

## **Director’s Report and Recommendation Accessory Dwelling Unit Amendments – Implementing HB 1337**

### **Proposal Summary**

During the 2023 session, the State legislature passed House Bill 1337, which requires Seattle and other cities and counties planning under the Growth Management Act (GMA) to meet certain requirements when regulating accessory dwelling units (ADUs). These requirements are codified at Revised Code of Washington (RCW) 36.70A.680 and .681. The Seattle Department of Construction and Inspections (SDCI) is proposing amendments to the land use code for development of ADUs in order to comply with state law.

Carrying out these state mandates is intended to promote and encourage the creation of accessory dwelling units as a means to address the need for varying and more housing options throughout the city.

This legislation would:

1. Update provisions related to ADUs, including adding a new code section (SMC 23.42.022) to contain commonly applied standards for ADU development in all zones that allow single-family homes to be constructed.
  - a. Eligible zones include: Neighborhood Residential (NR); multifamily (Lowrise (LR), Midrise (MR), and Highrise (HR); Neighborhood Commercial (NC), Seattle Mixed (various SM designations), and downtown (various zones).
  - b. Overlay provisions in the Shoreline and historic districts are maintained with no changes.
2. Allow two ADUs to be constructed per lot that contains a principal dwelling unit, which would include the option of developing two detached accessory dwelling units (DADUs).
3. Update standards including height limits, parking, and street improvements; and
4. Update provisions related to condo ownership of ADUs.

Adopting this legislation would help address the need for housing in the city.

### **Proposal and Analysis**

#### **Summary of State Mandates (HB 1337)**

The Land Use Code already partly aligns with the state mandate. The amendments described above are intended to fully comply with the explicit direction as well as the spirit and intent of

the legislature. The following list details what is needed for full compliance and what is included in the proposal.

- Must allow two ADUs per lot in zones that allow single family dwellings
- Must allow any combination of two attached and/or detached ADUs
- May not set maximum gross floor area for ADUs below 1,000 square feet
- May not limit ADU height below the allowed height of the principal units or 24 feet, whichever is smaller
- May not impose stricter design/development standards than those applied to principal units
- Must allow conversion of existing structures
- May not require ADUs to provide public street improvements
- May not interfere with condominium ownership of an ADU

The list below outlines the proposal:

1. **Location.** The permitted locations for accessory dwelling units (ADUs) would be the same as the current code. ADUs are permitted in all zones where single-family homes are permitted including: Neighborhood Residential (NR); multifamily (Lowrise (LR), Midrise (MR), and Highrise (HR); Neighborhood Commercial (NC), Seattle Mixed (various SM designations), and downtown (various zones).
2. **Number.** The existing code permits two ADUs in the NR zones with only one of the two permitted as a detached accessory dwelling unit (DADU). SDCI's proposal would change the existing limit allow two DADUs per lot in the NR zones and newly allow two ADUs where only one was permitted in all other zones to comply with the state law mandate. In all cases, this would include any combination of types of ADUs including two DADUs in one structure.
3. **Size.** The proposal for the maximum permitted size of an ADU would be the same as the current code, 1,000 square feet, for the NR zones, and increase the limit from 650 square feet to 1,000 square feet in the LR zones. The proposed 1,000 square foot allowance for ADUs includes existing exceptions for areas used for parking and storage.
4. **Conversion of existing accessory structures.** Provisions for the conversion of existing accessory structures are maintained for the NR zones and proposed to apply more broadly to all zones, which allows additions and alterations to these structures (see proposed SMC 23.42.022.G).
5. **Height.** The existing height standards do not meet the state law mandate that requires ADUs to have the same height limit as the principal dwelling unit. The following are the existing and proposed height limits:
  - **Neighborhood Residential (NR) zone.** Existing height allowance ranges from 14 to 18 feet depending on the width of the lot (see existing SMC 23.44.041) with an additional 3 to 7 feet allowed for a pitched roof. SDCI recommends updating height standards to generally allow 30 feet plus existing allowances for pitched

roofs and rooftop features. This would match the allowances for a principal dwelling unit.

- **Lowrise (LR) zone.** Existing height allowance for DADUs is 20 feet with an additional 3 feet for a pitched roof that is not a shed roof (see existing SMC 23.45.545.I.2). More specifically, the following height provisions apply to principal dwelling units in Lowrise multifamily zones and are proposed (see proposed SMC 23.42.022.D) as the height limits for ADUs as follows:
    - 30 feet in LR1 zone.
    - 30 to 40 feet in LR2 zones (existing height limit is the lower of the two listed when Mandatory Housing Affordability (MHA) does not apply);
    - 30 to 40 feet in LR3 zones outside growth areas (Growth areas are urban centers, urban villages, and station area overlay districts. Also, the existing height limit is the lower of the two listed when MHA does not apply).
    - 40 to 50 feet in LR3 zones inside growth areas (Growth areas are urban centers, urban villages, and station area overlay districts. Also, the existing height limit is the lower of the two listed when MHA does not apply).
  - **All other zones where single-family homes are permitted.** The proposal would apply the height limits for principal dwellings for zones with heights at 40 feet or under to ADUs; in zones with height limits over 40 feet, the proposal would apply the height for rowhouses and townhouses for the Lowrise 3 zone.
  - Additional allowances are proposed for pitched roofs, as well as allowances for roof-top features consistent with what is currently allowed for principal dwellings.
6. **Lot Coverage.** The proposed requirement for the maximum permitted lot coverage of an ADU in Neighborhood Residential zones would be the same as the current code for principal dwelling units and as allowed for DADUs in required rear yards. Only the NR zones use lot coverage limits as a development standard (see proposed SMC 23.42.022.E).
  7. **Setbacks.** The proposed requirement for ADUs for minimum yards and property-line setbacks, including an exception for alley lot lines, would be the same as applies to principal dwellings as well as maintaining allowances for ADUs in the NR and LR zones (see proposed 23.42.022.F).
  8. **Building Separations.** The proposed separations between buildings on the same lot are the same as existing provisions in the applicable zones ranging from 5 feet in NR zones and 10 feet in LR and other zones (see proposed SMC 23.42.022).
  9. **Parking.** State law does not allow parking to be required for ADUs near transit stops. Currently the code requires no parking for ADUs in any area or zone. SDCI recommends updating the parking standards (see proposed SMC 23.42.022.I) to make it clear that parking is not required for ADUs, consistent with existing code.
  10. **Condo Ownership.** State law mandate does not allow cities to prohibit condo ownership of ADUs. SDCI recommends updating the code (see proposed SMC 23.42.022.J) to make

it clear that condo ownership of ADUs is allowed in all situations, which is consistent with current regulations.

**11. Miscellaneous/Additional Code Clarifications.** SDCI recommends various updates and clarifications in association with the changes as outlined in this report.

### **Changes in Development standards**

*Neighborhood Residential (NR) Zones.* The base height of homes (principal structures) is 30 feet above average grade (existing SMC 23.44.012). On lots 30 feet or less in width, the base height is limited to 25 feet. The ridge of a pitched roof on a principal structure may extend up to 5 feet above the base height limit as long as the pitch of the roof is at least 4 to 12. There are exemptions for rooftop features in the existing code for things such as antennae and elevator and stair penthouses. The proposal is to apply these same standards to attached ADUs and DADUs. While attached ADUs in principal houses are allowed the same height as the house itself, DADUs are currently limited to 14 to 18 feet in height plus an additional 3 to 7 feet for roofs of different shapes.

The proposal would result in additional structure height on lots and in the required rear yards compared to existing code for DADUs in the NR zones. The additional height would range from approximately 12 to 16 feet depending on the width of the lots. The other standards in NR zones that manage lot coverage, rear yard coverage, property line setbacks, and separations between structures are largely the same as existing provisions.

*Lowrise Zones.* The existing height allowance for DADUs is 20 feet with an additional 3 feet for a pitched roof that is not a shed roof (existing SMC 23.42.022.D). The proposal would allow ADUs to be 30, 40, or 50 feet in height depending on the zone, plus 3 to 5 feet for roofs and exemptions for rooftop features. The additional height allowance would range from 20 to 30 feet depending on the zone. However, building code requirements and the practical limits on the number of floors that can be easily accessed by stairs means that ADUs are not expected to exceed the 3 to 4 floors currently experienced, even in zones where higher height limits are used. The other standards in LR zones that manage the scale of buildings: floor area ratio, which limits building area based on the size of the lot, property line setbacks, and separations between structures are largely the same as existing provisions.

*All Other Zones.* These zones include: Midrise (MR), and Highrise (HR); Neighborhood Commercial (NC), Seattle Mixed (various SM designations), and downtown (various zones). With the exception of the NC zones, which include some zones with height limits of 30 and 40 feet, all of these zones generally allow tall tower-like structures with higher densities than the housing units typically found in the Neighborhood Residential (NR) and Lowrise (LR) zones. The existing height limits for these zones range from 60 to hundreds of feet. The proposal would apply the height limits for rowhouses and townhouses for the LR3 zone, which is 40 or 50 feet depending on whether the Mandatory Housing Affordability program applies. The proposed height for ADUs in these zones is similar to what is built in these zones for ground related housing today, in the rare instances when tower-like development is not undertaken.

## **Change in the number of ADUs anticipated**

As noted in this report, Seattle is largely compliant with the state requirements now. The allowed heights for ADU construction are the main area of change. Therefore, it is not anticipated that adoption of the proposal would significantly change the number of ADUs to be built in the city. Using data compiled by SDCI since the City Council adopted legislation to promote ADU construction in 2019, ADU construction after an initial jump in activity, settled into production in the mid- to high-900 dwellings per year as seen in the results for 2022 and 2023. Due to the relatively minor changes under this proposal, ADU production is not anticipated to change significantly in the future, perhaps in the amount of up to about 5 percent, or 50 ADUs per year. This increase would be consistent with the intent of the state legislature to increase housing production in the state and City of Seattle and would help address the need for housing.

## **Role of ADUs in housing supply**

ADUs offer important opportunities for first-time homeownership and multigenerational living. Information from the City’s Office of Planning and Community Development recent report on ADUs, which includes King County Assessor data and a survey of ADU owners and occupants, found the majority of Seattle ADUs are used for long-term housing. They also found:

- Condo-ized ADUs in Seattle cost about 40% less than a single-family house on the same parcel.
  - 44% of ADUs were condo-ized in 2022, the most recent full year for which we have complete data.
- ADUs rent for about 25% less than the median for a one-bedroom apartment in Seattle.
- Approximately 12% of Seattle ADUs are occupied by family or friends rent-free.
- 12% of ADUs have a short-term rental (STR) license; Seattle already regulates STRs, including prohibiting property owners from operating more than two units as STRs.
  - According to the American Association of Retired People, high returns on STRs spur the construction of more ADUs and “these ADUs typically, over time, convert into long-term rentals or other uses.”

## **Comprehensive Plan Goals and Policies**

The proposal is consistent with relevant goals and policies in the *Seattle 2035* Comprehensive Plan including:

- **Goal H G2** - Help meet current and projected regional housing needs of all economic and demographic groups by increasing Seattle’s housing supply.

- **Goal H G5** - Make it possible for households of all income levels to live affordably in Seattle, and reduce over time the unmet housing needs of lower-income households in Seattle.
- **Policy LU 9.6** - Encourage housing in mixed-use developments in pedestrian-oriented commercial/mixed-use areas to provide additional opportunities for residents to live in neighborhoods where they can walk to transit, services, and employment.

## **Recommendation**

The Director of SDCI recommends that the City Council adopt the proposed legislation to help facilitate development of accessory dwelling units in Seattle, consistent with the Comprehensive Plan and with recently adopted state law directing the adoption of the proposed land use code amendments.