

# TIER 3 CITIES MIDDLE HOUSING MODEL ORDINANCE

January 23, 2024

The Tier 3 provisions of this Middle Housing Model Ordinance apply to cities with a population of less than 25,000, that are within a contiguous urban growth area with the largest city in a county with a population of more than 275,000, based on 2020 Office of Financial Management population estimates.

The Department of Commerce’s authority to publish this Model Ordinance is provided in [RCW 36.70A.636\(2\)\(a\)](#) and (b), which state:

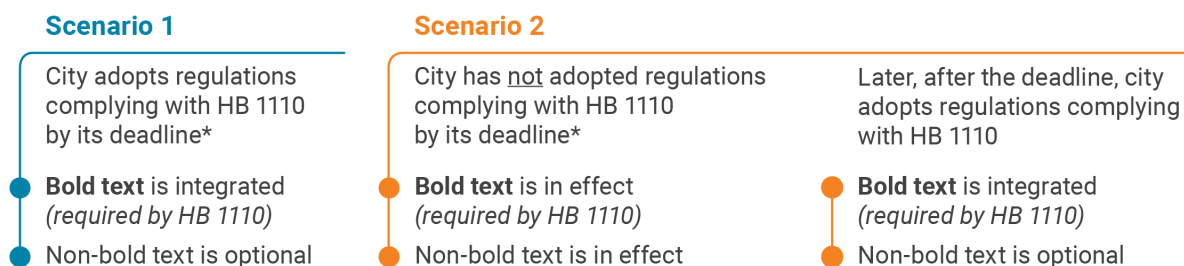
*“(2) (a) The department shall publish model middle housing ordinances no later than six months following July 23, 2023.*

*(b) In any city subject to RCW 36.70A.635 that has not passed ordinances, regulations, or other official controls within the time frames provided under RCW 36.70A.635(11), the model ordinance supersedes, preempts, and invalidates local development regulations until the city takes all actions necessary to implement RCW 36.70A.635.”*

The Model Ordinances have two text styles meant to address HB 1110 implementation:

- **Bold text in the Model Ordinances** represents provisions from [RCW 36.70A.635](#) that cities subject to the law must implement.
- The non-bold text are standards that are optional for a city to use. Cities may choose to revise these optional standards, as well as adopt all, some, or none of the optional provisions. However, the non-bold text will apply to a city that does not pass 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. Certain optional standards are included in the Model Ordinance for this specific reason, to allow a city to have basic standards for certain middle housing types (such as cottage housing) should the Model Ordinance temporarily be in effect.

The diagram below summarizes the scenarios in which this Model Ordinance applies.



\* Deadline is six months after a city’s next periodic comprehensive plan update required by RCW 36.70A.130

**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 (chapter 332, Laws of 2023) related to middle housing; and

WHEREAS, in passing E2SHB 1110 (chapter 332, Laws of 2023) 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 (chapter 254, Laws of 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, 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 ES2HB 1110; (chapter 332, Laws of 2023) 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 ES2HB 1110 (chapter 332, Laws of 2023) 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, and other standards for middle housing developed on all lots zoned predominantly for residential use.
- B. If necessary, supersede, preempt, and invalidate the city’s development regulations that conflict with this ordinance until such time the city takes all actions necessary to implement RCW 36.70A.635, if the city has not taken action necessary to implement RCW 36.70A.635 by the time frame required by RCW 36.70A.635(11). The model ordinance shall remain in effect until the city has taken all necessary actions to implement RCW 36.70A.635.**

## Section 2 – 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 city 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.**
- G. **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.**
- H. **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 3 – Definitions

The following definitions shall apply for the purposes of this ordinance, notwithstanding other definitions in the city's 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 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.**

**“All lots zoned predominantly for residential use” means all zoning districts in which residential dwellings are the predominant use. 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 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.”**

**“Development regulations” means any controls placed on development or land use activities by the city, including, but not limited to, zoning ordinances, official controls, subdivision ordinances, and binding site plan ordinances.**

**“Duplex” means a residential building with two attached dwelling units.**

**“Fiveplex” means a residential building with five attached dwelling units.**

**“Fourplex” means a residential building with four attached dwelling units.**

**“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.**

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

**“Sixplex” means a residential building 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.**

“Tier 3 city” means a city with a population of less than 25,000, that is within a contiguous urban growth area with the largest city in a county with a population of more than 275,000, based on 2020 Office of Financial Management population estimates.

“Triplex” means a residential building 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 dwelling units allowed on a lot, regardless of lot size.

## 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 do 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.



## Section 5 – 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.

## Section 6 – Middle Housing Types Allowed

**Subject to the requirements of RCW 36.70A.635(5)**, on all lots zoned predominantly for residential use the following uses are permitted by-right, unless zoning permitting higher densities or intensities than those listed Section 5 of this ordinance applies:

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

# Section 7 – Dimensional Standards

## A. Applicability.

1. **The city 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. This includes, but is not limited to, the following types of dimensional standards: building height, setbacks, lot coverage, floor area ratio, lot area and lot dimension, impervious surface, open space, and landscaped area standards.**
2. Dimensional standards invalidated by this section are replaced by the dimensional standards provided in this section.

**B. Density. Lot area requirements and unit density shall comply with Section 5 of this ordinance.** Other restrictions, such as minimum lot area per unit, or maximum number of housing units per acre, are invalid in relationship to the minimum number of units per lot that the city must allow under RCW 36.70A.635.

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

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

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

## E. Minimum setbacks.

1. The minimum required setbacks are as follows. Minimum setbacks from property lines for middle housing buildings 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. Street or front, garage door (where accessed from a street): 20 feet.
- c. Side street: Five feet.
- d. Side interior: Five feet, and zero feet for attached units internal to the development.
- e. Rear, without an alley: 20 feet.
- f. Rear alley: Zero feet, and three feet for a garage door where it is accessed from the alley.

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. Required parking spaces may occupy required setbacks.
- d. Other setback projections shall be regulated and measured in accordance with the city's development regulations.

F. Maximum lot coverage.

1. The maximum lot coverage for middle housing is 40 percent. A maximum lot coverage limit for middle housing of less than 40 percent is invalid.
2. Unless the city has a different pre-existing approach to measuring lot coverage, lot coverage is measured as follows: the total area of a lot covered by buildings or structures divided by the total amount of site area minus any required or planned dedication of public rights-of-way and/or designation of private rights-of-way. Lot coverage does not include building overhangs such as roof eaves, bay windows, or balconies and it does not include paved surfaces.

# Section 8 – Design Standards

## A. Applicability.

1. These standards apply to all middle housing types, except for the specific cottage housing and courtyard apartment standards which apply to only those types.
2. For the purposes of this section, a “street” refers to any public or private street and does not include alleys.
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. Purpose. The purpose of these standards is to:

1. Promote compatibility of middle housing with other residential uses, including single-family houses.
2. De-emphasize garages and driveways as major visual elements along the street.
3. Provide clear and accessible pedestrian routes between buildings and streets.
4. Implement the definitions of cottage housing and courtyard apartments provided by state law.

## C. Design review. **The process used for reviewing compliance with middle housing design standards shall be administrative design review.**

## D. Cottage housing.

1. Cottage size. Cottages shall each have no more than 1,600 square feet of net floor area, excluding attached garages.
2. **Open space. Open space shall be provided equal to a minimum 20 percent of the lot size. This may include common open space, private open space, setbacks, critical areas, and other open space.**
3. Common open space.
  - a. **At least one outdoor common open space is required.**
  - b. Common open space shall be provided equal to a minimum of 300 square feet per cottage. Each common open space shall have a minimum dimension of 15 feet on any side.
  - c. Orientation. Common open space shall be bordered by cottages on at least two sides. At least half of cottage units in the development shall abut a common open space and have the primary entrance facing the common open space.
  - d. Parking areas and vehicular areas shall not qualify as common open space.
  - e. Critical areas and their buffers, including steep slopes, shall not qualify as common open space.
4. Entries. All cottages shall feature a roofed porch at least 60 square feet in size with a minimum dimension of five feet on any side facing the street and/or common open space.

5. Community building.
  - a. A cottage housing development shall contain no more than 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 off-street parking requirement.

E. Courtyard apartments.

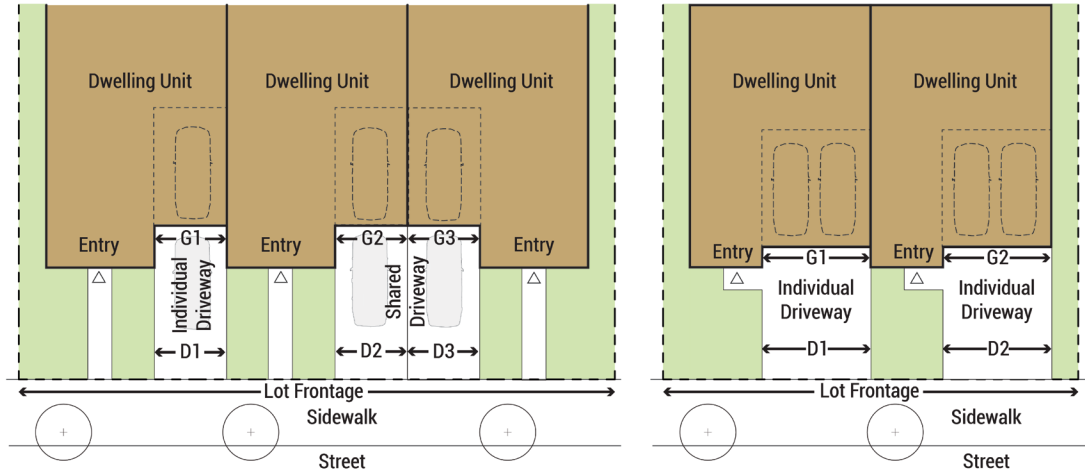
1. Common open space.
  - a. **At least one outdoor common open space is required.**
  - b. **Common open space shall be bordered by dwelling units on two or three sides.**
  - c. Common open space shall be a minimum dimension of 15 feet on any side.
  - d. Parking areas and vehicular areas do not qualify as a common open space.
2. 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.

F. Pedestrian access. A paved pedestrian connection at least three feet wide 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.

G. Vehicle access, carports, garages, and driveways.

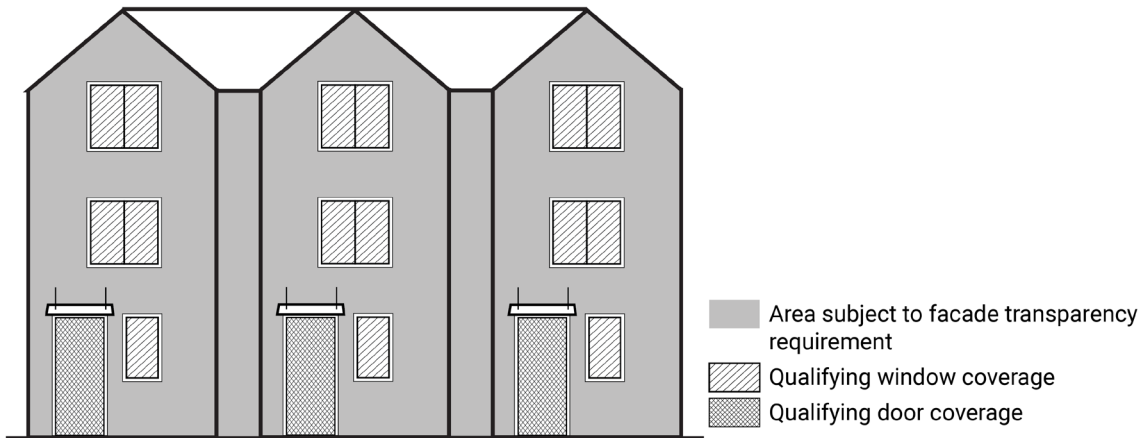
1. For lots abutting an improved alley that meets the city's standard for width, vehicular access shall be taken from the alley. Lots without access to an improved alley and taking vehicular access from a street shall meet the other standards of subsection (G)(2) through (5) below.
2. Garages, driveways, and off-street parking areas shall not be located between a building and a street, except when either of the following conditions are met:
  - a. The combined width of all garages, driveways, and off-street parking 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; or
  - b. The garage, driveway, or off-street parking area is separated from the street property line by a dwelling; or
  - c. The garage, driveway, or off-street parking is located more than 100 feet from a street.
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.



$\frac{(G1+G2+G3)}{\text{Lot Frontage}}$  must be no more than 60%  
 (D1+D2+D3) must not exceed 32 feet per frontage  
 Individual driveway width (any "D#") shall not exceed 20 feet

- H. Landscaping. Development regulations for landscaping and tree standards for middle housing shall be equally or less restrictive than those required for detached single-family residences.
- I. Entries. 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.
- J. Windows and doors. A minimum of 15 percent of the area of the street-facing façade elevation shall include windows or doors. Facades separated from the street by a dwelling or located more than 100 feet from a street are exempt from this standard.



# Section 9 – Parking Standards

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

1. No off-street parking shall be required within one-half mile walking distance of a major transit stop.
2. A maximum of one off-street parking space per unit shall be required on lots smaller than 6,000 square feet, before any zero lot line subdivisions or lot splits.
3. A maximum of two off-street parking spaces per unit shall be required on lots greater than 6,000 square feet before any zero lot line subdivisions or lot splits.

## B. The provisions of subsection (A) do not apply to:

1. Portions of the city for which the Department of Commerce has certified a parking study in accordance with RCW 36.70A.635(7)(a), in which case off-street parking requirement shall be as provided in the certification from the Department of Commerce.
2. 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).



## Section 10 – 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 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.
  2. When a fire apparatus road is not within 150 feet of all structures on the lot, subsection (B)(1) does not apply and one of the following conditions must be met:
    - a. The building is equipped throughout with an approved automatic sprinkler system meeting International Fire Code requirements.
    - b. No more than two units are accessed via the same private driveway.
    - c. 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.
  3. Private driveways shall not be required to be wider than 12 feet and shall not be required to have unobstructed vertical clearance more 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 sight distance requirements.
  4. 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 sight distance requirements.
  5. This subsection is not intended to limit the applicability of the adopted fire code, except as otherwise presented in this subsection.

## Section 11 – 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 12 – 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 13 – 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: