



To City of Tumwater
From: SCJ Alliance
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Project: City of Tumwater Middle Housing Code Updates
Subject Summary of Housing-Related Legislative Changes for Tier 2 Cities

Introduction:

Within recent legislative sessions, several policies were passed by the state legislature to address affordable housing across Washington state. These bills made changes to the Growth Management Act and addressed “missing middle housing” through new requirements for cities and counties to address. The following memo provides a legislative brief on what cities classified as Tier 2 under new Middle Housing legislation (HB 1110 and HB 2321) are required to plan for.

The City of Tumwater will also need to reflect on their Comprehensive plan goals, policies, and community engagement in determining their approach to addressing new state legislation on housing in their middle housing ordinances.

Recent Housing-Related Legislative Changes

Comprehensive Plan – Housing Element:

[HB 1220](#) substantially amends housing-related provisions of the GMA, requiring planning for housing by income bands and addressing racially disparate impacts, displacement, and exclusion.

This bill directs the City of Tumwater to update their Housing Element in their Comprehensive Plan to account for the following actions:

- Inventory and analyze existing and projected housing needs over the planning period, by income band, consistent with the jurisdiction’s share of housing need, as provided by Commerce.
- Identify land capacity for housing including, but not limited to, government-assisted housing, housing for moderate, low, very low, and extremely low-income households, manufactured housing, multifamily housing, group homes, foster care facilities, emergency housing, emergency shelters, and permanent supportive housing.
- Consideration of housing locations in relation to employment locations and the role of ADUs.
- Identify local policies and regulations that result in racially disparate impacts, displacement, and exclusion in housing, including:
 - Zoning that may have a discriminatory effect;

- Disinvestment; and
- Infrastructure availability.
- Identification of areas that may be at higher risk of displacement from market forces that occur with changes to zoning development regulations and capital investments. This work should identify areas where anti-displacement tools may be applied, but may not need to be in the comprehensive plan.

Development Code:

[HB 1042](#) encourages the conversion of existing commercial or mixed-use buildings for residential uses.

Six months after its periodic comprehensive plan update, the City of Tumwater must adopt or amend by ordinance, and incorporate into their development regulations, zoning regulations, and other official controls the requirements for buildings zoned commercial or mixed-use to allow for the conversion of these buildings into multifamily housing.

[HB 1337](#) requires cities and counties to allow two accessory dwelling units (ADUs) per lot in urban growth areas and establishes standards for jurisdictions to use.

The City of Tumwater must:

- Permit ADUs in structures detached from the principle unit;
- Allow an ADU on any lot that meets the minimum lot size required for the principal unit;
- Allow detached ADUs to be sited at a lot line if the lot line abuts a public alley, unless the city or county routinely plows snow on the public alley; and
- Allow ADUs to be converted from existing structures, including detached garages.
- Allow for the construction of two ADUs in the following configurations on all zoning districts that allow for single-family homes in urban growth areas;
 - One attached ADU and one detached ADU;
 - Two attached ADUs; or
 - Two detached ADUs, which may be comprised of either one or two detached structures.

The City of Tumwater cannot:

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

- Require the owner of a lot on which there is an ADU to reside in or occupy the ADU or another housing unit on the same lot.

The City of Tumwater may apply regulations including:

- Generally applicable development regulations;
- Public health, safety, building code, and environmental permitting requirements that would be applicable to the principal unit, including regulations to protect ground and surface waters from on-site wastewater;
- A prohibition on the construction of ADUs that are not connected to or served by public sewers;
- A prohibition or restriction on the construction of ADUs in residential zones with a density of one dwelling unit per acre or less that are within areas designated as wetlands, fish and wildlife habitats, flood plains, or geologically hazardous areas; and
- Restrictions on the use of ADUs for short-term rentals.

[HB 1110](#) and [HB 2321](#) concerning middle housing.

Six months after its periodic comprehensive plan update, the City of Tumwater must adopt or amend by ordinance, and incorporate into their development regulations, zoning regulations, and other official controls the requirements and definitions for middle housing.

Tier 2 City Applicability:

- Population of more than 25,000 in 2020,
- Population of less than 75,000 in 2020,

A Tier 2 City **must allow**:

- The development of the following unit densities:
 - **At least two units per lot** on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies; RCW [36.70A.635\(1\)\(a\)\(i\)](#)
 - **At least four units per lot** on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies, **within one-quarter mile walking distance of a major transit stop**; RCW [36.70A.635\(1\)\(a\)\(ii\)](#)
 - 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; or
 - Stops on bus rapid transit routes, including those stops that are under construction.
 - **At least four units per lot** on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies, **if at least one unit is affordable housing**. RCW [36.70A.635\(1\)\(a\)\(iii\)](#)

- The unit density in RCW [36.70A.635](#)(1)(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.
- **At least six of the nine middle housing types** to achieve the unit density required in RCW [36.70A.635](#) (1)
- Allow zero lot line short subdivision where the number of lots created is equal to the unit density required in RCW [36.70A.635](#)(1).
- Apply to middle housing the same development permit and environmental review processes that apply to detached single-family residences, unless otherwise required by state law.

A Tier 2 City **may**:

- Allow accessory dwelling units to achieve the unit density required, per RCW [36.70A.635](#)(5).
- Define middle housing types that are undefined under RCW [36.70A.030](#)
 - RCW 36.70A.030 includes definitions for courtyard apartments, cottage housing, townhouses, and stacked flats, **but** duplexes, triplexes, fourplexes, fiveplexes, and sixplexes are undefined.
- Define what falls under the required “unit density”.
 - Cities choosing to count accessory dwelling units as part of “unit density” and adopting the term “unit density” in local code should consider a definition that references accessory dwelling units.
- Adopt a maximum unit density
 - Cities are not required to allow accessory dwelling units or middle housing types beyond the density requirements - RCW [36.70A.635](#)(5)
 - The middle housing definition, in conjunction with the maximum unit density a jurisdiction adopts, is important because RCW 36.70A.635 sets limits on permitting, design review, and parking standards for all middle housing types citywide in all cities subject to the middle housing law.

A Tier 2 City **cannot**:

- Require off-street parking as a condition of permitting development of middle housing within one-half mile walking distance of a major transit stop;
- Require more than one off-street parking space per unit as a condition of permitting development of middle housing on lots no greater than 6,000 square feet before any zero lot line subdivisions or lot splits;
- Require more than two off-street parking spaces per unit as a condition of permitting development of middle housing on lots greater than 6,000 square feet before any zero lot line subdivisions or lot splits;

Middle Housing **Exemptions** (RCW [36.70A.635](#)(8)):

- Portions of a lot, parcel, or tract designated with critical areas designated under RCW [36.70A.170](#) or their buffers as required by RCW [36.70A.170](#), except for critical aquifer recharge areas where a single-family detached house is an allowed use provided that any requirements to maintain aquifer recharge are met;
- Areas designated as sole-source aquifers by the United States Environmental Protection Agency on islands in the Puget Sound;

- 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));
- Lots that have been designated urban separators by countywide planning policies as of July 23, 2023; or
- A lot that was created through the splitting of a single residential lot.
 - NOTE: At this time, “lot split” is undefined. Legislation in both 2023 and 2024 on this did not pass. This may change in the future, and lots may be exempt from allowing middle housing. More guidance to come if this passes.

The State Model Ordinance developed by the Department of Commerce:

- Goes above what is asked for in the state legislation;
- Only text in bold is required;
- Does not count accessory dwelling units as middle housing;
- The key features of the middle housing types:
 - Duplex, Triplex, and Fourplex: Left for cities to define
 - Cottage Housing: Residential units on a lot with a shared open space owned in common
 - Courtyard Apartments: Attached residential units arranged on two or three sides of a yard or court.
 - Stacked Flat: Residential units in a residential building of no more than three stories in which each floor may be separately rented or owned.
 - Townhouses: 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.

Permitting Process:

[HB 1293](#) establishes standards for clear and objective local design review to streamline permitting processes.

Encourages the City of Tumwater to provide expedited review for project permit applications that include dwelling units that are affordable to low-income or moderate-income households and within the capacity of systemwide infrastructure improvements.

[SB 5290](#) amends the Local Project Review Act to increase the timeliness and predictability of permitting processes. The Department of Commerce is required to provide a consolidated permit review grant program and a digital permitting grant program to support implementation of this bill.

The City of Tumwater must exclude project permits for interior alterations from site plan review, provided that they do not include activities such as increasing the number of sleeping quarters, total square footage or valuation, or nonconformity with FEMA substantial improvement thresholds.

[SB 5412](#) expands SEPA Categorical Exemptions related to infill and middle housing projects.

The City of Tumwater may establish SEPA exemptions for the development of housing within incorporated areas of the UGA pursuant to RCW 37.70A.110 for middle housing.