



City of Seattle

Seattle Department of Construction and Inspections

Nathan Torgelson, Director

CITY OF SEATTLE

ANALYSIS AND DECISION OF THE DIRECTOR OF THE DEPARTMENT OF CONSTRUCTION AND INSPECTIONS

SEPA Threshold Determination Accessory Dwelling Unit Compliance Legislation

- Project Sponsor:** City of Seattle Department of Construction and Inspections
- Location of Proposal:** The changes apply throughout the City, excluding Industrial Zoning Districts and Shoreline Zoning districts.
- Scope of Proposal:** A legislative action to make changes to the Land Use Code to comply with Engrossed Substitute House Bill 1337.
- No Appeal Opportunity:** Actions taken by a city to comply with the requirements of Engrossed Substitute House Bill 1337 are not subject to legal challenge under chapter 36.70A or chapter 43.21C RCW.

BACKGROUND

Proposal Description and Background

The Department of Construction and Inspections proposes to edit the text of the Land Use Code (Seattle Municipal Code Title 23) to implement Washington State Engrossed Substitute House Bill 1337 from the 2023 legislative session in which the legislature amended the Growth Management Act to address a housing affordability crisis by mandating certain minimum standards for Accessory Dwelling Units.

Specifically, HB 1337 prohibits municipalities from: establishing height limits less than 24 feet in most cases; imposing set-back requirements, yard coverage limits, tree retention mandates, restrictions on entry door locations, aesthetic requirements, or requirements for design review for accessory dwelling units that are more restrictive than those for principal units; prohibiting the sale or other conveyance of a condominium unit independently of a principal unit; requiring public street improvements as a condition of permitting ADUs; and imposing other limitations not relevant to this proposal.

Public Comment

Proposed changes to the Land Use Code require City Council approval. Public comment will be accepted during the 14-day SEPA comment period and during future Council hearings. This legislation directly implements Engrossed Substitute House Bill 1337. During the 2023 state legislative session the state legislature received public comment relevant to this proposed legislation.

ANALYSIS - OVERVIEW

The following describes the analysis conducted to determine if the proposal is likely to result in *probable significant adverse environmental impacts*. This threshold determination is based on:

- * the copy of the proposed Ordinance;
- * the information contained in the *SEPA checklist* (dated August 27, 2024);
- * information in relevant policy and regulatory documents including the Comprehensive Plan, the City's SMC Title 25 and Title 23;
- * Washington State House Bill 1337 and associated documents; and
- * the experience of SDCI analysts in reviewing similar documents and actions.

SUMMARY OF CHANGES TO THE LAND USE CODE

The following list summarizes the changes in 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). To comply with state law, SDCI's proposal would allow two DADUs per lot in the NR zones and newly allow two ADUs where only one was permitted in all other zones. 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 for DADUs are 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.
2. **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).
 3. **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).
 4. **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).
 5. **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.
 6. **Condo Ownership.** State law 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.
 7. **Miscellaneous/Additional Code Clarifications.** SDCI recommends various updates and clarifications in association with the changes as outlined in this checklist.

ELEMENTS OF THE ENVIRONMENT

Short -Term Impacts

As a non-project action, the proposal will not have any short-term adverse impact on the environment. No project specific action is proposed.

Long-Term Impacts

As a non-project action, the proposal is anticipated to have minor long-term impacts on the environment. Future development affected by this legislation will be reviewed under existing laws. Although the legislation revises ADU regulations to be consistent with

state law, other existing code requirements on development would continue to apply, as would other existing procedures and aspects of the land use code.

The primary effect of this legislation over the long term is that it could expand housing options by easing barriers to the construction and use of ADUs, which could in turn incrementally increase the total amount of residential development.

Natural Environment

The natural environment includes potential impacts to earth, air, water, plants/animals/fisheries, energy, natural resources, environmentally sensitive areas, noise, releases of toxic or hazardous materials. Adoption of the proposed legislation is not anticipated to result in adverse impacts on any of these elements of the natural environment compared to development that might occur under existing regulations; mitigation requirements provided in the existing regulation of critical areas would remain in full effect. Due to the City's existing robust ADU regulations, a significant increase in the demand for ADUs is not anticipated. It is also not anticipated that the legislation would materially increase capacity for ADUs, or vary their geographical spread. It is also not expected that any potential increase in ADU construction would materially increase the profile of impacts to earth, air, water, plants/animals/fisheries, energy, natural resources, environmentally sensitive areas, noise, or releases of toxic or hazardous materials.

Built Environment

Impacts to the built environment could include those related to land and shoreline use, height/bulk/scale, housing, and historic preservation. While there will be an increase to standards for items such as ADU height, and to floor area allowances in multifamily zones, the increases are not inconsistent with residential development standards for primary dwelling units, and thus, are not expected to cause any adverse impacts on the built environment. Below is a discussion of the relationship between the proposal and built environment:

Land Use

The proposal would not encourage uses incompatible with the City's Comprehensive Plan, Shoreline Master Program or other adopted plans. The proposal concerns changes to existing ADU regulations to be compliant with state law. Areas affected most directly are the city's NR, and Lowrise zones, which are where ADUs are

commonly built; however, the proposal does not restrict the development of ADUs in other zones where residential uses are allowed. If the change incrementally increases the intensity of activity and use patterns stemming from a greater number of residents living in an area, the impact could be experienced as a greater volume of people using services and parks or visiting businesses and stores. This could cause some congestion or cause some incremental increase in wait times to access services or park facilities or other features of a community. The proposal does not allow or encourage incompatible uses with the City's Comprehensive Plan because the locations affected are already planned for and allow ADUs and other types of residential uses.

Housing

The proposed legislation could have an incremental and minor impact on housing if the legislation encourages the construction of more ADUs than would otherwise occur. This is considered by the City to be a positive impact on housing because increasing housing supply is a policy goal for the city.

With the City experiencing a housing affordability issues, the proposal also has potential to increase supply of lower-cost housing typology that provides more affordable housing options to residents who might otherwise struggle to obtain housing. Additionally, providing housing options in expensive, high-opportunity neighborhoods will give more families access to schools, parks, and other public amenities. With these noted benefits, as well as others identified by the State Legislature, the City does not consider there to be any potential adverse impact on housing.

Height/Bulk/Scale, Shadows, and Views

Consistent with state law, there will be an increase to height allowances, and to floor area in multifamily zones. If the changes incrementally increase the production of ADUs, the impact could be experienced as somewhat larger structures in rear yards and setbacks, potentially creating a perception of additional densification.

In Neighborhood Residential zones, current height regulations for DADUs range from a base height of 14 feet to 18 feet with an additional 3 to 7 feet for a pitched roof, depending on the width of a property. Attached accessory dwelling units are currently allowed at the height of the principal dwelling unit. A notable change under the proposed legislation is that DADUs would be permitted to be constructed to the allowed height of a principal dwelling unit.

While the proposed changes change some existing standards for ADUs, the changes do not exceed what would otherwise be allowed for principal dwelling units, so they would not create development that is out of scale with the respective zone in which an ADU could be constructed. There would be no substantial change to the height/bulk/scale, shadow or view effects because standards regulating the overall size or scale of development would be consistent with any height/bulk/scale, shadow and view standards already present. As a result, ADUs would still be proportionate to surrounding development.

Historic Preservation

The proposed legislation does not alter historic review processes for structures in a Seattle historic district, or for any designated historic landmark. If the legislation incrementally encourages ADU development in the future, it is likely that some historic-aged structures and properties in a landmark district or historic landmark structures could be affected. However, since the existing procedures concerning historic preservation are maintained, any potential for impact would not be more than moderate.

Noise, Light & Glare, Environmental Health

The proposed legislation does not alter the applicability of several standards concerning noise, light and glare and environmental health. The proposal could incrementally increase noise if a greater number or density of people could live in ADUs compared to other residential development that might otherwise be built. The increment of noise would be attributed to living activities such as talking, recreating and playing music and cooking as well as entering and leaving homes. In the context of an urban environment these incremental impacts are common and customary and are not more than moderate.

Transportation

The proposal is not anticipated to result in any direct adverse impacts on transportation. The proposal could incrementally encourage the development of ADUs instead of other forms of residential use, which could cause an increased density of persons living in an area. The proposal could theoretically have a minor adverse impact on transportation if the proposal incrementally increases the likelihood of ADU development. It is not expected that the magnitude of these changes would notably affect the capacity of local roadways, bicycle networks or sidewalks when compared with the scenario that would occur in the absence of the legislation. As a result of the factors described above no

adverse impact that is more than moderate is anticipated from the proposed action on transportation.

Public Services and Utilities

Adoption of the proposal will not directly result in an increased need for public services. The proposal could incrementally increase the intensity or density of residential uses in an area if the proposed legislation incrementally increases the likelihood of ADU development. This could theoretically indirectly lead to an increased need for public services associated with residential use, such as an increased number of residents needing emergency services, or visiting nearby public facilities such as libraries and parks.

The affected areas of the proposal are places where ADUs are already an allowed use, and these areas are already well served by the full suite of utility services, including natural gas, electricity, broadband, stormwater and sewer. The degree of change compared to what might occur under existing regulations would not adversely impact the ability of existing utilities to serve anticipated development. Due to the factors discussed in this section and other information above, we determine that there would be no adverse impact that is more than moderate as a result of the proposed legislation.

DECISION – SEPA

Adoption of the proposed ordinance would have no short-term impacts on the environment and would not have more than moderate adverse long-term impacts on elements of the natural or built environment.

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirements of the State Environmental Policy Act (RCW 43.21C), including the requirement to inform the public agency decisions pursuant to SEPA.

- ☒ Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(c).
- ☐ Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(c).

Signature: __[On File]_____

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Department of Construction and Inspections

Date: September 16, 2024