



**CITY OF KIRKLAND**  
**PLANNING AND BUILDING**  
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## MEMORANDUM

**To:** Kurt Triplett, City Manager

**From:** Adam Weinstein, AICP, Planning and Building Director  
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**Date:** March 11, 2025

**Subject:** **Second Briefing on Middle Housing Code State Compliance – File No. CAM24-00561**

### RECOMMENDATION:

Staff recommends City Council receives a second briefing on middle housing code requirements to provide direction on: 1) which middle housing types should be allowed in Kirkland; 2) whether Accessory Dwelling Units (ADUs) should count towards the maximum densities allowed in middle housing projects; and 3) the timing and approach for implementing inclusionary zoning (affordable housing set-aside) requirements with this code.

### EXECUTIVE SUMMARY:

- The City of Kirkland is required to update the City's development standards to comply with State-mandated requirements for middle housing within residential zones.
- Staff has briefed Council on the first phase of proposed zoning code amendments and is providing a second briefing on March 18 to discuss in more detail middle housing types, ADU density calculations, and options for inclusionary zoning requirements.
- Kirkland currently permits three of the State's nine identified middle housing types in the City's low-density residential zones and currently permits all of these middle housing types in the City's multi-family zones.
- For low-density zones, to meet the State's minimum density requirement of four dwelling units per lot and respond to Council direction, staff recommends permitting the following six housing types in Phase 1: duplexes, triplexes, fourplexes, townhomes, stacked flats, and cottages
- For multi-family zones, staff recommends permitting the same six size types plus allowing fiveplexes and sixplexes. Staff does not recommend including courtyard apartments in either low-density or multifamily zones.

- Regarding ADUs, after receiving Council and public feedback, staff recommends including ADUs in unit density calculations. Alternatively, Council could limit ADUs to 2 units per property and not include them in density calculations, which would maintain consistency with current code.
- Inclusionary zoning must be adopted at the same time the City adopts new development allowances. Staff supports the Planning Commission's recommendation, which is to adopt modest inclusionary zoning in Phase 1 but with a delayed effective date, that would require 10% affordable housing with Area Median Income set at 50% for renter-occupied and 100% for owner-occupied. Housing units of up to 1,700-2,000 square feet would be exempt, as would all renovations and rebuilds.

## BACKGROUND:

Washington State House Bill (HB) 1110 requires cities, including Kirkland, to permit diverse "middle housing" types in residential zones to allow for increased densities and support the development of more affordable housing. On March 4, 2025, the Council was briefed on proposed zoning code amendments to comply with State requirements and considered options for inclusionary zoning.<sup>1</sup>

In response to feedback received from Council, the Planning Commission (PC), and the public, staff has prepared this memorandum presenting suggested adjustments to allowed housing types, an analysis and recommendation regarding whether ADUs should count towards State minimum requirements, and recommendations for the timing and approach to implementing inclusionary zoning.

## DISCUSSION/ANALYSIS:

The following sections will detail the proposed adjustments to the City's draft code, informed by feedback from Council, the PC, and the public on the following topics.

- Housing Typologies, outlining the State requirements for middle housing and the recommended housing types for low, medium, and high-density zones.
- ADUs and Density, exploring the role of ADUs in meeting State density targets and the implications of including ADUs in density calculations, followed by a staff recommendation.
- Inclusionary Zoning, exploring the State's authorization of locally-tailored requirements for affordable housing and the various options presented to the Council, followed by staff's recommendation.

Staff has compiled key themes expressed in public feedback on these and other topics related to the middle housing code amendments in Attachment 1.

### Housing Typologies

State law mandates that Kirkland allow at least six out of nine identified middle housing types in all residential zones to increase affordability and density, addressing a historical lack of these options. The State's nine identified middle housing types are:

- Duplexes
- Triplexes
- Fourplexes
- Fiveplexes

<sup>1</sup> [www.kirklandwa.gov/files/sharedassets/public/v/1/city-council/agenda-documents/2025/march-4-2025/9b\\_business.pdf](http://www.kirklandwa.gov/files/sharedassets/public/v/1/city-council/agenda-documents/2025/march-4-2025/9b_business.pdf)

- Sixplexes
- Townhomes
- Stacked flats
- Cottages
- Courtyard apartments.

These housing types are depicted in Figure 1 on the next page. Kirkland currently permits three of these types in low-density residential zones and currently permits all of these middle housing types in the City's multi-family zones.

The earlier version of the draft code would have allowed all nine types, relying on existing zoning to regulate size and density maximums. The rationale for this is that the defined housing typologies have very little to do with the amount of density that ultimately occurs in a middle housing development; instead, that is dictated by the density allowances in the Kirkland Zoning Code. Staff initially recommended that all nine housing types be allowed to enable developers to pick housing types that are neighborhood context-sensitive and result in the best design outcome. That said, if Council desires to limit the number of middle housing types at this time, staff believes that a smaller subset of housing options would still result in good design outcomes.

*Figure 1: Image of nine middle housing building types (source: The Urbanist). Note: Not all typologies as shown may be compliant with maximum zoned densities and massing restrictions (i.e., maximums on floor area ratio, lot coverage, and building height).*



#### Planning Commission and City Council Feedback on Housing Types

The PC, at its February 27 meeting, cautioned against exceeding State mandates and

emphasized the need for careful consideration when assessing where to allow differing housing types throughout the City. On March 4, the City Council echoed these concerns, expressing reservations about the draft code's "one-size-fits-all" approach and agreeing with the PC's interest in location-based flexibility. Council requested a focused approach for Phase 1, prioritizing a subset of six housing types from the nine mandated by the State. Council directed staff to identify the six types that best integrate with the City's existing code framework.

### Staff Recommendations

Based on feedback from Council and the PC, staff recommends the following adjustments to the allowed housing types in the draft middle housing code.

#### *Low-Density Zones*

To meet the State's minimum density requirement of four dwelling units per lot in low-density zones, staff recommends permitting the following six housing types: duplexes, triplexes, fourplexes, townhomes, stacked flats, and cottages. These selections are either currently permitted under existing code or align with the State's base density requirements. These types can also be combined to achieve six units per lot for properties within a quarter-mile of a major transit stop. For instance, townhomes can be built in configurations of two units or more. This staff recommendation would exclude fiveplexes, sixplexes, and courtyard apartments in low-density zones.

#### *Multifamily (Medium and High-Density) Zones*

In multifamily zones, staff recommends allowing the same six housing types that are permitted in low-density zones and also recommends allowing fiveplexes and sixplexes. This will enable denser housing options appropriate for these more intensively developed areas. But Council could also limit the housing types to the same six as in the low-density zones.

#### *Courtyard Apartments*

Staff does not recommend including courtyard apartments in either low-density or multifamily zones. Cottage developments already provide clustered housing options, and the open space requirements associated with courtyard apartments may pose development constraints that make development of this housing type infeasible, particularly within multifamily zones.

### **Accessory Dwelling Units and Density**

ADUs are a valuable tool to address the housing shortage, allow for efficient land use, provide flexible housing options, and promote more sustainable and adaptable communities. Therefore, any changes to the City's regulations on ADUs that reduce current allowances should be considered carefully. Below is an analysis of State requirements and how ADUs work within these requirements. This is followed by a staff recommendation for the draft code.

#### ADUs and Density: Options and Recommendations

State law does not classify ADUs as one of the nine mandated housing types, six of which cities must permit. However, cities can count ADUs towards State-required minimum density targets.

Currently, the City's middle housing regulations allow up to two Attached ADUs (AADUs) per development (e.g., in cottages, duplexes, triplexes), excluding them from density calculations—a practice mirroring ADU treatment in single-family zones. The first version of the draft code amendments (presented at the February 27 PC meeting and the March 4 Council meeting) proposed increasing the AADU allowance to one per middle housing unit (with no maximum for the site as a whole), while still excluding them from density calculations.

Despite allowing ADUs in existing middle housing types since the last major code update in

2020, staff has rarely encountered development projects utilizing that allowance. Nevertheless, requiring ADUs to count towards the State's density requirement would represent a shift from the City's current policy.

### Staff Recommendations

After receiving Council and public feedback, staff recommends the following adjustments to the draft code (applicable to middle housing projects):

- **Include ADUs in Unit Density Calculations:** This aligns with the State's allowance for ADUs to be counted towards meeting minimum density thresholds; or,
- **Limit ADUs to Two Units Per Property (and do not include in density calculation):** to maintain consistency with current code.

These adjustments would preserve ADU accessibility in low-density areas, which stand to benefit most from this housing option. Additionally, the two-unit limit aligns with existing codes. Finally, the inclusion of ADUs in density calculations could be re-evaluated during Phase 2, as the City considers new inclusionary requirements.

### **Inclusionary Zoning: State Requirements, City Options, and Recommendations**

Inclusionary zoning must generally be adopted at the same time a City adopts new development allowances but can have a delayed effective date. Inclusionary zoning is a vital tool for cities to address housing needs by offering development incentives in exchange for affordable housing. Particularly in high-cost real estate markets where the price of new housing is out of reach for most economic segments of the population, inclusionary requirements can ensure that some of the economic gains from rising real estate values help to create more affordable options for low- and moderate-income families. In the context of middle housing and low-density housing types, inclusionary policies are particularly important to expanding access to homeownership. Such policies are best crafted based on local economic analysis to ensure requirements are balanced across all housing types and new housing construction is not overly constrained. In the context of middle housing, this includes careful consideration of exemptions and calibration of fee-in-lieu rates.

### Legal Basis

State law (RCW 36.70A.540) provides authority for a local government to enact inclusionary zoning when it has "increased residential development capacity through zoning changes, bonus densities, height and bulk increases, parking reductions, or other regulatory changes or other incentives." Phase 1 and 2 of the City's middle housing implementation would constitute increased residential development capacity, meaning that some degree of inclusionary zoning could be required. Staff's recommended approach, consistent with PC guidance, is to adopt modest inclusionary requirements as part of Phase 1 and build on those in Phase 2 when additional development allowances are considered. This approach would ensure some new inclusionary requirements are in place if Council does not proceed with Phase 2 in the near term. If the City does not implement a Phase 2 and doesn't adopt inclusionary zoning now, the City would be left with only the current inclusionary zoning until some form of upzoning occurred in the future. Alternately, the Council could defer enacting any inclusionary zoning to Phase 2. To provide the community with advance notice, Council could note in the recitals for the Phase 1 ordinance that Council intends to use the Phase 2 development capacity to adopt inclusionary zoning during that phase.

### Current Inclusionary Zoning in Kirkland

The City of Kirkland has a successful history of implementing inclusionary zoning when increasing density and other development allowances, including application to middle-density



zones where smaller scale projects have been built. Such policies require that housing developments of four or more new units set aside at least 10 percent of those units to be affordable to households with incomes of 80 percent or 100 percent of area median income (AMI), depending on the zone. When the requirement results in a fraction lower than 0.66, the developer may pay a fee in lieu of the fractional unit. The policy has yielded meaningful results in medium-density zones, including:

- 19 on-site affordable owner-occupied homes with long-term affordability
- More than \$5.1 million paid as fees in lieu of an additional 18.1 affordable units
  - These funds have been invested directly in local affordable housing projects and through the ARCH Trust Fund, providing a substantial increase in the City's funding for affordable housing

The expansion of middle housing densities across the City's single-family zones offers an opportunity to extend the impact of the City's inclusionary policies across a larger swath of Kirkland's residential neighborhoods. Recent sales data demonstrates that new single-family and middle housing built in these areas is out of reach for the vast majority of residents. Without an inclusionary policy, future growth in these neighborhoods is unlikely to contribute much to the overwhelming need for more affordable housing.

*Table 1: Sales of new homes in Kirkland between March 2024-March 2025.  
Note: these counts exclude income restricted homes.*

Housing Type	Count	Median of square feet	Median of price	Median of \$/square feet
Attached Accessory Dwelling Units (AADU)	1	1,328	\$1,100,000	\$828
Cottage	6	1,600	\$1,599,000	\$1,000
Detached Accessory Dwelling Unit (DADU)	16	1,313	\$1,175,000	\$966
Detached Condo	63	1,764	\$1,547,950	\$884
Duplex, Condo	9	2,665	\$2,050,000	\$952
Primary Residence (sold separate from ADU)	11	3,030	\$2,560,000	\$795
Primary Residence + AADU	1	3,704	\$2,399,000	\$648
Single-family Residence (SFR)	83	4,039	\$3,098,000	\$806
Primary Residence + Carriage Unit	1	4,921	\$6,275,000	\$1,275
Primary Residence + DADU	3	3,890	\$3,450,000	\$921
Townhouse	3	3,000	\$2,215,000	\$738
Townhouse (condo)	15	2,202	\$1,300,000	\$718

### State Inclusionary Zoning Mandates

State law mandates that cities facilitate affordable housing in single-family residential areas by granting increased density for middle housing projects that include affordable units. In most

areas, this requires allowing up to six units per lot, if two units are designated as affordable: renter-occupied at 60% Area Median Income (AMI) and owner-occupied at 80% AMI. An exception to the affordable housing requirements exists for properties near major transit stops, where the final two units need not be affordable (i.e., all six units could be market-rate). Kirkland's only current major transit stop is the Sound Transit Stride Station at I-405 and NE 85th Street. Exceptions to State-mandated affordable housing requirements would also apply to future major transit stops along the K-line. Despite these State requirements, cities can impose different affordable housing inclusionary requirements that still allow for the development of six units per lot. Different requirements may be useful because economic modeling conducted by ARCH suggests that developers are unlikely to build six units per lot if two of those units (33 percent of total units) must be affordable. This extremely high affordable housing set-aside would make six-unit projects in most of the City largely infeasible. A more modest inclusionary requirement or fee-in-lieu set by the City could encourage developers to build more than four units, providing additional housing supply.

### City Inclusionary Options and Feedback

Staff presented various inclusionary zoning options to Council on March 4, including: the State requirement (Option 1), expanding existing City inclusionary requirements to single-family areas (Option 2), and applying requirements from the first unit onward (Options 3 & 4), all while exploring exemptions for units under 1,000 square feet. These options are detailed in Table 2.

*Table 2: State inclusionary requirement and staff's inclusionary options presented at the March 4 City Council meeting.*

	<b>Option 1: State Req.</b>	<b>Option 2: Apply Existing KZC 112 Req. (4+ unit)</b>	<b>Option 3: Apply KZC 112 Req. (1+ unit)</b>	<b>Option 4: Apply KZC 112 Req. (1+ unit / modified AMI)</b>
<b>Minimum Unit Application</b>	5+ (2 affordable up to 6 units)	4+	1+	1+
<b>Affordable Requirement</b>	60% AMI (renter-occupied)  80% AMI (owner-occupied)	10% Affordable at: • 50% AMI (renter-occupied)  • 100% AMI (owner-occupied)	10% Affordable at: • 50% AMI (renter-occupied)  • 80% AMI (owner-occupied)	10% Affordable at: • 50% AMI (renter-occupied)  • 100% AMI (owner-occupied)
<b>Optional Size Exemption (Units ≤ 1,000 sq. ft)</b>	N/A	Yes	Yes	Yes

The PC recommended exploring Options 3 and 4 further, focusing on:

- Include smaller projects (starting at 1 unit);
- Include incentives (regulations that make it easier to develop middle housing);
- Provide clear inclusionary requirements;
- Exempt smaller housing units from requirements;
- Ensure that requirements do not overly constrain new projects; and
- Address existing unvested projects through vesting or delay of implementation.

The PC guidance would result in a modest inclusionary requirement adopted as part of Phase 1 (but possibly not going into effect until adoption of the Phase 2 amendments) that would look something like the following:

- *Minimum Unit Application:* 1 unit or more.
- *Affordable Requirement:* 10 percent affordable at 50 percent AMI (rental) or 100 percent

AMI (owner-occupied).

- **Size Exemption:** Housing units of up to 1,700-2,000 square feet would be exempt, meaning that all middle housing would be exempt from inclusionary requirements.
- **Renovations and Rebuilds Exemption:** Would be completely exempt from inclusionary requirements.
- **Delayed Effective Date:** These new inclusionary requirements would be adopted with Phase 1 but could go into effect at a later date in order to allow existing, in-progress projects to avoid new inclusionary requirements.

This approach would have no impact on the cost or supply of middle housing projects. In addition, renovation and rebuild projects would be exempt from inclusionary requirements, meaning that existing homeowners would be unaffected by the new regulations. Current homeowners could benefit from increased density allowances if they wish to build additional housing on their properties. Large, single-family houses would be impacted and could cost more to develop. Some or all of those costs could be passed on to the consumer, depending on the strength of the housing market. However, this higher cost may incentivize developers to build middle housing rather than single-family homes. In general, this approach would generate a modest amount of in-lieu fees from single-family development, which would be used for the creation or preservation of affordable housing. In enacting a very modest and low-impact inclusionary program in the lower-density zones, this approach would also help create a fairer and more consistent inclusionary program in Kirkland, because inclusionary zoning currently is primarily focused on apartment projects. It is expected that this approach would provide a foundation for modified inclusionary zoning that could be enacted as part of the Phase 2 code amendments.

Council feedback on the inclusionary zoning options emphasized concerns about hindering middle housing production, the condensed timeline for Phase 1 implementation (in order to comply with State deadlines), and the potential for excessive costs to developers. Council expressed a preference for deferring decisions on new affordable housing requirements to Phase 2, although there was a desire to signal early as part of the Phase 1 amendments that Council ultimately intends to adopt inclusionary zoning with Phase 2.

The revised options for Council to consider are shown in the following table.

*Table 3: Revised inclusionary requirement options based on PC and Council feedback.*

	<b>Option 1: State Req.</b>	<b>Option 2: (1+ unit with delayed effective date)</b>	<b>Option 3: Defer all action to Phase 2</b>
<b>Minimum Unit Application</b>	5+ (2 affordable up to 6 units)	1+	Defer inclusionary requirements to Phase 2 for integration with an optimized middle housing code.
<b>Affordable Requirement</b>	60% AMI (renter-occupied)  80% AMI (owner-occupied)	10% Affordable at: • 50% AMI (renter-occupied)  • 100% AMI (owner-occupied)	
<b>Option: Size Exemption (Units ≤ 1,700 – 2,000 sq. ft)</b>	N/A	Yes	
<b>Option: Exempt retained units.</b>	N/A	Yes	
<b>Option: Does not apply added sq. ft. on existing units.</b>	N/A	Yes	



### Staff Recommendation

Staff has identified the following options for Council consideration:

1. Adopt the State inclusionary requirement with Phase 1 (two units in a six-unit project must be affordable).
2. Develop and adopt the PC guidance option described above.
3. Defer adoption of inclusionary requirements to Phase 2.<sup>2</sup>

Staff recommends pursuing the PC guidance option presented above (Option 2), which would address several of Council's concerns expressed on March 4. This option would not hinder middle housing production or add any additional costs to middle housing projects, is very modest in scale, and can be built upon and modified in Phase 2. In addition, it is responsive to developer concerns about new regulations affecting in-progress projects. Similarly, it addresses homeowner concerns by completely exempting renovations and rebuilds.

### **NEXT STEPS:**

Staff will incorporate the Council's feedback on the draft code amendments and affordable housing options discussed at its March 18, 2025 meeting. Additionally, staff will provide a future briefing on these and related code amendments for other zoning code sections to align City rules with State requirements on middle housing, parking standards, and accessory dwelling units, tentatively scheduled for April. This future briefing will also provide responses to Council questions regarding parking standards.

### **ATTACHMENTS:**

Attachment 1. Public Feedback Themes

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<sup>2</sup> Deferral of required inclusionary zoning would occur in future phase (Phase 2) of code amendments as identified in the 2025 – 2027 Planning Work Plan.

## Public Feedback Themes on Phase 1 Middle Housing Code Amendments

- **Support for Phasing Code Updates to Implement State Requirements and Scope of Phase 1 Code Amendments for State Compliance**

Most community members submitting comments acknowledge that the City must amend the code to implement State requirements, while also expressing:

- Emphasis on adhering to state law without exceeding it.
- Kirkland is going far beyond the state's requirement to allow 6 of 9 middle housing types.
- Preference for a "moderate path" and a "moderate pace," and concerns that the City is ignoring residents' calls for moderation.
- Emphasis on the need to encourage moderate middle housing production.
- The need to understand the impacts of policies on neighborhoods, infrastructure, and taxes.
- Concern about the drastic changes to residential neighborhoods, with lots becoming filled with 6-12 units, including concerns about how parking requirements will impact on-site and off-site parking.
- Need for flexibility in housing types to allow easier tree retention.
- Desire that the City prioritize "state-mandated compliance first before taking on unnecessary additions."

- **Accessory Dwelling Units (ADUs)**

Community feedback related to ADUs varies, with some people advocating for more flexibility, while others express strong concerns that a flexible approach will result in a proliferation of ADUs in lower-density areas. Specific comments included, but were not limited to:

- Requests to allow for more flexibility regarding ADUs.
- Requests for the ability to include garages in ADUs and for the current ADU size limits to be reviewed.
- Strong objections to allowing one Attached ADU (AADU) per middle housing unit without counting it towards density, highlighting that when combined, this could result in 12 units per lot, thereby tripling the state mandate.

- **Affordable Housing Regulations**

Similar to comments related to middle housing density, many commenters expressed a need for more affordable housing in the City and acknowledge the State requirements for affordable housing. However, abundant community input has been received that includes comments related to what the City should and should not adopt in Phase 1 and

how the market might respond to any new requirements. Themes of specific comments include:

- Strong opposition to extending inclusionary zoning to developments with fewer than four units in Phase 1, as it exceeds state requirements.
- Fear inclusionary requirements in low-density areas will discourage smaller middle housing developments, leading to more single-family homes.
- Belief that developers will opt to pay a fee-in-lieu, potentially favoring single, higher-priced units.
- Strong opposition to affordable housing fees on single-family homes.
- Concerns about the feasibility, predictability, and fairness of inclusionary zoning and in-lieu fees.
- Disagreements with the ARCH report's assumptions.
- Concerns that these new regulations will slow down housing production and that more barriers to middle housing development should not be enacted.
- Requests for predictable fees.
- Concern that requirements would increase building costs and exacerbate the affordability crisis.
- Concerns that requirements will accelerate the trend of developers replacing single homes with multiple market-rate units.

- **Comments on Meeting Materials and Scope Clarity**

Staff and Planning Commission have also received comments from community members that are more focused on the formatting and clarity of meeting materials, with suggestions for making it easier for people to understand the proposal. Comment themes included:

- Stressing the need for clear communication that Phase 1 is solely for state compliance.
- Calling for clearer explanations of technical sections in future communications.
- Requesting a “clean bill” and clarity of what is being considered in code amendments.