecology – Sea Level Rise](#)
 - [Washington Coastal Network – Sea Level Rise Resources](#)
 - [National Ocean Service – 2022 Sea Level Rise Technical Report](#)
- **Wildfire risk**
 - [First Street Foundation – Fire Factor](#)
 - [U.S. Forest Service Pacific Northwest Research Station – A “New Normal” for West-Side Fire](#)
 - [U.S. Forest Service – Wildfire Risk to Communities](#)
 - [Federal Emergency Management Agency - Wildfire](#)
- **Geological hazard risk**
 - [Washington Department of Natural Resources – Geologic Hazard Maps](#)
 - [Pacific Northwest Seismic Network – Liquefaction Hazard Maps](#)

6.2 – Alternative Local Action

RCW 36.70A.636

This option is appropriate for jurisdictions which have begun to take or have taken actions that are substantially similar to the requirements of House Bill 1110. Where applicable to a city, this could reduce further legislative action needed to comply with HB 1110.

Three alternative local action options, summarized as follows, are identified in RCW 36.70A.636. All require approval by Commerce.

Alternative Local Action 1

A city has adopted comprehensive plan policies, by January 1, 2023, which are consistent with the provisions of RCW 36.70A.635 and will take action to adopt regulations substantially similar to the requirements by July 23, 2024 (RCW 36.70A.636(3)(b)). Actions deemed substantially similar include those that:

- Result in an overall increase in housing units allowed in single-family zones that is at least 75 percent of the increase in housing units allowed in single-family zones if the specific provisions of RCW 36.70A.635 were adopted;
- Allow for middle housing throughout the city, rather than just in targeted locations; and
- Allow for additional density near major transit stops, and for projects that incorporate dedicated affordable housing.

Alternative Local Action 2

A city has adopted comprehensive plan policies or **development** regulations, by January 1, 2023, that have significantly reduced or eliminated residentially zoned areas that are predominantly single family (RCW 36.70A.636(3)(c)). A Commerce finding of substantially similar can be met if the city's development regulations are adopted by July 23, 2024 and they:

- Result in an overall increase in housing units allowed in single-family zones that is at least 75 percent of the increase in housing units allowed in single-family zones if the specific provisions of RCW 36.70A.635 were adopted; and
- Allow for middle housing throughout the city, rather than just in targeted locations; and
- Allow for additional density near major transit stops, and for projects that incorporate dedicated affordable housing.

Alternative Local Action 3

A city comprehensive plan and development regulations that do not meet “these criteria” can still be found to be substantially similar to the requirements of HB 1110 if the city can “clearly demonstrate” that the regulations adopted will allow for a greater increase in middle housing production within single family zones than would be allowed through implementation of RCW 36.70A.635 (RCW 36.70A.636(d)).

“These criteria” are the same as the those listed above for Alternative Local Actions 1 and 2.

Under this alternative local action, a city would need to “clearly demonstrate” that their plans and regulations will allow for a greater increase in middle housing production within “single-family zones” than would strict compliance with HB 1110. This will require a capacity analysis and comparison between RCW 36.70A.635(1) and the city's plan/development regulations applicable to single family zones. Commerce will be developing more information on a process for cities to seek approval under this option.

SEPA Safe Harbor

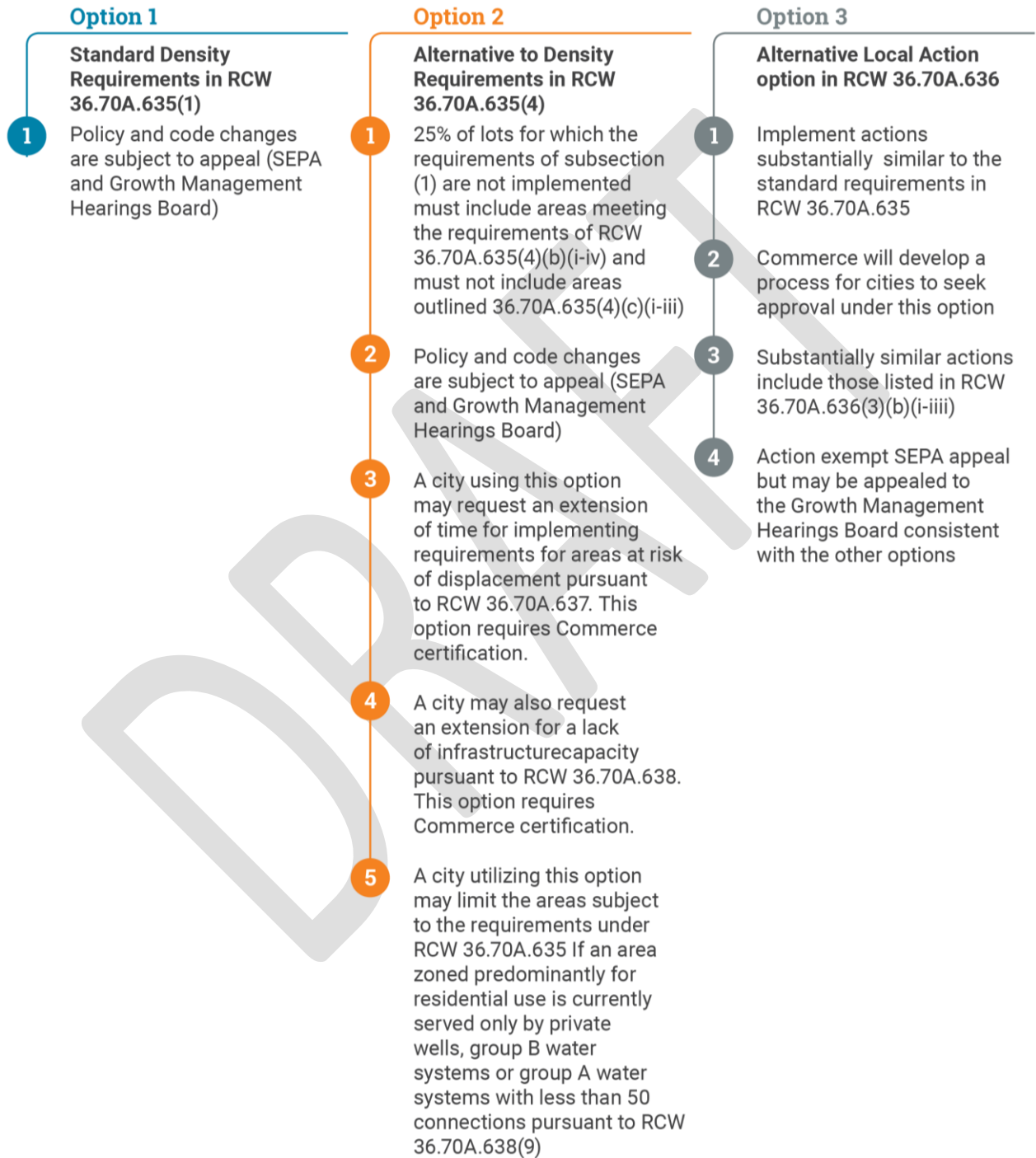
If a city choosing any local alternative action listed above is required to make a SEPA threshold determination for that action, the action is exempt from administrative or judicial appeal.⁶⁹ An action by Commerce to approve or reject actions under the option are appealable to the Growth Management Hearings Board, however.

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⁶⁹ [RCW 36.70A.636\(3\)\(e\)](#)

HB 1110 COMPLIANCE OPTIONS SUMMARY

Cities must choose one of the three paths. Requirements are found in RCW 36.70A.635, 36.70A.636, 36.70A.637 and 36.70A.638



TIER 3 CITIES MIDDLE HOUSING MODEL ORDINANCE

PUBLIC DRAFT

November 6, 2023

Model ordinance text in **bold** are provisions directly from HB 1110. These provisions are mandatory for cities applicable to HB 1110, except where the context indicates otherwise. Some provisions are rewritten for ease of use and to translate state law into local code format.

See the Middle Housing Model Ordinance User Guide for further context, alternatives, and discussion on each topic in this Model Ordinance.

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY/TOWN OF _____, WASHINGTON, IMPLEMENTING THE REQUIREMENTS OF ENGROSSED SUBSTITUTE HOUSE BILL (E2SHB) 1110, ADDING NEW SECTIONS _____, AMENDING SECTIONS _____, PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, in 2023 the Washington State legislature passed Engrossed Substitute House Bill (E2SHB) 1110 related to middle housing; and

WHEREAS, in passing E2SHB 1110 the State legislature found that Washington is facing an unprecedented housing crisis for its current population and a lack of housing choices, and is not likely to meet affordability goals for future populations; and

WHEREAS, the State legislature further found that in order to meet the goal of 1,000,000 new homes statewide by 2044, and enhanced quality of life and environmental protection, innovative housing policies will need to be adopted and that increasing housing options that are more affordable to various income levels is critical to achieving the state's housing goals, including those established by the legislature in Engrossed Second Substitute House Bill No. 1220 (chapter 254, Laws of 2021); and

WHEREAS, the State legislature further found:

There is continued need for the development of housing at all income levels, including middle housing that will provide a wider variety of housing options and configurations to allow Washingtonians to live near where they work;

Homes developed at higher densities are more affordable by design for Washington residents both in their construction and reduced household energy and transportation costs;

While creating more housing options, it is essential for cities to identify areas at higher risk of displacement and establish anti-displacement policies as required in Engrossed Second Substitute House Bill No. 1220 (chapter 254, Laws of 2021);

The state has made historic investments in subsidized affordable housing through the housing trust fund, yet even with these historic investments, the magnitude of the housing shortage requires both public and private investment;

and

In addition to addressing the housing shortage, allowing more housing options in areas already served by urban infrastructure will reduce the pressure to develop natural and working lands, support key strategies for climate change, food security, and Puget Sound recovery, and save taxpayers and ratepayers money.

WHEREAS, on _____, the city/town council passed Ordinance No. _____ incorporating middle housing policies into the Housing Element of the Comprehensive Plan as required by House Bill 1220 (2021); and

WHEREAS, on _____, the city/town transmitted a copy of the proposed ordinance to the Washington State Department of Commerce in accordance with RCW 36.70A.106 at least 60 days in advance of adoption for the required 60-day State review period; and

WHEREAS, on _____, the city/town issued a State Environmental Policy Act (SEPA) Determination of Non-Significance (DNS) on the proposed ordinance, which is a non-project proposal; and

WHEREAS, during the course of developing the proposed ordinance, various means of public outreach were used including, but not limited to, public meetings, a middle housing webpage, tabling events at community events, presentations at various community groups, notification of public hearings; and

WHEREAS, the city/town planning commission held work sessions on _____ to study and review matters related to implementing HB 1110; and

WHEREAS, on _____, the city/town Planning Commission held a duly noticed public hearing on the proposed ordinance, accepted testimony and made a recommendation to the _____ city/town council; and

WHEREAS, on _____, the city/town council held a duly noticed public hearing to consider the planning commission recommendation and accept public testimony; and

WHEREAS, adoption of the ordinance will bring the city/town into compliance with HB 1110 and will serve the general welfare of the public;

NOW THEREFORE BE IT ORDAINED BY THE CITY/TOWN COUNCIL AS FOLLOWS

Section 1 – Purpose

The purpose of this middle housing ordinance (“ordinance”) is to:

- A. Implement Engrossed Second Substitute House Bill 1110, codified in RCW 36.70A.030, 36.70A.280, 36.70A.635, 36.70A.636, 36.70A.637, 36.70A.638, 43.21C.495, and 43.21C.450, 64.32, 64.34, and 64.38, and 64.90, by providing land use, development, design, subdivision, and other standards for middle housing developed on all lots zoned predominantly for residential use in applicable cities.
- B. Supersede, preempt, and invalidate local development regulations should the city fail to have passed ordinances, regulations or other local controls to implement House Bill 1110 within the time frame required by RCW 36.70A.635(11), until such time the city takes all actions necessary to implement RCW 36.70A.635.**

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Section 2 – Definitions

The following definitions shall apply for the purposes of this ordinance, notwithstanding other definitions in the development regulations:

“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 meeting or 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.

“All lots zoned predominantly for residential use” means all lots within a zoning district in which residential dwellings are the predominant use and which implements a residential Comprehensive Plan map designation. This excludes lands zoned primarily for commercial, industrial, and/or public uses, even if those zones allow for the development of detached single family residences. This also excludes lands zoned primarily for mixed uses, even if those zones allow for the development of detached single family residences, if the zones are intended for and permit by-right multifamily use and a variety of commercial uses, including but not limited to retail, services, eating and drinking establishments, entertainment, recreation, and office uses.

“Cottage housing” means residential units on a lot with a common open space that either: (a) Is owned in common; or (b) has units owned as condominium units with property owned in common and a minimum of 20 percent of the lot size as open space.

“Courtyard apartments” means up to four attached dwelling units arranged on two or three sides of a yard or court.”

“Duplex” means a development with two attached dwelling units.

“Fiveplex” means a development with five attached dwelling units.

“Fourplex” means a development with four attached dwelling units.

“Lot, parent” means a lot which is subdivided into unit lots through the unit lot subdivision process.

“Lot, unit” means a subdivided lot within a development as created from a parent lot and approved through the unit lot subdivision process.

“Major transit stop” means a stop on a high capacity transportation system funded or expanded under the provisions of chapter 81.104 RCW, commuter rail stops, stops on rail or fixed guideway systems, and stops on bus rapid transit routes.

“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.

“Public works department” means the public works or engineering department or other department, division, or agency of the city which reviews and approves infrastructure improvements associated with development.

“Single-family zones” means those zones where single-family detached residences are the predominant land use.

“Sixplex” means a development with six attached dwelling units.

“Stacked flat” means dwelling units in a residential building of no more than three stories on a residential zoned lot in which each floor may be separately rented or owned.

“Triplex” means a development with three attached dwelling units.

“Townhouses” means buildings that contain three or more attached single-family dwelling units that extend from foundation to roof and that have a yard or public way on not less than two sides.

“Unit density” means the number of principal dwelling units on a lot, regardless of lot size.

“Unit lot subdivision” means the creation of two or more unit lots within a development which are created from a parent lot and approved through the unit lot subdivision process.

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Section 3 – General Provisions

- A. **Nothing in this ordinance prohibits the city from permitting detached single-family residences.**
- B. **Nothing in this ordinance prohibits the city from requiring any development, including middle housing development, to provide affordable housing, either on-site or through an in-lieu payment, nor limit the city's ability to expand or modify the requirements of an existing affordable housing program enacted under RCW 36.70A.540.**
- C. **Nothing in this ordinance requires the issuance of a building permit if other federal, state, and local requirements for a building permit are not met.**
- D. **Nothing in this ordinance affects or modifies the responsibilities of the city to plan for or provide urban governmental services as defined in RCW 36.70A.030.**
- E. **The city shall not approve a building permit for middle housing without compliance with the adequate water supply requirements of RCW 19.27.097.**
- F. **The same development permit and environmental review processes shall apply to middle housing that apply to detached single-family residences, unless otherwise required by state law including, but not limited to, shoreline regulations under chapter 90.58 RCW, building codes under chapter 19.27 RCW, energy codes under chapter 19.27A RCW, or electrical codes under chapter 19.28 RCW.**
- G. **Conflicts.** In the event of a conflict between this ordinance and other development regulations applicable to middle housing, the standards of this ordinance control.

Section 4 – Applicability

- A. The provisions of this ordinance shall apply to all lots zoned predominantly for residential use.
- B. The provisions of this ordinance shall not apply to:
 - 1. Lots designated with critical areas designated under RCW 36.70A.170 or their buffers as required by RCW 36.70A.170.
 - 2. A watershed serving a reservoir for potable water if that watershed is or was listed, as of July 23, 2023, as impaired or threatened under section 303(d) of the federal clean water act (33 U.S.C. Sec. 1313(d)).
 - 3. Lots that have been designated urban separators by countywide planning policies as of July 23, 2023.

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Section 5 – Middle Housing Types Allowed

On all lots zoned predominantly for residential use the following uses are permitted by-right:

- A. Duplexes.
- B. Triplexes.
- C. Fourplexes.
- D. Fiveplexes.
- E. Sixplexes.
- F. Townhouses.
- G. Stacked flats.
- H. Courtyard apartments.
- I. Cottage housing.

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Section 6 – Unit Density

- A. The permitted unit density on all lots zoned predominantly for residential use is two units per lot, unless zoning permitting higher densities or intensities applies.
- B. The standard of subsection (A) does not apply to lots after subdivision below 1,000 square feet unless the city has a smaller allowable lot size in the zone.

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Section 7 – Parking Standards

Off-street parking for middle housing shall be subject to the following:

- A. **Transit proximity.** The city shall not require off-street parking as a condition of permitting development of middle housing within one-half mile walking distance of a major transit stop.
- B. **Base parking standards.**
 - 1. The city 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.
 - 2. The city 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.
 - 3. In a unit lot subdivision with middle housing units, the standards of subsections (B)(1) and (2) above apply to the parent lot, and not to individual unit lots.
- C. **Exemptions.** The off-street parking requirements of (A) and (B) shall not apply in the following locations:
 - 1. Portions of the city within a one-mile radius of a commercial airport in Washington with at least 9,000,000 annual enplanements in accordance with RCW 36.70A.635(7)(b).
 - 2. Portions of the city certified for a safety exemption from the Department of Commerce in accordance with RCW 36.70A.635(7)(a).

Section 8 – Zoning Dimensional Standards

A. Applicability.

1. Middle housing shall meet clear and objective zoning standards that apply to detached single family residences in the same zone. This includes, but is not limited to, lot size and dimensions, impervious surfaces, and tree canopy and retention requirements.
2. Any zoning standards that apply only to middle housing development are invalid.
3. Zoning dimensional standards invalidated by this section are replaced by the zoning dimensional standards provided in this section.

B. Density. Minimum and maximum densities measured as units per acre, lot area per unit, or similar methods are invalid for middle housing.

C. Units per structure. Minimum and maximum numbers of units per structure for middle housing are invalid, except as provided by the definitions of middle housing types in Section 2.

D. Maximum building height. A maximum height limit for middle housing of less than 35 feet is invalid.

1. Building height shall be measured in accordance with the development regulations.
2. Rooftop appurtenances shall be regulated and measured in accordance with the development regulations.

E. Setbacks.

1. Minimum principal building setbacks from property lines for middle housing greater than the following are invalid:

- a. Street or front: 20 feet.
- b. Garage door (where facing the front of the lot): 20 feet.
- c. Side street: Five feet.
- d. Side interior: Five feet, and zero feet for attached units.
- e. Rear, without an alley: 20 feet.
- f. Rear alley: Five feet.

2. Setback projections.

- a. Covered porches and entries may project up to five feet into required front and rear setbacks.
- b. Balconies and bay windows may project up to three feet into required front and rear setbacks.
- c. Other setback projections shall be regulated and measured in accordance with the development regulations.

3. Nothing in this subsection affects setbacks for accessory dwelling units and other accessory structures.
 4. Flag lots, through lots, unusually-shaped lots, and setback measurements are regulated in accordance with the development regulations.
- F. Maximum lot coverage. Maximum lot coverage for middle housing less than the following is invalid: 40 percent.

DRAFT

Section 9 – Design Standards

A. Generally.

1. These standards apply to all middle housing types.
2. Design review for middle housing shall be administrative.
3. These design standards do not apply to the conversion of a structure to a middle housing type with up to four attached units if the floor area of the structure does not increase more than 50 percent.

B. Entries.

1. Each building shall incorporate a primary building entry or one or more private unit entries, such as a covered porch or recessed entry. Each entry shall feature minimum weather protection of three feet by three feet.
2. Cottage housing and courtyard apartments are exempt from this entry standard. See Section 9, subsection (H) for cottage housing entry standards and Section 9, subsection (I) for courtyard apartments entry standards.

- C. Windows and doors. A minimum of 15 percent of the area of the street-facing façade elevation shall include windows and doors. Facades separated from the street by a dwelling are exempt from this standard.

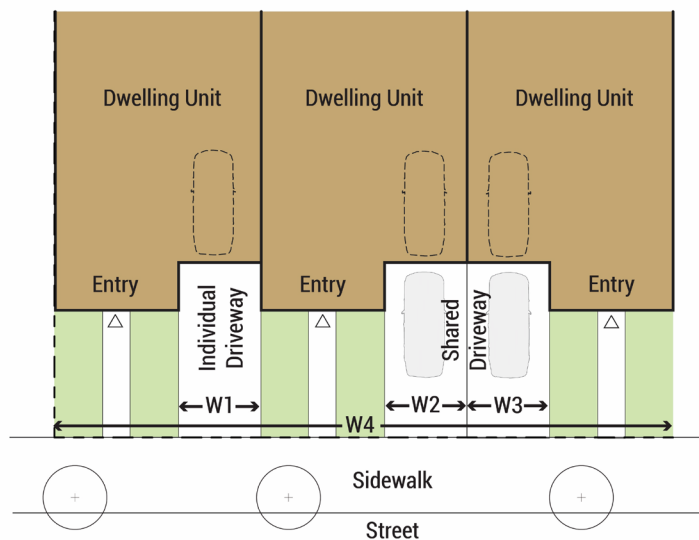


- D. Pedestrian access. A paved pedestrian connection is required between each middle housing building and the sidewalk (or the street if there is no sidewalk). Driveways may be used to meet this requirement.

E. Access, carports, garages and driveways.

1. For lots abutting an improved alley that meets the city’s standards for width and surfacing, vehicular access shall be taken from the alley. Lots without access to an improved alley and taking vehicular access from a street shall meet the other standards of subsection (E)(2) through (5) below.

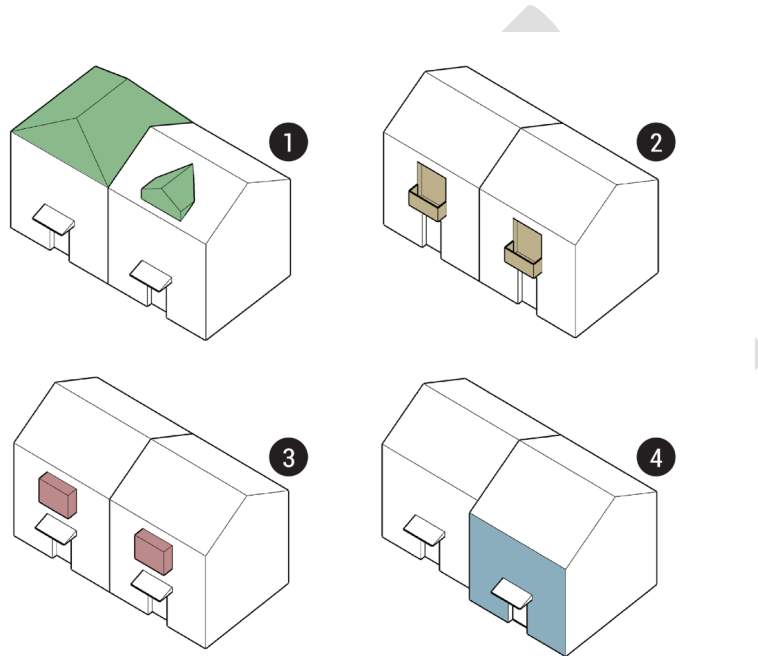
2. Garages and off-street parking areas shall not be located between a building and a public street, except when either of the following conditions are met:
 - a. The garage or off-street parking area is separated from the street property line by a dwelling.
 - b. The combined width of all garages and outdoor on-site parking and maneuvering areas does not exceed a total of 60 percent of the length of the street frontage property line. This standard applies to buildings and not individual units.
3. All detached garages and carports shall not protrude beyond the front building façade.
4. The total width of all driveway approaches shall not exceed 32 feet per frontage, as measured at the property line. Individual driveway approaches shall not exceed 20 feet in width.
5. Local jurisdiction requirements for driveway separation and access from collector streets and arterial streets shall apply.



$\frac{(W1+W2+W3)}{W4}$ must be no more than 60%
 $(W1+W2+W3)$ must not exceed 32 feet per frontage
 W1 shall not exceed 20 feet

F. Unit articulation. Each attached unit featuring a separate ground level entrance in a multi-unit building facing the street shall include at least one of the following. Facades separated from the street by a dwelling are exempt from this standard.

1. Roofline change or a roof dormer with a minimum of four feet in width.
2. A balcony a minimum of two feet in depth and four feet in width and accessible from an interior room.
3. A bay window that extends from the facade a minimum of two feet.
4. An offset of the facade of a minimum of two feet in depth from the neighboring unit.



G. Cottage housing.

1. Cottage size. Cottages shall each have no more than 1,600 square feet of net floor area, excluding attached garages.
2. Common open space.
 - a. At least one outdoor common open space is required.
 - b. Common open space shall be a minimum 20 percent of the lot size with a minimum dimension of 15 feet on any side.
 - c. Common open space shall be bordered by cottages on at least two sides.
 - d. Parking areas and vehicular areas do not qualify as a common open space.
3. Entries. All cottages shall feature a roofed porch at least 70 square feet in size with a minimum dimension of seven feet on any side facing the street and/or common open space.
4. Community building.

- a. A cottage housing development may contain one community building.
- b. A community building shall have no more than 2,400 square feet of net floor area, excluding attached garages.
- c. A community building shall have no minimum vehicle parking requirements.

H. Courtyard apartments.

1. Common open space.
 - a. At least one outdoor common open space is required.
 - b. Common open space shall be a minimum dimension of 15 feet on any side.
 - c. Common open space shall be bordered by dwelling units on two or three sides.
 - d. Parking areas and vehicular areas do not qualify as a common open space.
3. Entries. Ground-related courtyard apartments shall feature a covered pedestrian entry, such as a covered porch or recessed entry, with minimum weather protection of three feet by three feet, facing the street or common open space.

I. Trees.

1. The city shall not require through development regulations any tree standards for middle housing that are more restrictive than tree standards required for detached single-family residences, except as provided in this Model Ordinance.
2. Common open space for cottage housing and courtyard apartments shall include at least one new tree per 1,000 square feet of common open space. Required trees shall meet the following standards at the time of planting:
 - a. Deciduous trees shall be fully branched, have a minimum caliper of one and one-half inches (as measured six inches above the root ball), and a minimum height of six feet at the time of planting.
 - b. Evergreen trees shall be fully branched and a minimum of six feet in height, measured from the treetop to the ground, at the time of planting.
 - c. All required trees shall be in-ground, except when in raised planters. Trees shall be installed to current nursery industry standards. Where support is necessary, stakes, guy wires or other measures shall be removed as soon as the tree can support itself. Trees shall be protected by fencing until they are mature enough to withstand typical wildlife activity.

Section 10 – Subdivision

- A. Generally. Regulations for subdivisions, short subdivisions, binding site plans, and planned unit developments shall not be more restrictive for middle housing than for detached single-family residences.
- B. Unit lot subdivisions. A lot may be divided into separately owned unit lots, provided the following standards are met.
1. Approval Process. Unit lot subdivisions follow the application, review, and approval procedures for a short subdivision or subdivision, depending on the number of lots.
 2. Applicability. Sites to be developed with middle housing, detached accessory dwelling units, and multiple detached single-family residences on a lot in which no dwelling units are stacked on another dwelling unit may be subdivided into individual unit lots as provided herein.
 3. Development as a whole on the parent lot, rather than individual unit lots, shall comply with applicable unit density and zoning dimensional standards.
 4. Subsequent platting actions, additions, or modifications to the structure(s) may not create or increase any nonconformity of the parent lot.
 5. Access easements, joint use and maintenance agreements, and covenants, conditions and restrictions (CC&Rs) identifying the rights and responsibilities of property owners and/or the homeowners' association shall be executed for use and maintenance of common garage, parking and vehicle access areas; underground utilities; common open space; shared interior walls; exterior building facades and roofs; and other similar features shall be recorded with the county auditor.
 6. Within the parent lot, required parking for a dwelling unit may be provided on a different unit lot than the lot with the dwelling unit, as long as the right to use the parking is formalized by an easement recorded with the county auditor.
 7. 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.
 8. Notes shall be placed on the face of the plat or short plat as recorded with the county auditor to state the following:
 - a. The title of the plat shall include the phrase "Unit Lot Subdivision."
 - b. Approval of the development on each unit lot was granted by the review of the development, as a whole, on the parent lot.
 9. Effect of Preliminary Approval. Preliminary approval constitutes authorization for the applicant to develop the required facilities and improvements, upon review and approval of construction drawings by the public works department. All development shall be subject to any conditions imposed by the city on the preliminary approval.
 10. Revision and Expiration. Unit lot subdivisions follow the revision and expiration procedures for a short subdivision.

Section 11 – Infrastructure Standards

- A. Transportation. Regulations for driveways, frontage improvements, alley improvements, and other transportation public works and engineering standards shall not be more restrictive for middle housing than for detached single-family residences, except as addressed by this ordinance.
- B. Lot Access/Road Standards.
1. Private driveway access shall be permitted for middle housing development with any number of units when any of the following conditions are met:
 - a. A fire apparatus access road is within 150 feet of all structures on the lot and all portions of the exterior walls of the first story of the buildings, as measured by an approved route around the exterior of the buildings; or
 - b. The building is equipped throughout with an approved automatic sprinkler system meeting International Fire Code requirements; or
 - c. No more than two homes are accessed via the same private driveway; or
 - d. Fire apparatus access roads cannot be installed because of location on property, topography, waterways, nonnegotiable grades or other similar conditions, and an approved alternative means of fire protection is provided.
 2. Private driveways shall not be required to be greater than 12 feet in width and have greater unobstructed vertical clearance than 13 feet six inches except when it is determined to be in violation of the International Fire Code or other fire, life, and safety standards, such as site distance requirements.
 3. Private driveway access, separate from access to an existing home, shall be permitted unless it is determined to be in violation of the Fire Code or other fire, life, safety standards, such as site distance requirements.
 4. This subsection is not intended to limit the applicability of the adopted fire code except as otherwise presented in this subsection.

Section 13 – Severability

If any section, subsection, clause, sentence, or phrase of this ordinance should be held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 14 – Authority to Make Necessary Corrections

The City/Town Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener’s clerical errors, references, ordinance numbering, section/subsection numbers, and any references thereto.

Section 15 – Effective Date

The ordinance shall take effect and be in full force five days after publication of the attached summary which is hereby approved.

APPROVED

MAYOR

ATTEST/AUTHENTICATED: _____
CITY/TOWN CLERK

APPROVED AS TO FORM: _____
OFFICE OF THE CITY/TOWN ATTORNEY:

PASSED BY THE CITY/TOWN COUNCIL:
PUBLISHED:
EFFECTIVE DATE:



TO: Dawn Masko, City Manager
FROM: Mark Newman, Community Development
Director DATE: November 20, 2023
SUBJECT: 2024 Comprehensive Plan Progress Update

Staff has compiled data regarding the progress made in Year 1 (2023) of the Comprehensive Plan update as well as targets for Year 2 (2024).

1. Deliverables Received and Tasks Completed to date:

There are a total of thirty-five (35) tasks to complete the update. To date, twenty-five (25) have been completed by BHC Consultants and City Staff, or 71.4% of the total tasks.

1	Virtual Kick-Off Briefing Session
2	Draft Project Schedule
3	Department of Commerce Checklist
4	Review of Comprehensive Plan and Development Regulations
5	Complete gaps analysis of the County's Countywide Planning Policies and relevant PSRC accreditation checklist for Transportation.
6	Check-In Call #1 (monthly – January 2023 through present)
7	Check-In Call #2 (monthly – January 2023 through present)
8	Workflow Coordination and Quality Control
9	Monthly Invoicing and Project Status Reporting
10	Presentation and Memo to Planning Commission
11	Public Outreach Plan Memo
12	Policy Gap Analysis, including GMA Comp Plan Update Checklist, PSRC Checklist
13	Updated Outreach Materials/Community Visioning Open House
14	Updated Community Vision Statement
15	Draft Chapters 1 and 2 Introduction, Community Character
16	Draft Chapter 3 Land Use Chapter and Land Capacity Analysis
17	Draft Chapter 4 Housing
18	Draft Chapter 5 Transportation
19	Draft Chapter 6 Capital Facilities
20	Draft Chapter 7: Parks and Recreation
21	Draft Chapter 8 Utilities
22	Draft Chapter 9 Natural Environment and Climate Resilience

23	Existing Conditions Report and Summary of Resource Documents
24	Updated Comprehensive Plan Document Format
25	Internal Staff review Drafts of Comprehensive Plan (consultant-led chapters) Chapters

2. Budget Allocation:

All \$125,000 has been allocated. Staff recommends keeping the existing budget as-is without any increases. Work beyond the budget scope can be completed in-house by City staff.

Funding	2023	2024
Department of Commerce Grant	\$62,500	\$62,500
Total Budget	\$125,000	

Expenditures	
BHC Contract Through December 2024	\$115,000.00
Jeff Boers Consultant Through September 2023	\$10,000
Total Expenditures Through December 2024	\$125,000.00
Surplus Budget Through December 2024	\$0

BHC Expenditures as of November 20, 2023	\$93,674.08
BHC Budget Remaining as of November 20, 2023	\$21,325.92

3. Remaining Tasks/Deliverables Through December 2024:

26	Planning Commission review of Draft Comprehensive Plan (city-led, three elements per month)
27	Public Review Draft of Complete Comprehensive Plan (Open House)
28	Preparation of a SEPA Checklist and threshold determination
29	Threshold determination for the City to publish and distribute
30	Land Use regulations audit
31	Land Use Regulations Memo: Future Updates and Redlines
32	Prepared presentation for public hearings
33	Planning Commission Public Hearing
34	City Council Public Hearing
35	Final Adoption Draft of Comprehensive Plan by City Council

4. Additional Analysis

A more comprehensive progress tracker is attached for reference, review, and comment.

Comprehensive Plan Update – Year 1 Review

Katie Cote, Senior Planner at BHC Consultants

City of Fircrest

Planning Commission Meeting

November 20, 2023



bhc
CONSULTANTS

Meeting Objectives

What has been completed?

Visioning Update

Draft Comp Plan

Next Steps

What has been completed?

- Gaps Analysis based on Dept. of Commerce and Pierce County policies
- Comprehensive Plan Update website
- Housing Needs Assessment and Land Capacity Analysis based on HB 1220 (2021)
- Transportation Needs Assessment
- Existing Conditions Report
- Community Survey
- Planning Commission briefings
- Community Visioning Event on June 15, 2023
- Public Workshop with Council September 18, 2023
- Draft Comprehensive Plan

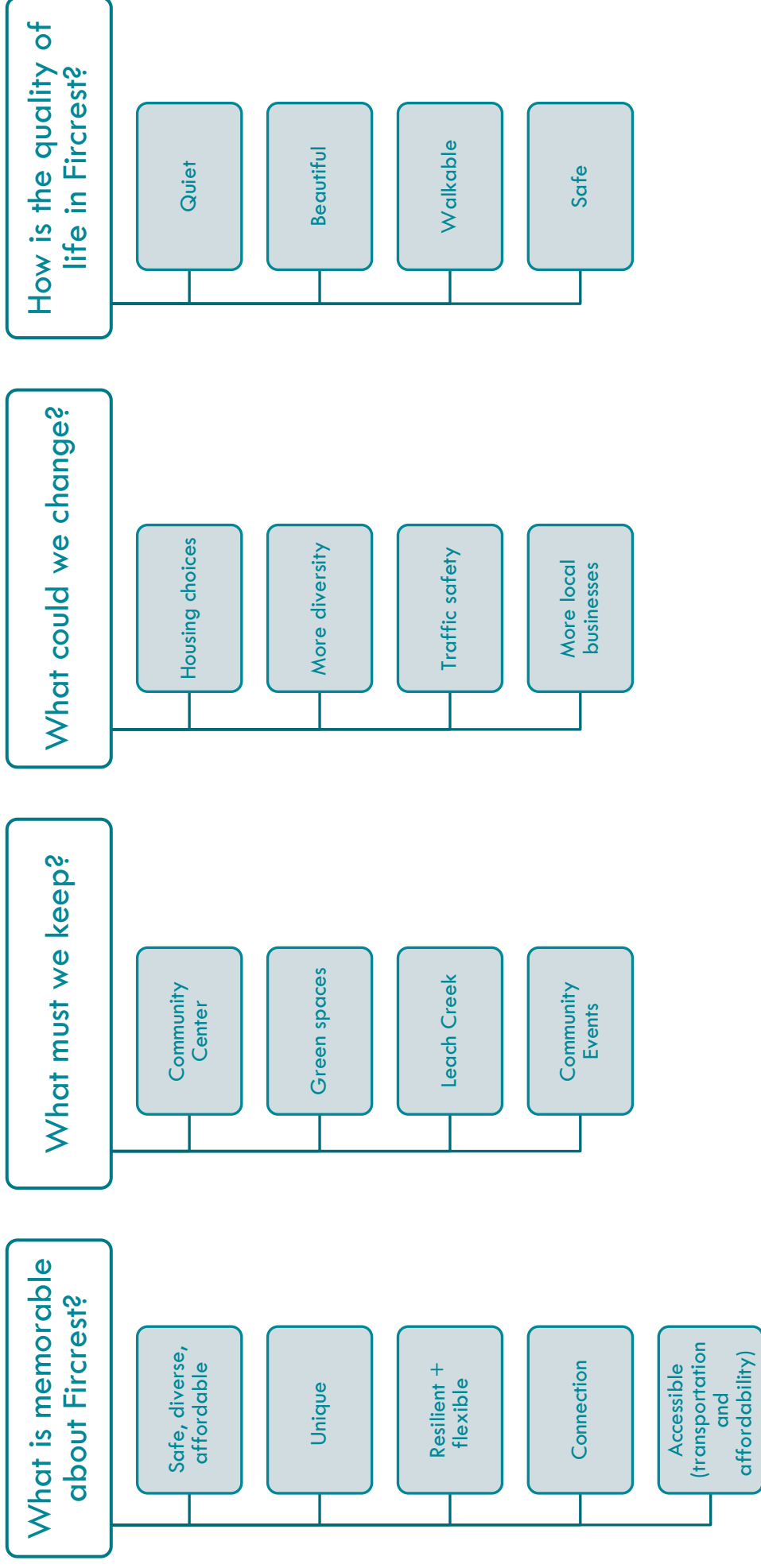
Visioning Update

Visioning Workshop

Community Survey

Council Workshop

Visioning Workshop



Community Survey

- Mailed to all residents
- Included 15 questions
- Over 500 response received
- Addressed a range of planning topics
- Visioning Topics:
 - Getting around
 - Businesses and retail
 - Community spaces
- Housing Topics (to be discussed later)



The flyer features the City of Fircrest logo at the top left, which includes a mountain range and the text 'THE CITY OF FIRCREST'. To the right of the logo is a stylized evergreen tree. The main title 'HELP PLAN THE FUTURE OF Fircrest' is prominently displayed, with 'Fircrest' in a large, white, cursive font. Below the title, the text reads: 'WE WANT TO HEAR FROM YOU!', 'PLEASE TAKE A MOMENT TO SHARE YOUR THOUGHTS BY TAKING THIS BRIEF SURVEY', and 'Return this copy in the enclosed envelope or drop it off at City Hall or the Recreation Center'. A horizontal line with arrows at both ends is positioned below this text. Further down, it says 'For more information visit www.cityoffircrest.net/2024-Comp-Plan or Scan the QR Code', followed by a QR code.

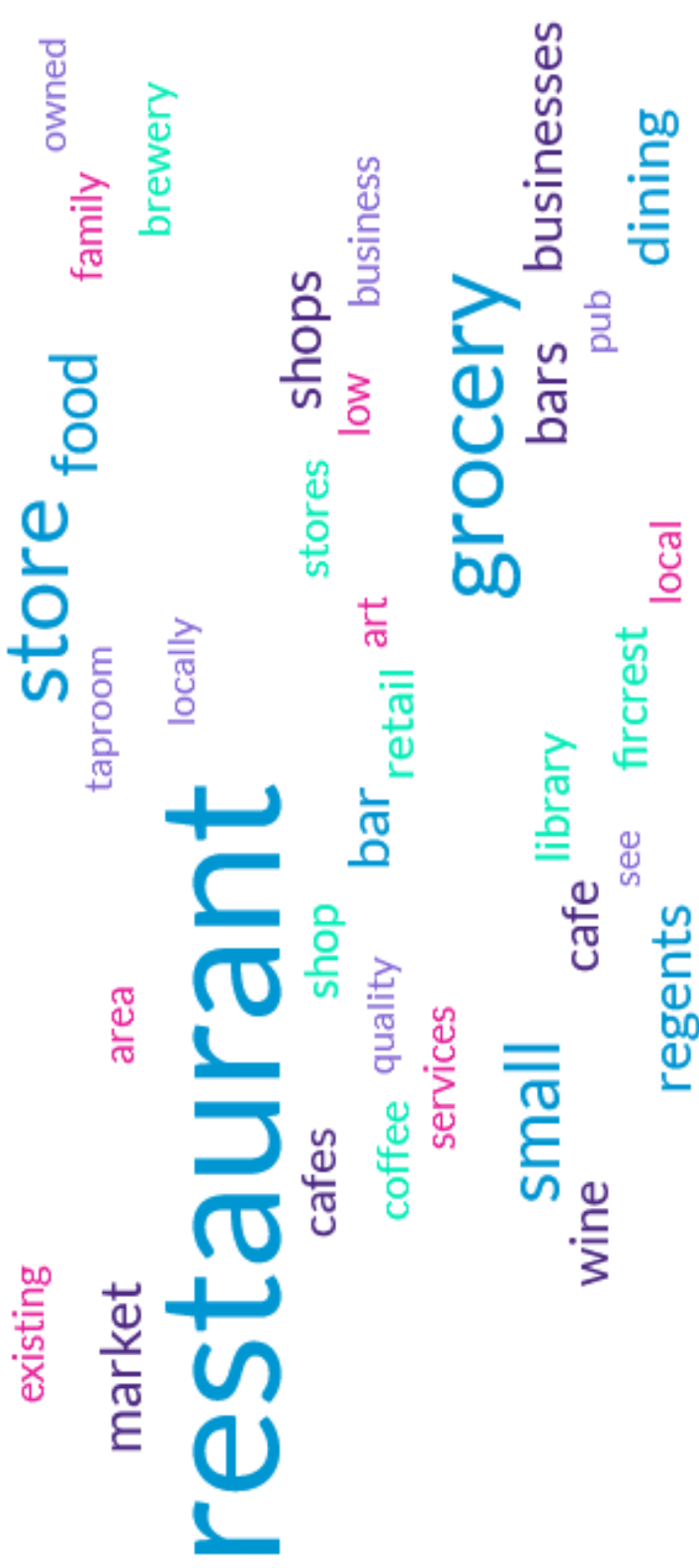
Survey results: Getting Around

- Many respondents indicated walking/rolling around Fircrest. Pedestrian safety and accessibility is therefore important
- Over 79%, in both the online and mailed surveys, said they would like to be able to walk to local dining, shopping, and service needs



Survey Results: Business Services Desired

- Higher response rate to this question online (n=165) than mail survey (n=15).
- Food-related businesses were the most common
- Some respondents expressed concerns about traffic if there are more businesses

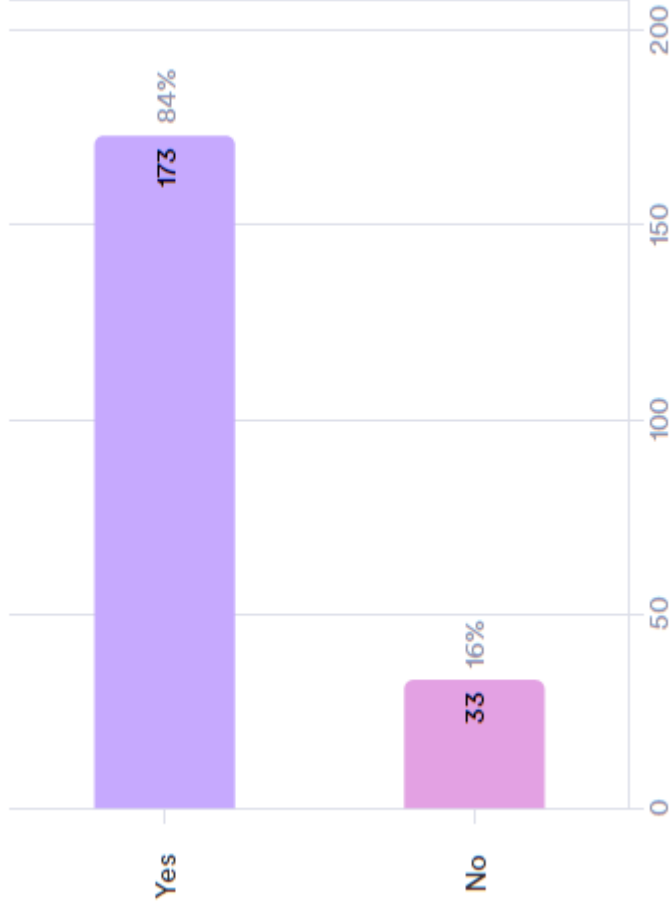


Survey Results: Community Spaces and Parks

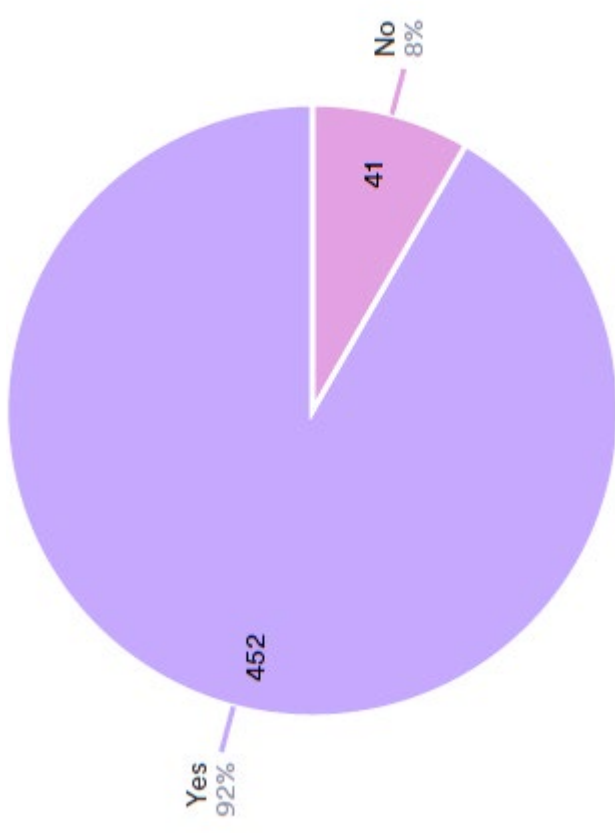
Online Survey

Are parks in Fircrest meeting your needs right now?

206 Responses



Mailed Survey



Survey Results: Improvements to Community Spaces and Parks?

Online survey only

- Overall desire for dog park facilities and reduce off-leash dogs
- Senior related facilities and amenities in parks.
- Pickleball courts
- Greater pool capacity/indoor
- Sidewalks/walking improvements



Survey Takeaways

- Safety is a large priority. Concerns about traffic speeds and safe transportation facilities, particularly for pedestrians and bicyclists
- Fircrest community members value walkable and maintaining the existing scale of neighborhoods and housing types
- There is support for more types of businesses, particularly food related, but traffic and access are important considerations.
- Desire to foster aging in place and related housing types

Council Workshop

- Safety is important
- Value trees and community spaces
- Desire to maintain Fircrest's architectural scale/ density
- Identified needs for aging in place and retirement
- Widespread desire for a library/library access



Common Themes from Outreach - Summary

Vision Workshop (6/15/23)/

- Safety
- Community spaces and events
- Unique neighborhood scale: curved roads and greenery
- Resilient and inclusive neighborhoods
- Affordable housing

Survey

- Desire for safe streets for all transportation modes, especially walking
- Strong preference for smaller housing unit scale
- Housing for aging in place/retirement is important
- Value safety, traffic and road safety as well as crime
- Desire for more food-based retail/commercial, but near existing commercial uses

Council Workshop (9/18/23)

- Safety (transportation and crime)
- Walking and biking
- Parks and public space and art
- Desire for a library
- Family/community centric
- Senior housing/aging in place

Common Themes from Outreach - Summary

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Council Workshop (9/18/23)

- Safety (transportation and crime)
- Walking and biking
- Parks and public space and art
- Desire for a library
- Family/community centric
- Senior housing/aging in place

Proposed Vision Statement

Fircrest is a unique place in the region. We will remain safe, resilient, flexible, and connected to our neighbors.

*Fircrest treasures its **walkable and forested environment**, its peaceful and quiet nature, ~~while~~ **and embracing-embraces** more affordable housing for all people.*

We value community spaces and events that bring us together. Fircrest is proud of its commitment to personal and public safety.

Draft 2024 Comp Plan

- Mostly maintains text from 2015 with minor text revisions.
- Simplified format removes most discussion sections from current plan, moves data heavy sections to the Appendix.
- Incorporates new GMA guidance from the Department of Commerce and conforms to countywide planning policies.
- Reflects feedback from outreach, Planning Comm, and Council.
- New maps, graphics, and format.
- New policies highlighted.



Introduction

- Plan purpose and overview
- Vision Statement
- Amendment process
- Planning framework
- Demographics and forecasting



Community Development

Goals and policies relating to:

- Public spaces
- Community events
- Design of buildings, sites, streetscapes, and pathways
- Urban forests and landscaping
- Historic resources

What's New?

- Replaced vague “character” references with specific design language.
- New policies to address equity, inclusion, and anti-displacement.



Land Use

Goals and policies relating to:

- Growth management
- Land uses
- Planning and permit procedures
- Environmental resources
- Economic development

What's New?

- New policy to support urban tree canopy.
- New goals and policies related to climate change impacts and GHG reduction.



Housing

Goals and policies relating to:

- Housing choice and affordability
- Housing supply

What's New?

- New policies addressing displacement pressures and housing preservation.
- New policies to encourage more affordable housing supply.



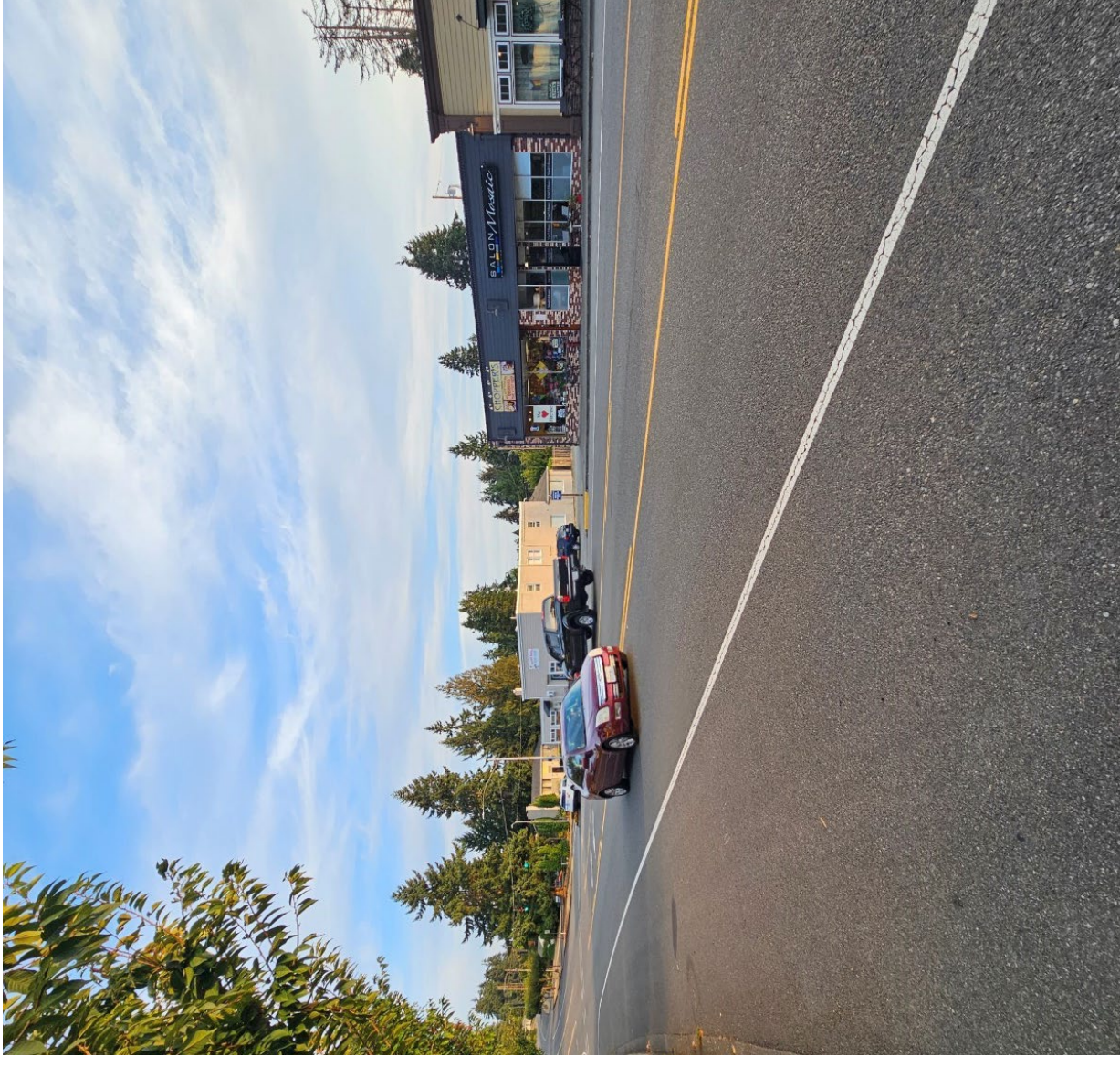
Transportation

Goals and policies relating to:

- Street classification
- Non-motorized facilities, transit
- Traffic safety
- Levels of Service
- Recommended improvements

What's New?

- Updated maps and inventories.
- Updated project list.
- New policies to reduce environmental impacts from the transportation system, including water runoff.
- New policies to address new technologies for increased efficiency.
- New policies to increase climate resiliency.



Parks, Recreation, and Open Space

Goals and policies relating to:

- City-wide system planning
- Ongoing maintenance and improvements

What's New?

- New policy prioritizing Fircrest residents' use of facilities.
- New policy emphasizing resilience to climate hazards and impacts.



Capital Facilities

Goals and policies relating to:

- Level of service and concurrency
- Siting public facilities

What's New?

- New policies emphasizing environmental sustainability and resource conservation.
- New policy to continually monitor service providers' quality of service and rates.
- New policy to promote equitable access to public services by locating them near transit.



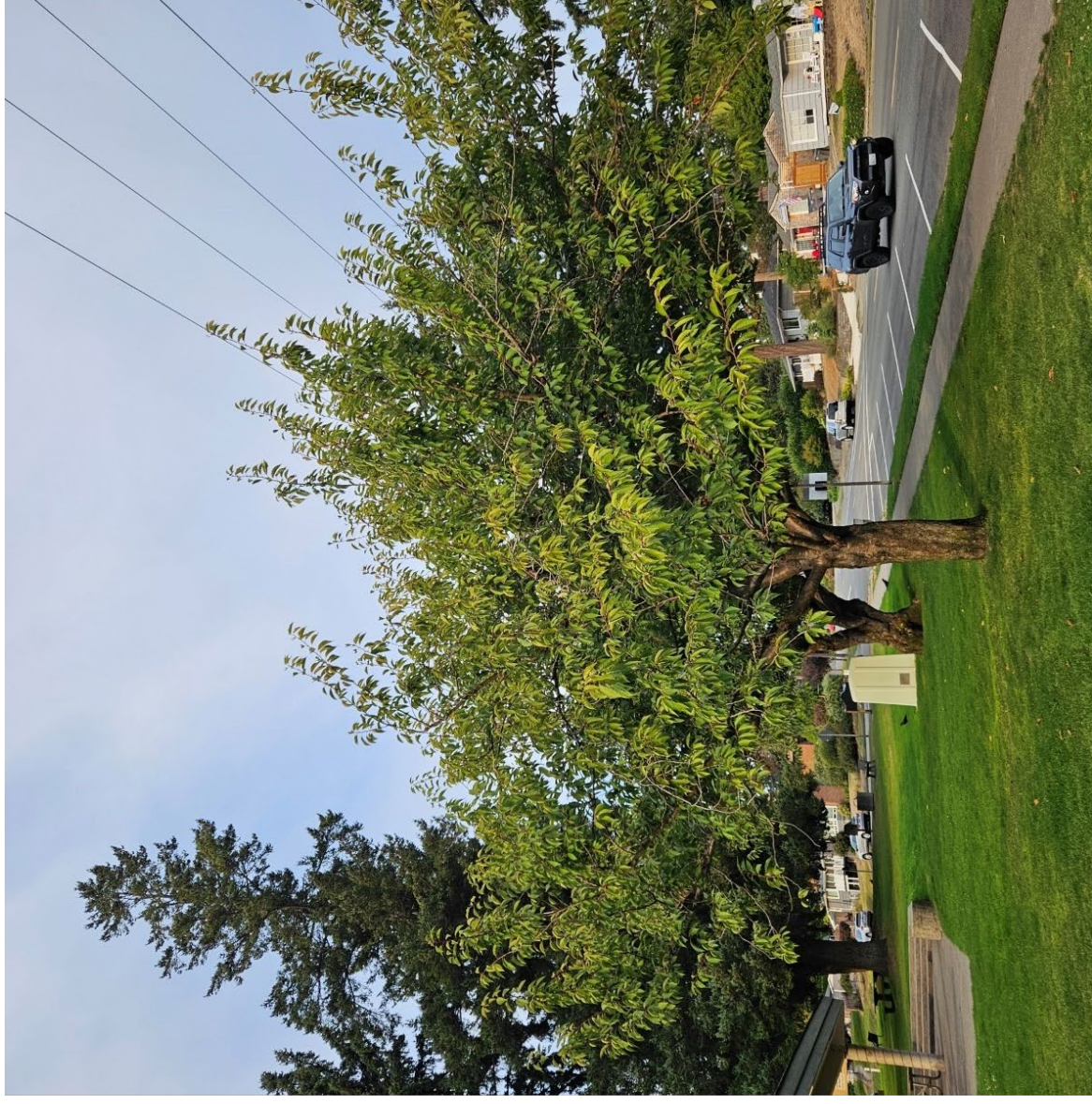
Utilities

Goals and policies relating to:

- Utility facilities
- Utility levels of services.

What's New?

- Updated water and sewer facilities maps.
- Updated service levels and standards.
- New policies address equitable distribution of utilities, interjurisdictional coordination, and reduction of greenhouse gas emissions.



Climate Resilience

Goals and policies relating to:

- Preserving healthy forests.
- Resource efficient development.
- Protection from climate hazards
- Greenhouse gas mitigation

What's New?

- New goals and policies addressing climate resilience
- New goals and policies addressing greenhouse gas mitigation
- New goals and policies addressing reduction of or mitigation from climate hazards.



Next Steps

45-Day Public Review Period,
SEPA

Additional Middle Housing
Work, Outreach

Development Regulations

Public Hearings and Adoption



THE CITY OF FIRCREST

COMPREHENSIVE PLAN ELEMENT ASSIGNMENTS/PREFERENCES FOR REVIEW

Element	Ben Ferguson	Sarah Hamel, P.E.	Eric Lane	Kathy McVay	Shirley Schultz, Chair
I. INTRODUCTION					
II. COMMUNITY DEVELOPMENT					
III. LAND USE					
IV. HOUSING					
V. TRANSPORTATION					
VI. PARKS, RECREATION, AND OPEN SPACE					
VII. CAPITAL FACILITIES					
VIII. UTILITIES					
IX. CLIMATE RESILIENCE					