



MEDINA CITY COUNCIL

Monday, February 27, 2023

5:00 PM – REGULAR MEETING

AGENDA

VISION STATEMENT

Medina is a family-friendly, diverse and inclusive community on the shores of Lake Washington. With parks and open spaces, Medina is a quiet and safe small city, with active and highly-engaged residents. Medina honors its heritage while preserving its natural environment and resources for current and future generations.

MISSION STATEMENT

Ensure efficient delivery of quality public services, act as responsible stewards of Medina's financial and natural resources, celebrate diversity, leverage local talent, and promote the safety, health, and quality of life of those who live, work, and play in Medina.



MEDINA, WASHINGTON

MEDINA CITY COUNCIL REGULAR MEETING

Hybrid - Virtual/In-Person
Monday, February 27, 2023 – 5:00 PM

AGENDA

MAYOR | Jessica Rossman

DEPUTY MAYOR | Randy Reeves

COUNCIL MEMBERS | Cynthia F. Adkins, Jennifer Garone, Harini Gokul, Mac Johnston, Bob Zook

CITY MANAGER | Stephen R. Burns

CITY ATTORNEY | Scott Missall

CITY CLERK | Aimee Kellerman

Virtual Meeting Participation

The Medina City Council has moved to hybrid meetings, offering both in-person and online meeting participation. In accordance with the direction from Governor Inslee, masking and social distancing will be optional for those participating in person. Individuals who are participating online and wish to speak live must register their request with the City Clerk at 425.233.6411 or email akellerman@medina-wa.gov and leave a message before 2PM on the day of the February 27 Council meeting. Please reference Public Comments for February 27th Council Meeting on your correspondence. The City Clerk will call on you by name or telephone number when it is your turn to speak. You will be allotted 3 minutes for your comment and will be asked to stop when you reach the 3 minute limit. The city will also accept written comments. Any written comments must be submitted by 2 PM on the day of the February 27th Council meeting to the City Clerk at akellerman@medina-wa.gov.

[Join Zoom Meeting](#)

Meeting ID: 832 5227 3105

Passcode: 589036

One tap mobile

+12532158782,,83252273105# US (Tacoma)

1. REGULAR MEETING - CALL TO ORDER / ROLL CALL

Council Members Adkins, Garone, Gokul, Johnston, Reeves, Rossman and Zook

2. APPROVAL OF MEETING AGENDA

3. PUBLIC COMMENT PERIOD

Individuals wishing to speak live during the Virtual City Council meeting will need to register their request with the City Clerk at 425.233.6411 or email akellerman@medina-wa.gov and leave a message **before 2PM** on the day of the February 27th Council

meeting. Please reference Public Comments for February 27 Council Meeting on your correspondence. The City Clerk will call on you by name or telephone number when it is your turn to speak. You will be allotted 3 minutes for your comment and will be asked to stop when you reach the 3 minute limit.

4. **PRESENTATIONS**

None.

5. **CITY MANAGER'S REPORT**

None.

6. **CONSENT AGENDA**

None.

7. **LEGISLATIVE HEARING**

None.

8. **PUBLIC HEARING**

None.

9. **CITY BUSINESS**

9.1 Development Services Enterprise Budget Discussion

Recommendation: Discussion and direction.

Staff Contact: Steven R. Wilcox, Director of Development Services and Ryan Wagner, Finance Director

Time Estimate: 60 minutes

9.2 Pending Legislative Session Bills

Recommendation: Discussion and direction.

Staff Contact: Stephanie Keyser, Planning Manager

Time Estimate: 15 minutes

10. **REQUESTS FOR FUTURE AGENDA ITEMS AND COUNCIL ROUND TABLE**

11. **PUBLIC COMMENT**

Comment period is limited to 10 minutes. Speaker comments limited to one minute per person.

12. **EXECUTIVE SESSION**

RCW 42.30.110 (1)(i)

To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

Time Estimate: 45 minutes

Council may take action following the Executive Session.

13. **ADJOURNMENT**

Next regular City Council Meeting: Monday, March 13, 2023 at 5 PM.

ADDITIONAL INFORMATION

Public documents related to items on the open session portion of this agenda, which are distributed to the City Council less than 72 hours prior to the meeting, shall be available for public inspection at the time the documents are distributed to the Council. Documents are available for inspection at the City Clerk's office located in Medina City Hall.

The agenda items are accessible on the City's website at www.medina-wa.gov on Thursdays or Fridays prior to the Regular City Council Meeting.

In compliance with the Americans with Disabilities Act, if you need a disability-related modification or accommodation, including auxiliary aids or services, to participate in this meeting, please contact the City Clerk's Office at (425) 233-6410 at least 48 hours prior to the meeting.

UPCOMING MEETINGS

Monday, March 13, 2023 - City Council Meeting (5:00 PM)
Monday, March 27, 2023 - City Council Meeting (5:00 PM)
Monday, April 10, 2023 - City Council Meeting (5:00 PM)
Monday, April 24, 2023 - City Council Meeting (5:00 PM)
Monday, May 8, 2023 - City Council Meeting (5:00 PM)
Monday, May 22, 2023 - City Council Meeting (5:00 PM)
Monday, May 29, 2023 - Memorial Day - CITY HALL CLOSED
Monday, June 12, 2023 - City Council Meeting (5:00 PM)
Monday, June 26, 2023 - City Council Meeting (5:00 PM)
Tuesday, July 4, 2023 - Independence Day - City Hall Closed
Monday, July 10, 2023 - City Council Meeting (5:00 PM)
Monday, July 24, 2023 - City Council Meeting (5:00 PM)
Monday, August 14, 2023 - City Council Meeting - **Dark No Meeting**
Monday, August 28, 2023 - City Council Meeting - **Dark No Meeting**
Monday, September 4, 2023 - Labor Day - City Hall Closed
Monday, September 11, 2023 - City Council Meeting (5:00 PM)
Monday, September 25, 2023 - City Council Meeting (5:00 PM)
Monday, October 9, 2023 - City Council Meeting (5:00 PM)

Monday, October 23, 2023 - City Council Meeting (5:00 PM)

Friday, November 10, 2023 - Veterans Day - City Hall Closed

Monday, November 13, 2023 - City Council Meeting (5:00 PM)

Thursday, November 23, 2023 - Thanksgiving Holiday - City Hall Closed

Friday, November 24, 2023 - Day After Thanksgiving Holiday - City Hall Closed

Monday, November 27, 2023 - City Council Meeting (5:00 PM)

Monday, December 11, 2023 - City Council Meeting (5:00 PM)

Monday, December 25, 2023 - Christmas Day - City Hall Closed

CERTIFICATION OF POSTING AGENDA

The agenda for Monday, February 27, 2023 Regular Meeting of the Medina City Council was posted and available for review on Thursday, February 23, 2023 at City Hall of the City of Medina, 501 Evergreen Point Road, Medina, WA 98039. The agenda is also available on the city website at www.medina-wa.gov.

INTRODUCTION

Steve Burns

What does Development Services do?

CODE ENFORCEMENT

Land Use
Building Code
Construction Mitigation
Tree Management
Grading and Drainage
MMC Enforcement

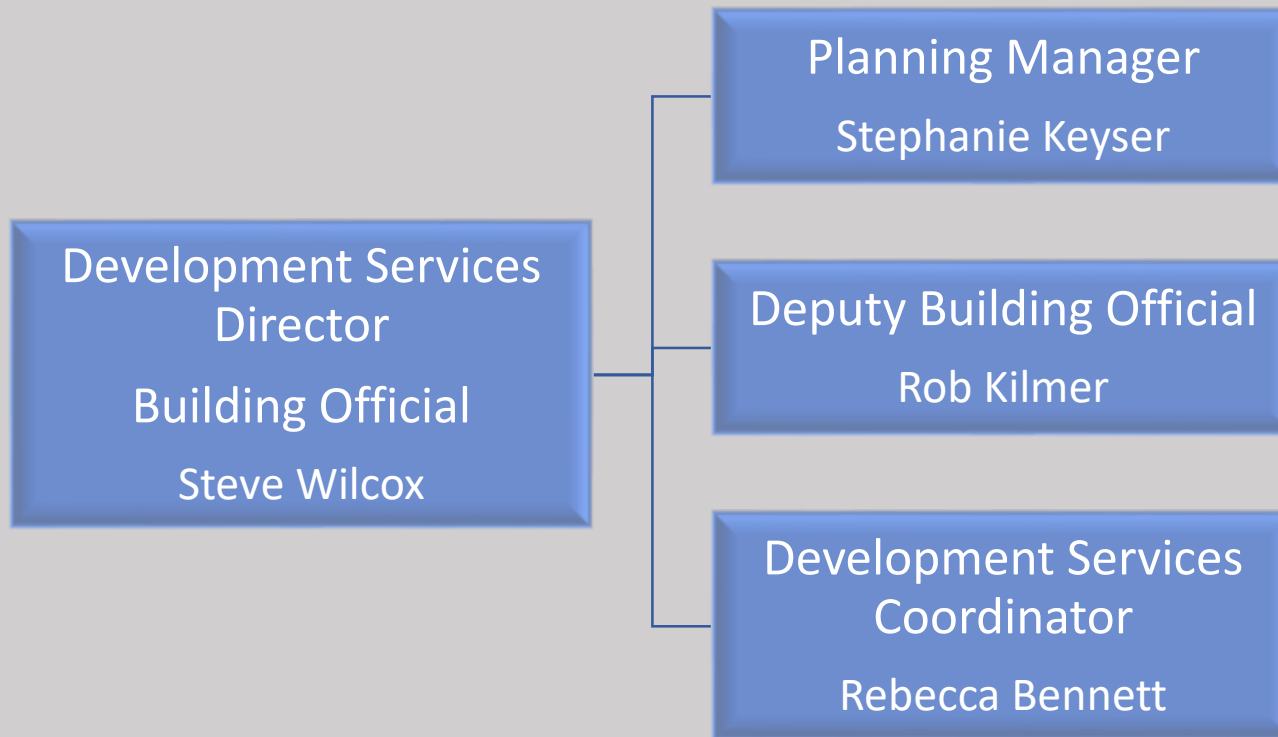
PLANNING

Planning Commission Liaison
Hearing Examiner Liaison
Comprehensive Plan Update
Housing Action Plan
Zoning Code Development
Shoreline Master Program

PERMIT ADMINISTRATION

Pre-application process
Accept, route and track permit applications
Create permit data and reports
Issue permits and renewal
Maintain electronic permits
Customer service

Development Services Department Staff



Consultants

- Grading and Drainage Engineer
- Development Arborist
- Non-Development Arborist
- Planner (zoning code review)
- Building Code Review Engineer
- Acoustic
- Critical Area Engineer
- Comprehensive Plan Update Planner

What makes
Medina's
Development
Services
Department

Different?

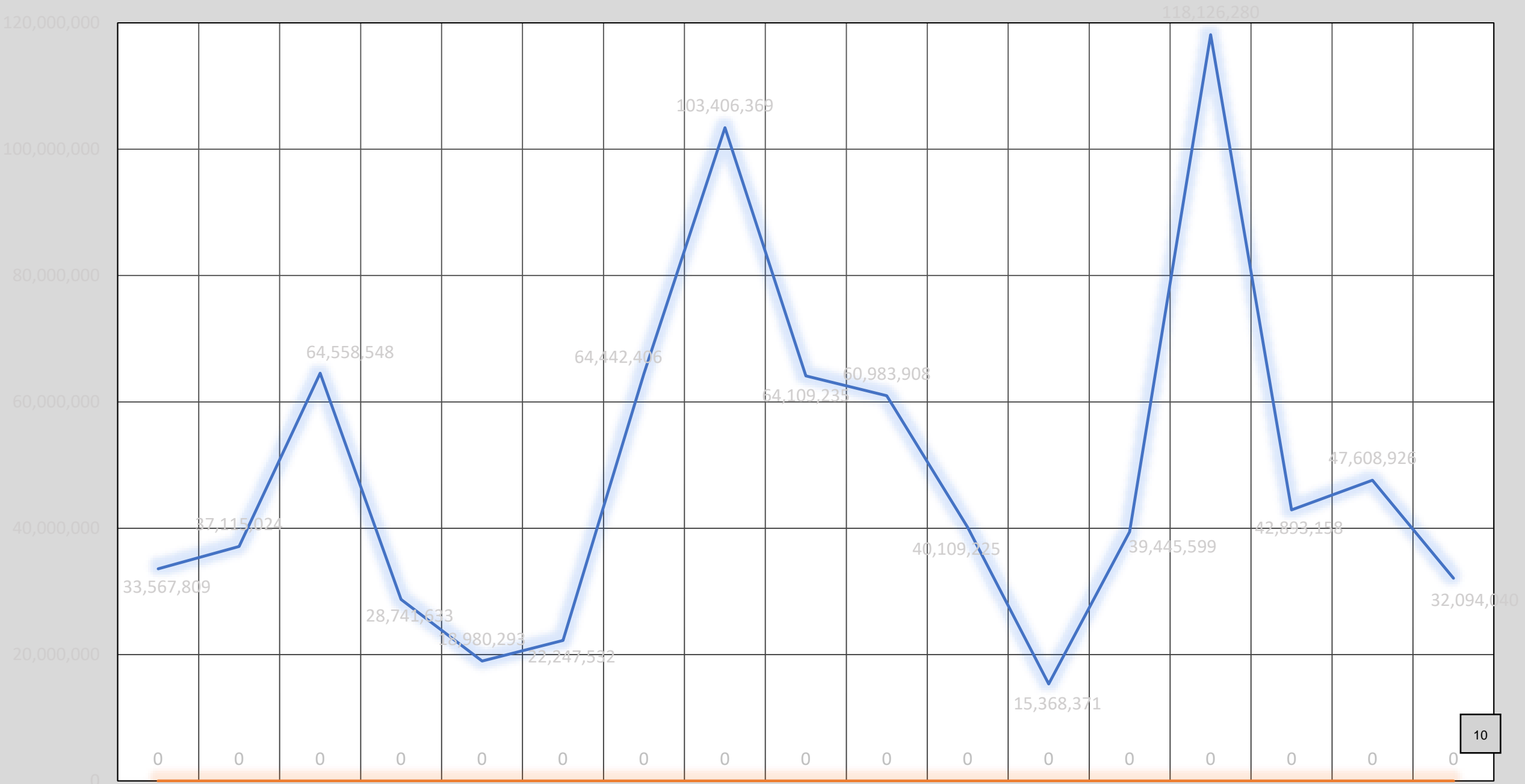
Staff Size vs. Consultants

Development Project

Expectations and Service

Development Services Fund

Trends in Medina Development Activity 2006 – 2022



Development Services Fund

A brief history

Concept in Autumn 2021

Res. 421 passed by Council on November 8, 2021

DS Fund implemented on January 1, 2022

What was
learned.

Where we
are.

Where we
need to go.

2022

2023

2024

Next Steps

- **Code amendments and resolutions**
- **Evaluate each expense and revenue account**
- **Tracking**
- **Establish internal controls of new processes**
- **Re-structure cost recovery**
- **Annual review**
- **Reserve target**

What is an Enterprise Fund?

- Self-supporting government fund that sells goods or services to the public for fees.
- Primary source of financing comes through user charges
 - However, not all funding needs to come from fees
 - Grants and tax dollars can be used to subsidize
- Government Accounting and Standards Board (GASB) has pronounced that if any service or program's principal revenue source has a pricing policy that fees and charges be set to recover cost meets the criteria to be reported as a separate "Enterprise Fund".

Importance of the Enterprise Fund

- Promotes and maintains long term financial sustainability for services
- Improves financial transparency of Development Services, and allows easier tracking of permitting fees and advanced deposits
- With the Levy Lid Lift, sustainability and transparency are critical





MEDINA, WASHINGTON

AGENDA BILL

Monday, February 27, 2023

Subject: Pending Legislative Session Bills

Category: City Business

Staff Contact: Stephanie Keyser, Planning Manager

Summary

Staff would like to bring Council's attention to two pending legislative bills that, if passed, will have a significant impact on Medina.

- Attachment(s)**
1. House Bill Report HB 1110 – Increases middle housing in areas traditionally dedicated to single-family detached housing
 - a. Substitute House Bill 1110
 2. HB 1245 – Increases housing options through lot splitting
 - a. Substitute House Bill 1245

Budget/Fiscal Impact: N/A

Recommendation: Discussion and direction.

City Manager Approval:

Proposed Council Motion: N/A

Time Estimate: 15 minutes

HOUSE BILL REPORT

HB 1110

As Reported by House Committee On:
Housing

Title: An act relating to creating more homes for Washington by increasing middle housing in areas traditionally dedicated to single-family detached housing.

Brief Description: Increasing middle housing in areas traditionally dedicated to single-family detached housing.

Sponsors: Representatives Bateman, Barkis, Reed, Taylor, Riccelli, Berry, Fitzgibbon, Peterson, Duerr, Lekanoff, Alvarado, Street, Ryu, Ramel, Cortes, Doglio, Macri, Mena, Gregerson, Thai, Bergquist, Farivar, Wylie, Stonier, Pollet, Santos, Fosse and Ormsby.

Brief History:

Committee Activity:

Housing: 1/17/23, 2/7/23 [DPS].

Brief Summary of Substitute Bill

- Requires certain cities planning under the Growth Management Act to authorize minimum development densities in residential zones.
- Establishes requirements for middle housing development regulations.
- Requires the Department of Commerce to provide technical assistance to cities in implementing the requirements and to develop model middle housing ordinances.

HOUSE COMMITTEE ON HOUSING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Peterson, Chair; Alvarado, Vice Chair; Leavitt, Vice Chair; Barkis, Bateman, Chopp, Low, Reed and Taylor.

Minority Report: Without recommendation. Signed by 3 members: Representatives

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Klicker, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Hutchins.

Staff: Serena Dolly (786-7150).

Background:

Growth Management Act.

The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. The GMA establishes land use designation and environmental protection requirements for all Washington counties and cities. The GMA also establishes a significantly wider array of planning duties for 28 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA. These jurisdictions are sometimes said to be "fully planning" under the GMA.

Counties that fully plan under the GMA are required to designate urban growth areas (UGAs) within their boundaries sufficient to accommodate a planned 20-year population projection range provided by the Office of Financial Management (OFM). Each city located within a planning county must be included within a UGA. Urban growth must be encouraged within the UGAs, and only growth that is not urban in nature can occur outside of the UGAs. Each UGA must permit urban densities and include greenbelt and open space areas.

Comprehensive Plans.

The GMA directs fully planning jurisdictions to adopt internally consistent, comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans are implemented through locally adopted development regulations, and both the plans and the local regulations are subject to review and revision requirements prescribed in the GMA. In developing their comprehensive plans, counties and cities must consider various goals set forth in statute.

The GMA also establishes 14 goals in a non-prioritized list to guide the development of comprehensive plans and development regulations of counties and cities that plan under the GMA. Examples include urban growth, housing, and economic development goals.

Mandatory Housing Element.

Comprehensive plans must include a housing element that ensures the vitality and character of established residential neighborhoods. The housing element must include the following:

- an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth, as projected by the Department of Commerce (Commerce), including:
 - units for moderate-, low-, very low-, and extremely low-income households; and
 - emergency housing, emergency shelters, and permanent supportive housing;

- a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing;
- identification of sufficient capacity of land for various housing including government-assisted housing, housing for all levels of income, manufactured housing, and permanent supporting housing, and within a UGA, consideration of duplexes, triplexes, and townhomes;
- adequate provisions for existing and projected needs of all economic segments of the community, including:
 - incorporating housing for households of all income levels;
 - documenting programs and actions needed to achieve housing availability;
 - consideration of housing locations in relation to employment locations; and
 - consideration of the role of accessory dwelling units (ADUs) in meeting housing needs;
- identification of local policies and regulations that result in racially disparate impacts, displacement, and exclusion of housing;
- identification and implementation of policies and regulations to address and begin to undo racially disparate impacts, displacement, and exclusion of housing;
- identification of neighborhoods that may be at higher risk of displacement from market forces; and
- establishment of antidisplacement policies.

Planning Actions to Increase Residential Building Capacity.

Fully planning cities are encouraged to take an array of specified planning actions to increase residential building capacity. Specified planning actions include, for example:

- authorizing middle housing types on parcels in one or more zoning districts that permit single-family residences unless unfeasible to do so;
- authorizing cluster zoning or lot size averaging in all zoning districts that permit single-family residences;
- adopting increases in categorical exemptions to the State Environmental Policy Act (SEPA) for residential or mixed-use development;
- adopting a form-based code in one or more zoning districts that permit residential uses;
- authorizing a duplex on each corner lot within all zoning districts that permit single-family residences;
- authorizing ADUs in one or more zoning districts in which they are currently prohibited;
- adopting ordinances authorizing administrative review of preliminary plats; and
- allowing off-street parking to compensate for a lack of on-street parking when private roads are utilized or a parking demand study shows that less parking is required.

In general, ordinances and other nonproject actions taken to implement these specified planning actions, if adopted by April 1, 2023, are not subject to administrative or judicial appeal under SEPA or legal challenge under the GMA.

Technical Assistance and Funding.

Commerce is required to assist cities and counties, both with funding and with technical assistance, in the adoption of comprehensive plans. Commerce's assistance program must include a priority list for funding and technical assistance based on a county's or city's growth rate, commercial and industrial development rate, and the existence and quality of a comprehensive plan, among other factors. Commerce is also required to administer a grant program to provide direct financial assistance to local governments for the preparation of comprehensive plans. Other technical assistance required to be provided by Commerce includes utilizing Commerce's staff and the staff of other agencies to assist in the development of comprehensive plans, including the provision of model land use ordinances, the adoption of procedural criteria, and regional education and training programs.

Homeowners' Associations and Common Interest Communities.

A homeowners' association (HOA) is a legal entity made up of members who are owners of residential real property located within the association's jurisdiction and who are required to pay dues for the upkeep of the association and common areas. An association can also adopt rules and regulate or limit the use of property by its members.

A common interest community (CIC) is similar to an HOA and is made up of member-owners who are obligated to pay for the taxes, maintenance, or other costs of common areas. Like an HOA, a CIC can also regulate or limit the use of property by its members, including by adopting rules to establish and enforce construction and design criteria as well as aesthetic standards. A CIC may generally only be terminated by the agreement of at least 80 percent of the members.

A restrictive covenant or deed is a restriction or limitation of the use of the property that runs with the land.

Summary of Substitute Bill:

Density Requirements.

Fully planning cities meeting population criteria must authorize the development of a minimum number of units on all lots zoned predominantly for residential use. A fully planning city with a population of at least 25,000, but less than 75,000, must allow:

- at least two units per lot;
- at least four units per lot within .5 miles walking distance of a major transit stop or community amenity; and
- at least four units per lot if at least one unit is affordable housing.

A fully planning city with a population of at least 75,000, and any city within a contiguous UGA with a city with a population above 200,000, must allow:

- at least four units per lot;
- at least six units per lot within .5 miles walking distance of a major transit stop or

- community amenity; and
- at least six units per lot if at least two units are affordable housing.

Cities must allow any combination of middle housing types to be allowed to achieve the required unity density.

To qualify as affordable housing, the unit must be maintained as affordable for at least 50 years and record a covenant or deed restriction that ensures continued affordability. The square footage of the units dedicated as affordable must be equal to the average square footage of the market-rate units on the same lot.

A major transit stop includes:

- a stop on a high-capacity transportation system;
- commuter rail stops;
- stops on rail or fixed guideway systems; and
- stops on bus rapid transit routes.

A community amenity is defined as a public, common, or private school or a designated entrance or pedestrian access point to a park operated by the state or a local government for the use of the general public.

Antidisplacement Measures.

A city may apply to Commerce for an extension for areas at risk of displacement as determined by the antidisplacement analysis that a jurisdiction is required to complete under the mandatory housing element of the comprehensive plan. The city must create a plan for implementing antidisplacement policies by their next five-year implementation progress report.

Middle Housing Requirements.

Cities subject to the density requirements are directed to include specific provisions related to middle housing in their development regulations. Middle housing is defined as buildings that are compatible in scale, form, and character with single-family homes and contain two or more attached, stacked, or clustered homes including duplexes, triplexes, fourplexes, fiveplexes, sixplexes, townhouses, courtyard apartments, and cottage housing. Any city subject to the middle housing requirements:

- must adopt objective development and design standards on the development of middle housing that do not allow personal or subjective judgment and do not discourage the development of middle housing through unreasonable costs, fees, delays, or other requirements or actions which individually or cumulatively make impracticable the permitting, siting, or construction of all allowed middle housing types or the ownership of a middle housing unit;
- may not require standards for middle housing that are more restrictive than those required for detached single-family residences;
- must apply to middle housing the same development permit and environmental

- review processes that apply to detached single-family residences;
- must apply to middle housing the same critical areas regulations that apply to detached single-family residences;
- may not require off-street parking as a condition of permitting development of middle housing within .5 miles of a major transit stop;
- may not require more than one off-street parking space per unit as a condition of permitting development of middle housing on lots smaller than 6,000 square feet; and
- may not 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.

The density and middle housing requirements take effect the latter of six months after a city's next required comprehensive plan update or 12 months after OFM determines a city has reached a population threshold under this section.

The limits on off-street parking requirements do not apply if a city or county makes a determination, supported by empirical evidence and best practices in a study that is prepared by a credentialed transportation or land use planning expert, that the lack of minimum parking requirements in a defined area would make on-street parking infeasible or unsafe for the authorized units. Commerce must develop guidance to assist cities on items to include in the parking study.

Technical Assistance.

Commerce must provide technical assistance prioritized based on need to cities in implementing middle housing and average minimum density requirements. Commerce must develop and publish model middle housing ordinances within six months after this bill takes effect. The model ordinances supersede, preempt, and invalidate local development regulations that fail to allow middle housing within the time frames provided. Commerce must establish a process for cities to seek approval of required local actions, and any local actions approved by Commerce are exempt from appeals under the GMA and SEPA.

A city that adopts the density and middle housing regulations is deemed to be in compliance with the mandatory GMA element of making adequate provisions for existing and projected needs of all economic segments of the community until June 30, 2032.

Alternative Local Action.

Commerce may approve actions for cities that have, by the effective date of this bill, adopted a comprehensive plan and development regulations that are substantially similar to the requirements of this bill. In determining whether an alternative local action is substantially similar, Commerce must view favorably plans and regulations that authorize an overall increase in density throughout the city, in units allowed per single-family lot, that is at least 75 percent of the overall single-family density throughout the city, in units allowed per lot, if the specific provisions of the bill were adopted.

Extensions.

Cities may apply for extensions of the timelines established. Extensions may only be applied to specific areas where a city can demonstrate that water, sewer, or stormwater services lack capacity to accommodate the increased density, and the city has:

- included an improvement within its capital facilities plan to increase capacity; or
- identified which special district is responsible for providing the necessary infrastructure, if the infrastructure is provided by a special purpose district.

A granted extension remains in effect until one of the following occurs:

- the infrastructure is improved to accommodate the capacity;
- the city completes its next periodic comprehensive plan update; or
- the city submits its next five-year implementation progress report for their comprehensive plan.

A city may apply for an additional extension with its next periodic comprehensive plan update or five-year implementation progress report. The extension application must include a list of infrastructure improvements necessary to meet the required capacity. Commerce must provide the Legislature with a list of those projects identified in a city's capital facilities plan that were the basis for the extension. A city with an extension for a specific area must allow the required density of development if the developer commits to providing the necessary infrastructure.

Homeowners' Associations and Common Interest Communities.

Governing documents of HOAs and the governing documents and declarations of CICs within cities subject to the middle housing and density requirements that are created after this bill takes effect may not prohibit the construction or development of the types of housing or density requirements that must be permitted within such cities.

Substitute Bill Compared to Original Bill:

The substitute bill modifies the minimum density requirements and population thresholds as follows:

- Cities with a population of at least 25,000 but less than 75,000 must authorize, on all lots zoned predominantly for residential use, the development of:
 - at least two units per lot;
 - at least four units per lot within .5 miles walking distance of a major transit stop or community amenity; and
 - at least four units per lot if at least one unit is affordable.
- Cities with a population of at least 75,000, and any city within a contiguous UGA with a city with a population above 200,000, must authorize, on all lots zoned predominantly for residential use, the development of:
 - at least four units per lot;
 - at least six units per lot within .5 miles walking distance of a major transit stop or community amenity; and
 - at least six units per lot if at least two units are affordable.

The substitute bill removes Washington State ferry terminals and a stop for a bus with minimum service requirements from the definition of major transit stop. The substitute bill also adds the term community amenity, which is defined as a public, common, or private school or a designated entrance or pedestrian access point to a park operated by the state or a local government for the use of the general public.

The substitute bill requires any combination of middle housing types to be allowed to achieve the required unit density and requires the square footage of units dedicated as affordable to be equal to the average square footage of the market-rate units on the same lot.

The substitute bill modifies the maximum parking that may be required for middle housing to one or two off-street parking spaces per unit, instead of per lot, and provides an exemption from the parking provisions if the city or county makes a determination, supported by empirical evidence and best practices in a study that is prepared by a credentialed transportation or land use planning expert, that the lack of minimum parking requirements in a defined area would make on-street parking infeasible or unsafe for the authorized units. The substitute bill also requires Commerce to develop guidance to assist cities on items to include in the parking study.

The substitute bill changes the deadline by which cities currently meeting the population thresholds must comply with the minimum density requirements to six months after a city's next required comprehensive plan update, instead of 24 months after the effective date of this bill.

The substitute bill exempts population associated with permits for middle housing units from the threshold of an OFM population projection to a county or a county population allocation to a city.

The substitute bill requires Commerce to publish model middle housing ordinances no later than six months after the effective date of this bill, instead of 18 months after the effective date of this bill.

The substitute bill specifies the criteria by which Commerce may approve alternative local actions to determine compliance with minimum density requirements, including viewing favorably plans and regulations that authorize an overall increase in density throughout the city, in units allowed per single-family lot, that is at least 75 percent of the overall single-family density throughout the city that is required under this bill.

The substitute bill allows cities to apply to Commerce for an extension in implementing the bill's requirements in areas at risk of displacement and removes provisions related to the antidisplacement measures in the mandatory housing element.

The substitute bill modifies requirements for cities to receive an initial and subsequent

extension for water, sewer, or stormwater deficiencies, including requiring a city to include any needed improvements in its capital facilities plan to increase capacity or identify which special district is responsible for providing needed infrastructure. The substitute bill also requires Commerce to provide the Legislature with a list of those projects identified in a city's capital facilities plan that were the basis for the extension under this section.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The housing shortage is creating a housing crisis. The state needs 1 million new homes in the next 20 years, half of which need to be affordable at 30 to 50 percent of area median income. Working families are being priced out of the housing market, and the housing shortage is disproportionately impacting people of color. Homeownership for first time homebuyers is only affordable in three counties. Students also need walkable housing and communities. This bill will help us bring homeless people inside. There is no single solution to the housing shortage, but it has to get easier to build new housing. Builders are ready to build. Eliminating volunteer design review boards will help reduce the time it takes to get a permit. This policy is the fastest and most scalable way to increase housing production. Many people are better served by housing that is not single-family, but one study found that middle housing is prohibited on 75 percent of city land. Some cities have already implemented middle housing provisions, but every jurisdiction needs to do its part to tackle the housing shortage. It is less costly for cities to accommodate growth in a smaller, dense area. Even with growth management, cities are continuing to grow onto some of the state's best farmland. Middle housing reduces vehicle miles travelled and emissions.

(Opposed) None.

(Other) Cities are ready to support a bill with minimum density requirements and believe density requirements should be centered on certain amenities, such as transit, parks, and schools. The uniform application of requirements does not recognize the uniqueness of each city. The parking requirements will create many issues. Even in Seattle, 81 percent of households have cars. Some cities are trying to eliminate the number of cars on the road but are not well-served by transit agencies. More people would just create more traffic. The bill needs some technical changes. Using the same environmental permitting process as single-family housing will put cities out of compliance with shoreline permitting and environmental regulations. Applying middle housing provisions to common interest

communities is unconstitutional, and they do not have the infrastructure to accommodate middle housing.

Persons Testifying: (In support) Representative Jessica Bateman, prime sponsor; Adán Mendoza-Sandoval, Associated Students of Central Washington University; Dani Madrone, American Farmland Trust; Alex Hur, Master Builders Association of King and Snohomish Counties; Jacob Vigdor; Brent Ludeman, Building Industry Association of Washington; Dave Andersen and Joe Tovar, Washington Department of Commerce; Michele Thomas, Washington Low Income Housing Alliance; Hugo Garcia; Mike Ennis, Association of Washington Business; Bryce Yadon, Futurewise; Leah Missik, Climate Solutions; Jesse Piedfort, Sierra Club; Girmay Zahilay; Zack Zappone, City of Spokane; Rachel Smith, Seattle Metropolitan Chamber of Commerce; Andrea Reay, Tacoma-Pierce County Unity Chamber; Bill Clarke, Washington Realtors; Sophia Bowton-Meade; and Kerri Woehler, Washington State Department of Transportation.

(Other) Carl Schroeder, Association of Washington Cities; Arne Woodard, City of Spokane Valley; Jason Sullivan, City of Bonney Lake; and Dean Martin, Washington State Chapter of Community Association Institute.

Persons Signed In To Testify But Not Testifying: More than 20 persons signed in. Please see committee staff for information.

H-1091.1

SUBSTITUTE HOUSE BILL 1110

State of Washington**68th Legislature****2023 Regular Session**

By House Housing (originally sponsored by Representatives Bateman, Barkis, Reed, Taylor, Riccelli, Berry, Fitzgibbon, Peterson, Duerr, Lekanoff, Alvarado, Street, Ryu, Ramel, Cortes, Doglio, Macri, Mena, Gregerson, Thai, Bergquist, Farivar, Wylie, Stonier, Pollet, Santos, Fosse, and Ormsby)

READ FIRST TIME 02/13/23.

1 AN ACT Relating to creating more homes for Washington by
 2 increasing middle housing in areas traditionally dedicated to single-
 3 family detached housing; amending RCW 36.70A.030, 36.70A.280, and
 4 43.21C.495; adding new sections to chapter 36.70A RCW; adding a new
 5 section to chapter 64.34 RCW; adding a new section to chapter 64.32
 6 RCW; adding a new section to chapter 64.38 RCW; adding a new section
 7 to chapter 64.90 RCW; and creating a new section.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 NEW SECTION. **Sec. 1.** The legislature finds that Washington is
 10 facing an unprecedented housing shortage for its current population
 11 and without significant action will not meet its goal of creating
 12 1,000,000 homes by 2044.

13 Increasing housing options that are more affordable to various
 14 income levels is critical to achieving the state's housing goals,
 15 including those codified by the legislature under chapter 254, Laws
 16 of 2021.

17 There is continued need for the development of housing at all
 18 income levels, including middle housing that will provide a wider
 19 variety of housing options and configurations to allow Washingtonians
 20 to live near where they work.

1 To unlock opportunity for Washingtonians it is necessary to lift
 2 bans on the development of modest home choices in cities near job
 3 centers, transit, and amenity-rich neighborhoods.

4 Homes developed at higher densities and gentle density housing
 5 types are more affordable by design for Washington residents both in
 6 their construction and reduced household energy and transportation
 7 costs.

8 While creating more housing options, it is essential for cities
 9 to identify areas at higher risk of displacement and establish
 10 antidisplacement policies as required in Engrossed Second Substitute
 11 House Bill No. 1220 (chapter 254, Laws of 2021).

12 The state has made historic investments in subsidized affordable
 13 housing through the housing trust fund, yet even with these historic
 14 investments, the magnitude of the housing shortage requires both
 15 public and private investment.

16 In addition to addressing the housing shortage, allowing more
 17 housing options in areas already served by urban infrastructure will
 18 reduce the pressure to develop natural and working lands, support key
 19 strategies for climate change, food security, and Puget Sound
 20 recovery, and save taxpayers and ratepayers money.

21 **Sec. 2.** RCW 36.70A.030 and 2021 c 254 s 6 are each amended to
 22 read as follows:

23 Unless the context clearly requires otherwise, the definitions in
 24 this section apply throughout this chapter.

25 (1) "Administrative design review" means a development permit
 26 process whereby an application is reviewed, approved, or denied by
 27 the planning director or the planning director's designee based
 28 solely on objective design and development standards without a public
 29 meeting or hearing, unless such review is otherwise required by state
 30 or federal law or the structure is listed on a local historic
 31 register through a local preservation ordinance.

32 (2) "Adopt a comprehensive land use plan" means to enact a new
 33 comprehensive land use plan or to update an existing comprehensive
 34 land use plan.

35 ((+2)) (3) "Affordable housing" means, unless the context
 36 clearly indicates otherwise, residential housing whose monthly costs,
 37 including utilities other than telephone, do not exceed thirty
 38 percent of the monthly income of a household whose income is:

1 (a) For rental housing, sixty percent of the median household
 2 income adjusted for household size, for the county where the
 3 household is located, as reported by the United States department of
 4 housing and urban development; or

5 (b) For owner-occupied housing, eighty percent of the median
 6 household income adjusted for household size, for the county where
 7 the household is located, as reported by the United States department
 8 of housing and urban development.

9 ~~((3))~~ (4) "Agricultural land" means land primarily devoted to
 10 the commercial production of horticultural, viticultural,
 11 floricultural, dairy, apiary, vegetable, or animal products or of
 12 berries, grain, hay, straw, turf, seed, Christmas trees not subject
 13 to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish
 14 in upland hatcheries, or livestock, and that has long-term commercial
 15 significance for agricultural production.

16 ~~((4))~~ (5) "City" means any city or town, including a code city.

17 ~~((5))~~ (6) "Community amenity" means:

18 (a) A public school as defined in RCW 28A.150.010, a common
 19 school as defined in RCW 28A.150.020, or a private school approved
 20 under RCW 28A.195.010; or

21 (b) A designated entrance or pedestrian access point to a park
 22 operated by the state or a local government for the use of the
 23 general public.

24 (7) "Comprehensive land use plan," "comprehensive plan," or
 25 "plan" means a generalized coordinated land use policy statement of
 26 the governing body of a county or city that is adopted pursuant to
 27 this chapter.

28 ~~((6))~~ (8) "Cottage housing" means detached dwelling units
 29 arranged on two or more sides of a landscaped central area.

30 (9) "Courtyard apartments" means attached dwelling units arranged
 31 on two or more sides of a landscaped central courtyard.

32 (10) "Critical areas" include the following areas and ecosystems:

33 (a) Wetlands; (b) areas with a critical recharging effect on aquifers
 34 used for potable water; (c) fish and wildlife habitat conservation
 35 areas; (d) frequently flooded areas; and (e) geologically hazardous
 36 areas. "Fish and wildlife habitat conservation areas" does not
 37 include such artificial features or constructs as irrigation delivery
 38 systems, irrigation infrastructure, irrigation canals, or drainage
 39 ditches that lie within the boundaries of and are maintained by a
 40 port district or an irrigation district or company.

1 (~~(7)~~) (11) "Department" means the department of commerce.

2 (~~(8)~~) (12) "Development regulations" or "regulation" means the
3 controls placed on development or land use activities by a county or
4 city, including, but not limited to, zoning ordinances, critical
5 areas ordinances, shoreline master programs, official controls,
6 planned unit development ordinances, subdivision ordinances, and
7 binding site plan ordinances together with any amendments thereto. A
8 development regulation does not include a decision to approve a
9 project permit application, as defined in RCW 36.70B.020, even though
10 the decision may be expressed in a resolution or ordinance of the
11 legislative body of the county or city.

12 (~~(9)~~) (13) "Emergency housing" means temporary indoor
13 accommodations for individuals or families who are homeless or at
14 imminent risk of becoming homeless that is intended to address the
15 basic health, food, clothing, and personal hygiene needs of
16 individuals or families. Emergency housing may or may not require
17 occupants to enter into a lease or an occupancy agreement.

18 (~~(10)~~) (14) "Emergency shelter" means a facility that provides
19 a temporary shelter for individuals or families who are currently
20 homeless. Emergency shelter may not require occupants to enter into a
21 lease or an occupancy agreement. Emergency shelter facilities may
22 include day and warming centers that do not provide overnight
23 accommodations.

24 (~~(11)~~) (15) "Extremely low-income household" means a single
25 person, family, or unrelated persons living together whose adjusted
26 income is at or below thirty percent of the median household income
27 adjusted for household size, for the county where the household is
28 located, as reported by the United States department of housing and
29 urban development.

30 (~~(12)~~) (16) "Forestland" means land primarily devoted to
31 growing trees for long-term commercial timber production on land that
32 can be economically and practically managed for such production,
33 including Christmas trees subject to the excise tax imposed under RCW
34 84.33.100 through 84.33.140, and that has long-term commercial
35 significance. In determining whether forestland is primarily devoted
36 to growing trees for long-term commercial timber production on land
37 that can be economically and practically managed for such production,
38 the following factors shall be considered: (a) The proximity of the
39 land to urban, suburban, and rural settlements; (b) surrounding
40 parcel size and the compatibility and intensity of adjacent and

1 nearby land uses; (c) long-term local economic conditions that affect
 2 the ability to manage for timber production; and (d) the availability
 3 of public facilities and services conducive to conversion of
 4 forestland to other uses.

5 ~~((13))~~ (17) "Freight rail dependent uses" means buildings and
 6 other infrastructure that are used in the fabrication, processing,
 7 storage, and transport of goods where the use is dependent on and
 8 makes use of an adjacent short line railroad. Such facilities are
 9 both urban and rural development for purposes of this chapter.
 10 "Freight rail dependent uses" does not include buildings and other
 11 infrastructure that are used in the fabrication, processing, storage,
 12 and transport of coal, liquefied natural gas, or "crude oil" as
 13 defined in RCW 90.56.010.

14 ~~((14))~~ (18) "Geologically hazardous areas" means areas that
 15 because of their susceptibility to erosion, sliding, earthquake, or
 16 other geological events, are not suited to the siting of commercial,
 17 residential, or industrial development consistent with public health
 18 or safety concerns.

19 ~~((15))~~ (19) "Long-term commercial significance" includes the
 20 growing capacity, productivity, and soil composition of the land for
 21 long-term commercial production, in consideration with the land's
 22 proximity to population areas, and the possibility of more intense
 23 uses of the land.

24 ~~((16))~~ (20) "Low-income household" means a single person,
 25 family, or unrelated persons living together whose adjusted income is
 26 at or below eighty percent of the median household income adjusted
 27 for household size, for the county where the household is located, as
 28 reported by the United States department of housing and urban
 29 development.

30 ~~((17))~~ (21)(a) "Major transit stop," except as provided in (b)
 31 of this subsection, means:

32 (i) A stop on a high capacity transportation system funded or
 33 expanded under the provisions of chapter 81.104 RCW;

34 (ii) Commuter rail stops;

35 (iii) Stops on rail or fixed guideway systems, including
 36 transitways; or

37 (iv) Stops on bus rapid transit routes.

38 (b) Alternatively, a definition of "major transit stop" adopted
 39 before the effective date of this section by a regional agency
 40 planning under the multicounty planning policies authority pursuant

1 to RCW 36.70A.210(7) shall apply to counties and cities which are
 2 subject to those multicounty planning policies.

3 (22) "Middle housing" means buildings that are compatible in
 4 scale, form, and character with single-family houses and contain two
 5 or more attached, stacked, or clustered homes including duplexes,
 6 triplexes, fourplexes, fiveplexes, sixplexes, townhouses, courtyard
 7 apartments, and cottage housing.

8 (23) "Minerals" include gravel, sand, and valuable metallic
 9 substances.

10 ~~((18))~~ (24) "Moderate-income household" means a single person,
 11 family, or unrelated persons living together whose adjusted income is
 12 at or below 120 percent of the median household income adjusted for
 13 household size, for the county where the household is located, as
 14 reported by the United States department of housing and urban
 15 development.

16 ~~((19))~~ (25) "Permanent supportive housing" is subsidized,
 17 leased housing with no limit on length of stay that prioritizes
 18 people who need comprehensive support services to retain tenancy and
 19 utilizes admissions practices designed to use lower barriers to entry
 20 than would be typical for other subsidized or unsubsidized rental
 21 housing, especially related to rental history, criminal history, and
 22 personal behaviors. Permanent supportive housing is paired with on-
 23 site or off-site voluntary services designed to support a person
 24 living with a complex and disabling behavioral health or physical
 25 health condition who was experiencing homelessness or was at imminent
 26 risk of homelessness prior to moving into housing to retain their
 27 housing and be a successful tenant in a housing arrangement, improve
 28 the resident's health status, and connect the resident of the housing
 29 with community-based health care, treatment, or employment services.
 30 Permanent supportive housing is subject to all of the rights and
 31 responsibilities defined in chapter 59.18 RCW.

32 ~~((20))~~ (26) "Public facilities" include streets, roads,
 33 highways, sidewalks, street and road lighting systems, traffic
 34 signals, domestic water systems, storm and sanitary sewer systems,
 35 parks and recreational facilities, and schools.

36 ~~((21))~~ (27) "Public services" include fire protection and
 37 suppression, law enforcement, public health, education, recreation,
 38 environmental protection, and other governmental services.

39 ~~((22))~~ (28) "Recreational land" means land so designated under
 40 RCW 36.70A.1701 and that, immediately prior to this designation, wa

1 designated as agricultural land of long-term commercial significance
2 under RCW 36.70A.170. Recreational land must have playing fields and
3 supporting facilities existing before July 1, 2004, for sports played
4 on grass playing fields.

5 ~~((23))~~ (29) "Rural character" refers to the patterns of land
6 use and development established by a county in the rural element of
7 its comprehensive plan:

8 (a) In which open space, the natural landscape, and vegetation
9 predominate over the built environment;

10 (b) That foster traditional rural lifestyles, rural-based
11 economies, and opportunities to both live and work in rural areas;

12 (c) That provide visual landscapes that are traditionally found
13 in rural areas and communities;

14 (d) That are compatible with the use of the land by wildlife and
15 for fish and wildlife habitat;

16 (e) That reduce the inappropriate conversion of undeveloped land
17 into sprawling, low-density development;

18 (f) That generally do not require the extension of urban
19 governmental services; and

20 (g) That are consistent with the protection of natural surface
21 water flows and groundwater and surface water recharge and discharge
22 areas.

23 ~~((24))~~ (30) "Rural development" refers to development outside
24 the urban growth area and outside agricultural, forest, and mineral
25 resource lands designated pursuant to RCW 36.70A.170. Rural
26 development can consist of a variety of uses and residential
27 densities, including clustered residential development, at levels
28 that are consistent with the preservation of rural character and the
29 requirements of the rural element. Rural development does not refer
30 to agriculture or forestry activities that may be conducted in rural
31 areas.

32 ~~((25))~~ (31) "Rural governmental services" or "rural services"
33 include those public services and public facilities historically and
34 typically delivered at an intensity usually found in rural areas, and
35 may include domestic water systems~~((7))~~ and fire and police
36 protection services~~((, transportation and public transit services,~~
37 ~~and other public utilities))~~ associated with rural development and
38 normally not associated with urban areas. Rural services do not
39 include storm or sanitary sewers, except as otherwise authorized by
40 RCW 36.70A.110(4).

1 ~~((26))~~ (32) "Short line railroad" means those railroad lines
2 designated class II or class III by the United States surface
3 transportation board.

4 ~~((27))~~ (33) "Townhouses" means dwelling units constructed in a
5 row of two or more attached units where each dwelling unit shares at
6 least one common wall with an adjacent unit and is accessed by a
7 separate outdoor entrance.

8 (34) "Urban governmental services" or "urban services" include
9 those public services and public facilities at an intensity
10 historically and typically provided in cities, specifically including
11 storm and sanitary sewer systems, domestic water systems, street
12 cleaning services, fire and police protection services, public
13 transit services, and other public utilities associated with urban
14 areas and normally not associated with rural areas.

15 ~~((28))~~ (35) "Urban growth" refers to growth that makes
16 intensive use of land for the location of buildings, structures, and
17 impermeable surfaces to such a degree as to be incompatible with the
18 primary use of land for the production of food, other agricultural
19 products, or fiber, or the extraction of mineral resources, rural
20 uses, rural development, and natural resource lands designated
21 pursuant to RCW 36.70A.170. A pattern of more intensive rural
22 development, as provided in RCW 36.70A.070(5)(d), is not urban
23 growth. When allowed to spread over wide areas, urban growth
24 typically requires urban governmental services. "Characterized by
25 urban growth" refers to land having urban growth located on it, or to
26 land located in relationship to an area with urban growth on it as to
27 be appropriate for urban growth.

28 ~~((29))~~ (36) "Urban growth areas" means those areas designated
29 by a county pursuant to RCW 36.70A.110.

30 ~~((30))~~ (37) "Very low-income household" means a single person,
31 family, or unrelated persons living together whose adjusted income is
32 at or below fifty percent of the median household income adjusted for
33 household size, for the county where the household is located, as
34 reported by the United States department of housing and urban
35 development.

36 ~~((31))~~ (38) "Wetland" or "wetlands" means areas that are
37 inundated or saturated by surface water or groundwater at a frequency
38 and duration sufficient to support, and that under normal
39 circumstances do support, a prevalence of vegetation typically
40 adapted for life in saturated soil conditions. Wetlands generally

1 include swamps, marshes, bogs, and similar areas. Wetlands do not
2 include those artificial wetlands intentionally created from
3 nonwetland sites, including, but not limited to, irrigation and
4 drainage ditches, grass-lined swales, canals, detention facilities,
5 wastewater treatment facilities, farm ponds, and landscape amenities,
6 or those wetlands created after July 1, 1990, that were
7 unintentionally created as a result of the construction of a road,
8 street, or highway. Wetlands may include those artificial wetlands
9 intentionally created from nonwetland areas created to mitigate
10 conversion of wetlands.

11 NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70A
12 RCW to read as follows:

13 (1) Any city that is required or chooses to plan under RCW
14 36.70A.040 must provide by ordinance and incorporate into its
15 development regulations, zoning regulations, and other official
16 controls, authorization for the following:

17 (a) For cities with a population of at least 25,000 but less than
18 75,000 based on office of financial management population estimates:

19 (i) The development of at least two units per lot on all lots
20 zoned predominantly for residential use;

21 (ii) The development of at least four units per lot on all lots
22 zoned predominantly for residential use within one-half mile walking
23 distance of a major transit stop or community amenity; and

24 (iii) The development of at least four units per lot on all lots
25 zoned predominantly for residential use if at least one unit is
26 affordable housing.

27 (b) For cities with a population of at least 75,000, or any city
28 within a contiguous urban growth area with a city with a population
29 above 200,000, based on office of financial management population
30 estimates:

31 (i) The development of at least four units per lot on all lots
32 zoned predominantly for residential use;

33 (ii) The development of at least six units per lot on all lots
34 zoned predominantly for residential use within one-half mile walking
35 distance of a major transit stop or community amenity; and

36 (iii) The development of at least six units per lot on all lots
37 zoned predominantly for residential use if at least two units are
38 affordable housing.

1 (2) To qualify for the additional units allowed under subsection
2 (1) of this section, the applicant must commit to renting or selling
3 the required number of units as affordable housing. The units must be
4 maintained as affordable for a term of at least 50 years, and the
5 property must satisfy that commitment and all required affordability
6 and income eligibility conditions adopted by the local government
7 under this chapter. The square footage of the units dedicated as
8 affordable must be equal to the average square footage of the market
9 rate units on the same lot. A city must require the applicant to
10 record a covenant or deed restriction that ensures the continuing
11 rental of units subject to these affordability requirements
12 consistent with the conditions in chapter 84.14 RCW for a period of
13 no less than 50 years. The covenant or deed restriction must also
14 address criteria and policies to maintain public benefit if the
15 property is converted to a use other than which continues to provide
16 for permanently affordable low-income housing.

17 (3) Any combination of middle housing types must be allowed to
18 achieve the unit density required in subsection (1) of this section.

19 (4) Any city subject to the requirements of this section:

20 (a) May only adopt objective development and design standards on
21 the development of middle housing;

22 (b) May only apply administrative design review;

23 (c) Except as provided in (a) of this subsection, shall not
24 require through development regulations any standards for middle
25 housing that are more restrictive than those required for detached
26 single-family residences;

27 (d) Shall apply to middle housing the same development permit and
28 environmental review processes that apply to detached single-family
29 residences, unless otherwise required by state law including, but not
30 limited to, shoreline regulations under chapter 90.58 RCW, building
31 codes under chapter 19.27 RCW, energy codes under chapter 19.27A RCW,
32 or electrical codes under chapter 19.28 RCW;

33 (e) Shall not require off-street parking as a condition of
34 permitting development of middle housing within one-half mile walking
35 distance of a major transit stop;

36 (f) Shall not require more than one off-street parking space per
37 unit as a condition of permitting development of middle housing on
38 lots smaller than 6,000 square feet; and

1 (g) Shall not require more than two off-street parking spaces per
 2 unit as a condition of permitting development of middle housing on
 3 lots greater than 6,000 square feet.

4 (5) The provisions of subsection (4)(e) through (g) of this
 5 section do not apply if the city or county makes a determination,
 6 supported by empirical evidence and best practices in a study that is
 7 prepared by a credentialed transportation or land use planning
 8 expert, that the lack of minimum parking requirements in a defined
 9 area would make on-street parking infeasible or unsafe for the
 10 authorized units. The department must develop guidance to assist
 11 cities on items to include in the study.

12 (6) The provisions of this section do not apply to lots
 13 designated with critical areas or their buffers as designated in RCW
 14 36.70A.060.

15 (7) Nothing in this section prohibits a city from permitting
 16 detached single-family residences.

17 (8) A city must comply with the requirements of this section on
 18 the latter of:

19 (a) Six months after its next periodic comprehensive plan update
 20 required under RCW 36.70A.130; or

21 (b) 12 months after a determination by the office of financial
 22 management that the city has reached a population threshold
 23 established under this section.

24 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70A
 25 RCW to read as follows:

26 Population associated with permits for middle housing units are
 27 exempt from the threshold of an office of financial management
 28 population projection to a county or a county population allocation
 29 to a city.

30 NEW SECTION. **Sec. 5.** A new section is added to chapter 36.70A
 31 RCW to read as follows:

32 (1)(a) The department is directed to provide technical assistance
 33 to cities as they implement the requirements under section 3 of this
 34 act.

35 (b) The department shall prioritize such technical assistance to
 36 cities demonstrating the greatest need.

1 (2) (a) The department shall publish model middle housing
2 ordinances no later than six months following the effective date of
3 this section.

4 (b) In any city subject to section 3 of this act that has not
5 passed ordinances, regulations, or other official controls within the
6 time frames provided under section 3(8) of this act, the model
7 ordinance supersedes, preempts, and invalidates local development
8 regulations until the city takes all actions necessary to implement
9 section 3 of this act.

10 (3) (a) The department is directed to establish a process by which
11 cities implementing the requirements of section 3 of this act may
12 seek approval of alternative local action necessary to meet the
13 requirements of this act.

14 (b) The department may approve actions for cities that have, by
15 the effective date of this section, adopted a comprehensive plan and
16 development regulations that are substantially similar to the
17 requirements of this act. In determining whether a city's adopted
18 comprehensive plan and permanent development regulations are
19 substantially similar, the department must view favorably plans and
20 regulations that authorize an overall increase in density throughout
21 the city in units allowed per single-family lot that is at least 75
22 percent of the overall single-family density throughout the city in
23 units allowed per lot, if the specific provisions of this act were
24 adopted.

25 (c) Any local actions approved by the department pursuant to (a)
26 of this subsection to implement the requirements under section 3 of
27 this act are exempt from appeals under this chapter and chapter
28 43.21C RCW.

29 (d) The department's final decision to approve or reject actions
30 by cities implementing section 3 of this act may be appealed to the
31 growth management hearings board by filing a petition as provided in
32 RCW 36.70A.290.

33 NEW SECTION. **Sec. 6.** A new section is added to chapter 36.70A
34 RCW to read as follows:

35 Any city subject to the requirements of section 3 of this act may
36 apply to the department for, and the department may certify, an
37 extension for areas at risk of displacement as determined by the
38 antidisplacement analysis that a jurisdiction is required to complete
39 under RCW 36.70A.070(2). The city must create a plan for implementin

1 antidisplacement policies by their next implementation progress
 2 report required by RCW 36.70A.130(9).

3 **Sec. 7.** RCW 36.70A.280 and 2011 c 360 s 17 are each amended to
 4 read as follows:

5 (1) The growth management hearings board shall hear and determine
 6 only those petitions alleging either:

7 (a) That, except as provided otherwise by this subsection, a
 8 state agency, county, or city planning under this chapter is not in
 9 compliance with the requirements of this chapter, chapter 90.58 RCW
 10 as it relates to the adoption of shoreline master programs or
 11 amendments thereto, or chapter 43.21C RCW as it relates to plans,
 12 development regulations, or amendments, adopted under RCW 36.70A.040
 13 or chapter 90.58 RCW. Nothing in this subsection authorizes the board
 14 to hear petitions alleging noncompliance with RCW 36.70A.5801;

15 (b) That the twenty-year growth management planning population
 16 projections adopted by the office of financial management pursuant to
 17 RCW 43.62.035 should be adjusted;

18 (c) That the approval of a work plan adopted under RCW
 19 36.70A.735(1)(a) is not in compliance with the requirements of the
 20 program established under RCW 36.70A.710;

21 (d) That regulations adopted under RCW 36.70A.735(1)(b) are not
 22 regionally applicable and cannot be adopted, wholly or partially, by
 23 another jurisdiction; ((~~or~~))

24 (e) That a department certification under RCW 36.70A.735(1)(c) is
 25 erroneous; or

26 (f) That the department's final decision to approve or reject
 27 actions by a city implementing section 3 of this act is erroneous.

28 (2) A petition may be filed only by: (a) The state, or a county
 29 or city that plans under this chapter; (b) a person who has
 30 participated orally or in writing before the county or city regarding
 31 the matter on which a review is being requested; (c) a person who is
 32 certified by the governor within sixty days of filing the request
 33 with the board; or (d) a person qualified pursuant to RCW 34.05.530.

34 (3) For purposes of this section "person" means any individual,
 35 partnership, corporation, association, state agency, governmental
 36 subdivision or unit thereof, or public or private organization or
 37 entity of any character.

38 (4) To establish participation standing under subsection (2)(b)
 39 of this section, a person must show that his or her participatio

1 before the county or city was reasonably related to the person's
2 issue as presented to the board.

3 (5) When considering a possible adjustment to a growth management
4 planning population projection prepared by the office of financial
5 management, the board shall consider the implications of any such
6 adjustment to the population forecast for the entire state.

7 The rationale for any adjustment that is adopted by the board
8 must be documented and filed with the office of financial management
9 within ten working days after adoption.

10 If adjusted by the board, a county growth management planning
11 population projection shall only be used for the planning purposes
12 set forth in this chapter and shall be known as the "board adjusted
13 population projection." None of these changes shall affect the
14 official state and county population forecasts prepared by the office
15 of financial management, which shall continue to be used for state
16 budget and planning purposes.

17 NEW SECTION. **Sec. 8.** A new section is added to chapter 36.70A
18 RCW to read as follows:

19 (1) Any city subject to the requirements under section 3 of this
20 act may apply to the department for, and the department may certify,
21 an extension of the implementation timelines established under
22 section 3(8) of this act.

23 (2) An extension certified under this section may be applied only
24 to specific areas where a city can demonstrate that water, sewer, or
25 stormwater services lack capacity to accommodate the density required
26 in section 3 of this act, and the city has:

27 (a) Included an improvement within its capital facilities plan to
28 increase capacity; or

29 (b) Identified which special district is responsible for
30 providing the necessary infrastructure, if the infrastructure is
31 provided by a special purpose district.

32 (3) An extension granted under this section remains in effect
33 until the earliest of:

34 (a) The infrastructure is improved to accommodate the capacity;

35 (b) The city completes its next periodic comprehensive plan
36 update under RCW 36.70A.130; or

37 (c) The city submits its implementation progress report to the
38 department as required under RCW 36.70A.130(9).

1 (4) A city that has received an extension under this section may
2 reapply for any needed extension with its next periodic comprehensive
3 plan update under RCW 36.70A.130 or its implementation progress
4 report to the department under RCW 36.70A.130(9). The application for
5 an additional extension must include a list of infrastructure
6 improvements necessary to meet the capacity required in section 3 of
7 this act.

8 (5) The department may establish by rule any standards or
9 procedures necessary to implement this section.

10 (6) The department must provide the legislature with a list of
11 projects identified in a city's capital facilities plan that were the
12 basis for the extension under this section, including planning level
13 estimates. Additionally, the city must contact special purpose
14 districts to identify additional projects associated with extensions
15 under this section.

16 (7) A city granted an extension for a specific area must allow
17 development as provided under section 3 of this act if the developer
18 commits to providing the necessary water, sewer, or stormwater
19 infrastructure.

20 **Sec. 9.** RCW 43.21C.495 and 2022 c 246 s 3 are each amended to
21 read as follows:

22 (1) Adoption of ordinances, development regulations and
23 amendments to such regulations, and other nonproject actions taken by
24 a city to implement: The actions specified in section 2, chapter 246,
25 Laws of 2022 unless the adoption of such ordinances, development
26 regulations and amendments to such regulations, or other nonproject
27 actions has a probable significant adverse impact on fish habitat;
28 and the increased residential building capacity actions identified in
29 RCW 36.70A.600(1), with the exception of the action specified in RCW
30 36.70A.600(1)(f), are not subject to administrative or judicial
31 appeals under this chapter.

32 (2) Amendments to development regulations and other nonproject
33 actions taken by a city to implement the requirements under section 3
34 of this act pursuant to section 5(3)(b) of this act are not subject
35 to administrative or judicial appeals under this chapter.

36 NEW SECTION. **Sec. 10.** A new section is added to chapter 36.70A
37 RCW to read as follows:

1 A city that adopts development regulations that are consistent
2 with and implement this act and RCW 35A.21.430 or 35.21.683 shall be
3 deemed in compliance with the requirements of RCW 36.70A.070(2)(d)
4 until June 30, 2032.

5 NEW SECTION. **Sec. 11.** A new section is added to chapter 64.34
6 RCW to read as follows:

7 A declaration created after the effective date of this section
8 and applicable to an area within a city subject to the middle housing
9 requirements in section 3 of this act may not actively or effectively
10 prohibit the construction, development, or use of additional housing
11 units as required in section 3 of this act.

12 NEW SECTION. **Sec. 12.** A new section is added to chapter 64.32
13 RCW to read as follows:

14 A declaration created after the effective date of this section
15 and applicable to an association of apartment owners located within
16 an area of a city subject to the middle housing requirements in
17 section 3 of this act may not actively or effectively prohibit the
18 construction, development, or use of additional housing units as
19 required in section 3 of this act.

20 NEW SECTION. **Sec. 13.** A new section is added to chapter 64.38
21 RCW to read as follows:

22 Governing documents of associations within cities subject to the
23 middle housing requirements in section 3 of this act that are created
24 after the effective date of this section may not actively or
25 effectively prohibit the construction, development, or use of
26 additional housing units as required in section 3 of this act.

27 NEW SECTION. **Sec. 14.** A new section is added to chapter 64.90
28 RCW to read as follows:

29 Declarations and governing documents of a common interest
30 community within cities subject to the middle housing requirements in
31 section 3 of this act that are created after the effective date of
32 this section may not actively or effectively prohibit the
33 construction, development, or use of additional housing units as
34 required in section 3 of this act.

--- END ---

HOUSE BILL REPORT

HB 1245

As Reported by House Committee On:
Housing

Title: An act relating to increasing housing options through lot splitting.

Brief Description: Increasing housing options through lot splitting.

Sponsors: Representatives Barkis, Robertson, Wylie, Fitzgibbon, Peterson, Walsh, Chambers, Kloba, Gregerson, Graham, Waters, Reed, Walen, Christian, Riccelli, Macri, Bateman and Doglio.

Brief History:

Committee Activity:

Housing: 1/26/23, 2/2/23 [DPS].

Brief Summary of Substitute Bill

- Requires cities to allow the splitting of a single residential lot if specific conditions are met.
- Prohibits cities from imposing certain regulations on a residential lot that is the result of a lot split.

HOUSE COMMITTEE ON HOUSING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Peterson, Chair; Alvarado, Vice Chair; Leavitt, Vice Chair; Klicker, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Barkis, Bateman, Chopp, Entenman, Hutchins, Low, Reed and Taylor.

Staff: Serena Dolly (786-7150).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. The GMA establishes land-use designation and environmental protection requirements for all Washington counties and cities. The GMA also establishes a significantly wider array of planning duties for 28 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA. These jurisdictions are sometimes said to be "fully planning" under the GMA.

Counties that fully plan under the GMA must designate urban growth areas (UGAs), within which urban growth must be encouraged and outside of which growth may occur only if it is not urban in nature. Each city in a county must be included in a UGA. Planning jurisdictions must include within their UGAs sufficient areas and densities to accommodate projected urban growth for the succeeding 20-year period.

The GMA also directs fully planning jurisdictions to adopt internally consistent, comprehensive land use plans. Comprehensive plans are implemented through locally adopted development regulations, and both the plans and the local regulations are subject to review and revision requirements prescribed in the GMA. When developing their comprehensive plans, counties and cities must consider various goals set forth in statute.

Each comprehensive plan must include a plan, scheme, or design for certain mandatory elements, including a housing element. The housing element must ensure the vitality and character of established residential neighborhoods.

Summary of Substitute Bill:

By July 1, 2024, cities planning under the GMA may not prohibit, within a residential zone that allows for the development of detached single-family residences, the splitting of a single residential lot into two residential lots if:

- the resulting lots are at least 1,500 square feet;
- the resulting lots are at least 40 percent of the size of the original lot;
- the original lot was not created by splitting a single residential lot authorized by this act;
- the lot split would not require demolition or alteration of any housing that is rent restricted, rent subsidized, or that has been occupied by a tenant paying market-rate rent within the preceding 12 months;
- minimum review standards for subdivisions are met; and
- any construction on the resulting lots is subject to all existing state and local laws except for those outlined in this act.

A fully planning city also may not impose regulations on a residential lot that is the result of splitting a single lot that:

- requires more than one off-street parking space per lot;
- requires more than 20 feet of frontage width per lot;

- requires easement widths of more than four feet for access to rear lots, unless site-specific conditions, such as access to utilities, require wider easements ;
- imposes permitting requirements, design standards, or impact fees on construction on a lot resulting from a lot split that are greater than those imposed on new residential construction generally within the same zone; or
- imposes requirements for dedications of rights-of-way or for the construction of off-site improvements, unless site specific conditions require otherwise .

Any conflicting provisions in local development regulations after July 1, 2024, are superseded, preempted, and invalidated.

Substitute Bill Compared to Original Bill:

The original bill prohibited a city from requiring easement widths of more than four feet for access to rear lots. The substitute bill clarifies that cities may require wider easements if required by site-specific conditions, such as access to utilities.

The original bill also prohibited a city from imposing requirements for dedications of rights-of-way or for the construction of off-site improvements. The substitute bill allows exceptions for site-specific conditions.

The original bill specified any construction on lots resulting from a split was subject to all existing state and local laws regarding stormwater runoff, critical areas, shorelines, and conservation areas. The substitute bill removes references to specific types of laws and specifies that the construction is subject to all existing state and local laws, except for the provisions outlined in this act.

The substitute bill requires all lots resulting from a split to meet existing minimum review standards for subdivisions.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) In this housing crisis, we need lots of options. New homes are unaffordable to families buying their first homes. Large lot sizes encourage builders to focus on larger houses. Lot splitting can be a major source of housing supply. Splitting residential lots allows for the creation of more homes, smaller homes, less expensive homes, and

intergenerational homes. While it is sometimes possible to split a lot now, this bill removes some of the processes and prohibitions.

(Opposed) None.

(Other) This is a comprehensive change to local land use regulations, and it is not feasible for all jurisdictions to make the changes in the time frame provided.

Persons Testifying: (In support) Representative Andrew Barkis, prime sponsor; Sol Villarreal; and Josie Cummings, Building Industry Association of Washington.

(Other) Salim Furth, The Mercatus Center at George Mason University; and Luke Esser, City of Mercer Island.

Persons Signed In To Testify But Not Testifying: Dan Bertolet, Sightline Institute; Ryan Donohue, Habitat for Humanity Seattle-King and Kittitas Counties; Bryan Kirschner; and Cathy MacCaul, American Association of Retired Persons Washington State.

H-1021.1

SUBSTITUTE HOUSE BILL 1245

State of Washington**68th Legislature****2023 Regular Session**

By House Housing (originally sponsored by Representatives Barkis, Robertson, Wylie, Fitzgibbon, Peterson, Walsh, Chambers, Kloba, Gregerson, Graham, Waters, Reed, Walen, Christian, Riccelli, Macri, Bateman, and Doglio)

READ FIRST TIME 02/06/23.

1 AN ACT Relating to increasing housing options through lot
2 splitting; adding a new section to chapter 36.70A RCW; and creating a
3 new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that allowing an
6 existing residential lot to be split into two lots can offer many
7 advantages to both the existing homeowner and to prospective
8 homebuyers. Lot splitting can provide current owners the opportunity
9 to maintain homeownership in changing life circumstances, while also
10 providing new homebuyers with a more affordable ownership
11 opportunity. Additionally, lot splitting will provide additional
12 opportunities for sales to affordable housing providers or
13 homeownership facilitators that may be exempt from state real estate
14 excise tax under chapter 82.45 RCW. Therefore, it is the intent of
15 the legislature to ease restrictions on, and expand opportunities
16 for, lot splitting in cities planning under chapter 36.70A RCW, the
17 growth management act.

18 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70A
19 RCW to read as follows:

1 (1) (a) Cities planning under this chapter must adopt or amend by
2 ordinance, and incorporate into their development regulations, zoning
3 regulations, and other official controls the requirements of
4 subsection (2) of this section by July 1, 2024, to apply within the
5 city's urban growth area.

6 (b) Beginning July 1, 2024, the requirements of subsection (2) of
7 this section apply and take effect in any city that has not adopted
8 or amended ordinances, regulations, or other official controls as
9 required under this section and supersede, preempt, and invalidate
10 any conflicting local development regulations.

11 (2) Through ordinances, development regulations, zoning
12 regulations, and other official controls as required under subsection
13 (1) of this section, cities may not:

14 (a) Prohibit, within a residential zone that allows for the
15 development of detached single-family residences, the splitting of a
16 single residential lot into two residential lots if the following
17 conditions are met:

18 (i) The resulting lots are at least 1,500 square feet;

19 (ii) The resulting lots are at least 40 percent of the size of
20 the original lot;

21 (iii) The resulting lots are consistent with the minimum review
22 standards under chapter 58.17 RCW;

23 (iv) The original lot was not created through the splitting of a
24 single residential lot authorized by this section; and

25 (v) The lot split would not require demolition or alteration of
26 any housing that is rent restricted, rent subsidized, or that has
27 been occupied by a tenant paying market-rate rent within the
28 preceding 12 months;

29 (b) Impose regulations on a residential lot that is the result of
30 a lot split that:

31 (i) Require more than one off-street parking space per lot;

32 (ii) Require more than 20 feet of frontage width per lot;

33 (iii) Require easement widths of more than four feet for access
34 to rear lots unless site-specific conditions, such as access to
35 utilities, require wider easements;

36 (iv) Impose permitting requirements, design standards, or impacts
37 fees on construction on a lot resulting from a lot split that are
38 greater than those imposed on new residential construction generally
39 within the same zone; or

1 (v) Impose requirements for dedications of rights-of-way or for
2 the construction of off-site improvements unless site-specific
3 conditions require otherwise.

4 (3) Any construction on the resulting lots is subject to all
5 existing state and local laws except for the provisions specified in
6 subsection (2) of this section.

--- END ---

Proposed 2nd Substitute House Bill 1110 (H-1497.1)

House Appropriations Committee

By Representative Macri

Substitute Bill (as recommended by Housing Committee):

- Requires certain cities planning under the Growth Management Act to allow minimum development densities in residential zones and include specific provisions related to middle housing in their development regulations.
- Requires the Department of Commerce (Commerce) to provide technical assistance to cities in implementing middle housing requirements, to develop model middle housing ordinances, to approve existing local development regulations as substantially equivalent, and to grant extensions to implementation timelines for certain infrastructure deficiencies.

Proposed 2nd Substitute House Bill (H-1497.1) compared to the Substitute House Bill (as recommended by the Housing Committee):

- Modifies the definition of "community amenity" by removing private schools from the definition of schools and adding the word "community" to the definition of a park.
- Modifies the definition of "critical areas" by adding a watershed serving a reservoir for potable water if that watershed is listed, or was listed as of the effective date of the bill, as impaired or threatened under section 303(d) of the federal Clean Water Act.
- Modifies the density requirements for cities over 75,000 and those within a contiguous urban growth area to allow six units on all lots within one-quarter mile of a major transit stop or community amenity, instead of one-half mile.
- Requires a city to choose six of the eight middle housing types identified in the bill to meet density requirements, instead of requiring a city to allow all middle housing types.
- Requires the units dedicated as affordable to be comparable in size and number of bedrooms as other units in the development and be generally distributed throughout the development, instead of having the same average square footage of market rate units on the same lot.
- Allows a city with an affordable housing incentive program, regardless of when the program was created, expanded, or modified, to vary from the affordable housing requirements in the bill and require any development to provide affordable housing, either on-site or through an in-lieu payment.
- Explicitly states that a city may apply any objective development regulations to middle housing that are required for detached single-family residences, including any set back and tree retention requirements.
- Changes the exemption from the off-street parking limits by requiring a jurisdiction to submit to Commerce an empirical study prepared by a credentialed transportation or land use planning expert that clearly demonstrates, and Commerce finds and certifies, that the application of the off-street parking limitations for middle housing will be significantly less safe for vehicle drivers or passengers, pedestrians, or bicyclists than if the jurisdiction's parking requirements were applied to the same location for the same number of detached houses.
- Exempts portions of cities within a one-mile radius of a commercial airport in Washington with at least 9 million annual enplanements from the parking limits for middle housing.

Staff: Serena Dolly

Date: February 23, 2023

- Changes the requirements for a city to demonstrate substantial equivalency with the provisions of the bill by specifying a jurisdiction must have, by January 1, 2023, adopted a comprehensive plan and, within one year of the effective date of the bill, must adopt permanent development regulations that: (1) result in an overall increase in housing units allowed in single-family zones that is at least 75 percent of the increase in housing units allowed in single-family zones if the specific provisions of the bill were adopted; (2) allow for middle housing throughout the city, rather than just in targeted locations; and (3) allow for additional density near major transit stops, schools, and parks and in projects that incorporate dedicated affordable housing.
- Adds fire protection services to the types of infrastructure that can qualify for an extension from the density requirements.
- Provides a categorical exemption from the State Environmental Policy Act for development regulations that remove parking requirements for infill development.
- Allows Commerce to establish by rule any standards or procedures to implement the act.

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-1497.1/23

ATTY/TYPIST: MFW:roy

BRIEF DESCRIPTION: Increasing middle housing in areas traditionally dedicated to single-family detached housing.

1 AN ACT Relating to creating more homes for Washington by
2 increasing middle housing in areas traditionally dedicated to single-
3 family detached housing; amending RCW 36.70A.030, 36.70A.280,
4 43.21C.495, and 43.21C.229; adding new sections to chapter 36.70A
5 RCW; adding a new section to chapter 64.34 RCW; adding a new section
6 to chapter 64.32 RCW; adding a new section to chapter 64.38 RCW;
7 adding new sections to chapter 64.90 RCW; and creating a new section.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 NEW SECTION. **Sec. 1.** The legislature finds that Washington is
10 facing an unprecedented housing shortage for its current population
11 and without significant action will not meet its goal of creating
12 1,000,000 homes by 2044.

13 Increasing housing options that are more affordable to various
14 income levels is critical to achieving the state's housing goals,
15 including those codified by the legislature under chapter 254, Laws
16 of 2021.

17 There is continued need for the development of housing at all
18 income levels, including middle housing that will provide a wider
19 variety of housing options and configurations to allow Washingtonians
20 to live near where they work.

1 To unlock opportunity for Washingtonians it is necessary to lift
 2 bans on the development of modest home choices in cities near job
 3 centers, transit, and amenity-rich neighborhoods.

4 Homes developed at higher densities and gentle density housing
 5 types are more affordable by design for Washington residents both in
 6 their construction and reduced household energy and transportation
 7 costs.

8 While creating more housing options, it is essential for cities
 9 to identify areas at higher risk of displacement and establish
 10 antidisplacement policies as required in Engrossed Second Substitute
 11 House Bill No. 1220 (chapter 254, Laws of 2021).

12 The state has made historic investments in subsidized affordable
 13 housing through the housing trust fund, yet even with these historic
 14 investments, the magnitude of the housing shortage requires both
 15 public and private investment.

16 In addition to addressing the housing shortage, allowing more
 17 housing options in areas already served by urban infrastructure will
 18 reduce the pressure to develop natural and working lands, support key
 19 strategies for climate change, food security, and Puget Sound
 20 recovery, and save taxpayers and ratepayers money.

21 **Sec. 2.** RCW 36.70A.030 and 2021 c 254 s 6 are each amended to
 22 read as follows:

23 Unless the context clearly requires otherwise, the definitions in
 24 this section apply throughout this chapter.

25 (1) "Administrative design review" means a development permit
 26 process whereby an application is reviewed, approved, or denied by
 27 the planning director or the planning director's designee based
 28 solely on objective design and development standards without a public
 29 meeting or hearing, unless such review is otherwise required by state
 30 or federal law or the structure is listed on a local historic
 31 register through a local preservation ordinance.

32 (2) "Adopt a comprehensive land use plan" means to enact a new
 33 comprehensive land use plan or to update an existing comprehensive
 34 land use plan.

35 ((+2)) (3) "Affordable housing" means, unless the context
 36 clearly indicates otherwise, residential housing whose monthly costs,
 37 including utilities other than telephone, do not exceed thirty
 38 percent of the monthly income of a household whose income is:

1 (a) For rental housing, sixty percent of the median household
 2 income adjusted for household size, for the county where the
 3 household is located, as reported by the United States department of
 4 housing and urban development; or

5 (b) For owner-occupied housing, eighty percent of the median
 6 household income adjusted for household size, for the county where
 7 the household is located, as reported by the United States department
 8 of housing and urban development.

9 ~~((3))~~ (4) "Agricultural land" means land primarily devoted to
 10 the commercial production of horticultural, viticultural,
 11 floricultural, dairy, apiary, vegetable, or animal products or of
 12 berries, grain, hay, straw, turf, seed, Christmas trees not subject
 13 to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish
 14 in upland hatcheries, or livestock, and that has long-term commercial
 15 significance for agricultural production.

16 ~~((4))~~ (5) "City" means any city or town, including a code city.

17 ~~((5))~~ (6) "Community amenity" means:

18 (a) A public school as defined in RCW 28A.150.010 or a common
 19 school as defined in RCW 28A.150.020; or

20 (b) A designated entrance or pedestrian access point to a
 21 community park operated by the state or a local government for the
 22 use of the general public.

23 (7) "Comprehensive land use plan," "comprehensive plan," or
 24 "plan" means a generalized coordinated land use policy statement of
 25 the governing body of a county or city that is adopted pursuant to
 26 this chapter.

27 ~~((6))~~ (8) "Cottage housing" means detached dwelling units
 28 arranged on two or more sides of a landscaped central area.

29 (9) "Courtyard apartments" means attached dwelling units arranged
 30 on two or more sides of a landscaped central courtyard.

31 (10) "Critical areas" include the following areas and ecosystems:

32 (a) Wetlands; (b) areas with a critical recharging effect on aquifers
 33 used for potable water; (c) a watershed serving a reservoir for
 34 potable water if that watershed is listed, or was listed as of the
 35 effective date of this section, as impaired or threatened under
 36 section 303(d) of the federal clean water act (33 U.S.C. Sec.

37 1313(d)); (d) fish and wildlife habitat conservation areas; ~~((d))~~

38 (e) frequently flooded areas; and ~~((e))~~ (f) geologically hazardous
 39 areas. "Fish and wildlife habitat conservation areas" does not
 40 include such artificial features or constructs as irrigation deliver

1 systems, irrigation infrastructure, irrigation canals, or drainage
2 ditches that lie within the boundaries of and are maintained by a
3 port district or an irrigation district or company.

4 ~~((7))~~ (11) "Department" means the department of commerce.

5 ~~((8))~~ (12) "Development regulations" or "regulation" means the
6 controls placed on development or land use activities by a county or
7 city, including, but not limited to, zoning ordinances, critical
8 areas ordinances, shoreline master programs, official controls,
9 planned unit development ordinances, subdivision ordinances, and
10 binding site plan ordinances together with any amendments thereto. A
11 development regulation does not include a decision to approve a
12 project permit application, as defined in RCW 36.70B.020, even though
13 the decision may be expressed in a resolution or ordinance of the
14 legislative body of the county or city.

15 ~~((9))~~ (13) "Emergency housing" means temporary indoor
16 accommodations for individuals or families who are homeless or at
17 imminent risk of becoming homeless that is intended to address the
18 basic health, food, clothing, and personal hygiene needs of
19 individuals or families. Emergency housing may or may not require
20 occupants to enter into a lease or an occupancy agreement.

21 ~~((10))~~ (14) "Emergency shelter" means a facility that provides
22 a temporary shelter for individuals or families who are currently
23 homeless. Emergency shelter may not require occupants to enter into a
24 lease or an occupancy agreement. Emergency shelter facilities may
25 include day and warming centers that do not provide overnight
26 accommodations.

27 ~~((11))~~ (15) "Extremely low-income household" means a single
28 person, family, or unrelated persons living together whose adjusted
29 income is at or below thirty percent of the median household income
30 adjusted for household size, for the county where the household is
31 located, as reported by the United States department of housing and
32 urban development.

33 ~~((12))~~ (16) "Forestland" means land primarily devoted to
34 growing trees for long-term commercial timber production on land that
35 can be economically and practically managed for such production,
36 including Christmas trees subject to the excise tax imposed under RCW
37 84.33.100 through 84.33.140, and that has long-term commercial
38 significance. In determining whether forestland is primarily devoted
39 to growing trees for long-term commercial timber production on land
40 that can be economically and practically managed for such production

1 the following factors shall be considered: (a) The proximity of the
 2 land to urban, suburban, and rural settlements; (b) surrounding
 3 parcel size and the compatibility and intensity of adjacent and
 4 nearby land uses; (c) long-term local economic conditions that affect
 5 the ability to manage for timber production; and (d) the availability
 6 of public facilities and services conducive to conversion of
 7 forestland to other uses.

8 ~~((13))~~ (17) "Freight rail dependent uses" means buildings and
 9 other infrastructure that are used in the fabrication, processing,
 10 storage, and transport of goods where the use is dependent on and
 11 makes use of an adjacent short line railroad. Such facilities are
 12 both urban and rural development for purposes of this chapter.
 13 "Freight rail dependent uses" does not include buildings and other
 14 infrastructure that are used in the fabrication, processing, storage,
 15 and transport of coal, liquefied natural gas, or "crude oil" as
 16 defined in RCW 90.56.010.

17 ~~((14))~~ (18) "Geologically hazardous areas" means areas that
 18 because of their susceptibility to erosion, sliding, earthquake, or
 19 other geological events, are not suited to the siting of commercial,
 20 residential, or industrial development consistent with public health
 21 or safety concerns.

22 ~~((15))~~ (19) "Long-term commercial significance" includes the
 23 growing capacity, productivity, and soil composition of the land for
 24 long-term commercial production, in consideration with the land's
 25 proximity to population areas, and the possibility of more intense
 26 uses of the land.

27 ~~((16))~~ (20) "Low-income household" means a single person,
 28 family, or unrelated persons living together whose adjusted income is
 29 at or below eighty percent of the median household income adjusted
 30 for household size, for the county where the household is located, as
 31 reported by the United States department of housing and urban
 32 development.

33 ~~((17))~~ (21) (a) "Major transit stop," except as provided in (b)
 34 of this subsection, means:

35 (i) A stop on a high capacity transportation system funded or
 36 expanded under the provisions of chapter 81.104 RCW;

37 (ii) Commuter rail stops;

38 (iii) Stops on rail or fixed guideway systems, including
 39 transitways; or

40 (iv) Stops on bus rapid transit routes.

1 (b) Alternatively, a definition of "major transit stop" adopted
2 before the effective date of this section by a regional agency
3 planning under the multicounty planning policies authority pursuant
4 to RCW 36.70A.210(7) shall apply to counties and cities which are
5 subject to those multicounty planning policies.

6 (22) "Middle housing" means buildings that are compatible in
7 scale, form, and character with single-family houses and contain two
8 or more attached, stacked, or clustered homes including duplexes,
9 triplexes, fourplexes, fiveplexes, sixplexes, townhouses, courtyard
10 apartments, and cottage housing.

11 (23) "Minerals" include gravel, sand, and valuable metallic
12 substances.

13 ~~((18))~~ (24) "Moderate-income household" means a single person,
14 family, or unrelated persons living together whose adjusted income is
15 at or below 120 percent of the median household income adjusted for
16 household size, for the county where the household is located, as
17 reported by the United States department of housing and urban
18 development.

19 ~~((19))~~ (25) "Permanent supportive housing" is subsidized,
20 leased housing with no limit on length of stay that prioritizes
21 people who need comprehensive support services to retain tenancy and
22 utilizes admissions practices designed to use lower barriers to entry
23 than would be typical for other subsidized or unsubsidized rental
24 housing, especially related to rental history, criminal history, and
25 personal behaviors. Permanent supportive housing is paired with on-
26 site or off-site voluntary services designed to support a person
27 living with a complex and disabling behavioral health or physical
28 health condition who was experiencing homelessness or was at imminent
29 risk of homelessness prior to moving into housing to retain their
30 housing and be a successful tenant in a housing arrangement, improve
31 the resident's health status, and connect the resident of the housing
32 with community-based health care, treatment, or employment services.
33 Permanent supportive housing is subject to all of the rights and
34 responsibilities defined in chapter 59.18 RCW.

35 ~~((20))~~ (26) "Public facilities" include streets, roads,
36 highways, sidewalks, street and road lighting systems, traffic
37 signals, domestic water systems, storm and sanitary sewer systems,
38 parks and recreational facilities, and schools.

1 (~~(21)~~) (27) "Public services" include fire protection and
2 suppression, law enforcement, public health, education, recreation,
3 environmental protection, and other governmental services.

4 (~~(22)~~) (28) "Recreational land" means land so designated under
5 RCW 36.70A.1701 and that, immediately prior to this designation, was
6 designated as agricultural land of long-term commercial significance
7 under RCW 36.70A.170. Recreational land must have playing fields and
8 supporting facilities existing before July 1, 2004, for sports played
9 on grass playing fields.

10 (~~(23)~~) (29) "Rural character" refers to the patterns of land
11 use and development established by a county in the rural element of
12 its comprehensive plan:

13 (a) In which open space, the natural landscape, and vegetation
14 predominate over the built environment;

15 (b) That foster traditional rural lifestyles, rural-based
16 economies, and opportunities to both live and work in rural areas;

17 (c) That provide visual landscapes that are traditionally found
18 in rural areas and communities;

19 (d) That are compatible with the use of the land by wildlife and
20 for fish and wildlife habitat;

21 (e) That reduce the inappropriate conversion of undeveloped land
22 into sprawling, low-density development;

23 (f) That generally do not require the extension of urban
24 governmental services; and

25 (g) That are consistent with the protection of natural surface
26 water flows and groundwater and surface water recharge and discharge
27 areas.

28 (~~(24)~~) (30) "Rural development" refers to development outside
29 the urban growth area and outside agricultural, forest, and mineral
30 resource lands designated pursuant to RCW 36.70A.170. Rural
31 development can consist of a variety of uses and residential
32 densities, including clustered residential development, at levels
33 that are consistent with the preservation of rural character and the
34 requirements of the rural element. Rural development does not refer
35 to agriculture or forestry activities that may be conducted in rural
36 areas.

37 (~~(25)~~) (31) "Rural governmental services" or "rural services"
38 include those public services and public facilities historically and
39 typically delivered at an intensity usually found in rural areas, and
40 may include domestic water systems(~~(7)~~) and fire and police

1 protection services (~~(, transportation and public transit services,~~
 2 ~~and other public utilities)~~) associated with rural development and
 3 normally not associated with urban areas. Rural services do not
 4 include storm or sanitary sewers, except as otherwise authorized by
 5 RCW 36.70A.110(4).

6 ~~((26))~~ (32) "Short line railroad" means those railroad lines
 7 designated class II or class III by the United States surface
 8 transportation board.

9 ~~((27))~~ (33) "Townhouses" means dwelling units constructed in a
 10 row of two or more attached units where each dwelling unit shares at
 11 least one common wall with an adjacent unit and is accessed by a
 12 separate outdoor entrance.

13 (34) "Urban governmental services" or "urban services" include
 14 those public services and public facilities at an intensity
 15 historically and typically provided in cities, specifically including
 16 storm and sanitary sewer systems, domestic water systems, street
 17 cleaning services, fire and police protection services, public
 18 transit services, and other public utilities associated with urban
 19 areas and normally not associated with rural areas.

20 ~~((28))~~ (35) "Urban growth" refers to growth that makes
 21 intensive use of land for the location of buildings, structures, and
 22 impermeable surfaces to such a degree as to be incompatible with the
 23 primary use of land for the production of food, other agricultural
 24 products, or fiber, or the extraction of mineral resources, rural
 25 uses, rural development, and natural resource lands designated
 26 pursuant to RCW 36.70A.170. A pattern of more intensive rural
 27 development, as provided in RCW 36.70A.070(5)(d), is not urban
 28 growth. When allowed to spread over wide areas, urban growth
 29 typically requires urban governmental services. "Characterized by
 30 urban growth" refers to land having urban growth located on it, or to
 31 land located in relationship to an area with urban growth on it as to
 32 be appropriate for urban growth.

33 ~~((29))~~ (36) "Urban growth areas" means those areas designated
 34 by a county pursuant to RCW 36.70A.110.

35 ~~((30))~~ (37) "Very low-income household" means a single person,
 36 family, or unrelated persons living together whose adjusted income is
 37 at or below fifty percent of the median household income adjusted for
 38 household size, for the county where the household is located, as
 39 reported by the United States department of housing and urban
 40 development.

1 (~~(31)~~) (38) "Wetland" or "wetlands" means areas that are
2 inundated or saturated by surface water or groundwater at a frequency
3 and duration sufficient to support, and that under normal
4 circumstances do support, a prevalence of vegetation typically
5 adapted for life in saturated soil conditions. Wetlands generally
6 include swamps, marshes, bogs, and similar areas. Wetlands do not
7 include those artificial wetlands intentionally created from
8 nonwetland sites, including, but not limited to, irrigation and
9 drainage ditches, grass-lined swales, canals, detention facilities,
10 wastewater treatment facilities, farm ponds, and landscape amenities,
11 or those wetlands created after July 1, 1990, that were
12 unintentionally created as a result of the construction of a road,
13 street, or highway. Wetlands may include those artificial wetlands
14 intentionally created from nonwetland areas created to mitigate
15 conversion of wetlands.

16 NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70A
17 RCW to read as follows:

18 (1) Any city that is required or chooses to plan under RCW
19 36.70A.040 must provide by ordinance and incorporate into its
20 development regulations, zoning regulations, and other official
21 controls, authorization for the following:

22 (a) For cities with a population of at least 25,000 but less than
23 75,000 based on office of financial management population estimates:

24 (i) The development of at least two units per lot on all lots
25 zoned predominantly for residential use;

26 (ii) The development of at least four units per lot on all lots
27 zoned predominantly for residential use within one-half mile walking
28 distance of a major transit stop or community amenity; and

29 (iii) The development of at least four units per lot on all lots
30 zoned predominantly for residential use if at least one unit is
31 affordable housing.

32 (b) For cities with a population of at least 75,000, or any city
33 within a contiguous urban growth area with a city with a population
34 above 200,000, based on office of financial management population
35 estimates:

36 (i) The development of at least four units per lot on all lots
37 zoned predominantly for residential use;

1 (ii) The development of at least six units per lot on all lots
2 zoned predominantly for residential use within one-quarter mile
3 walking distance of a major transit stop or community amenity; and

4 (iii) The development of at least six units per lot on all lots
5 zoned predominantly for residential use if at least two units are
6 affordable housing.

7 (2)(a) To qualify for the additional units allowed under
8 subsection (1) of this section, the applicant must commit to renting
9 or selling the required number of units as affordable housing. The
10 units must be maintained as affordable for a term of at least 50
11 years, and the property must satisfy that commitment and all required
12 affordability and income eligibility conditions adopted by the local
13 government under this chapter. A city must require the applicant to
14 record a covenant or deed restriction that ensures the continuing
15 rental of units subject to these affordability requirements
16 consistent with the conditions in chapter 84.14 RCW for a period of
17 no less than 50 years. The covenant or deed restriction must also
18 address criteria and policies to maintain public benefit if the
19 property is converted to a use other than which continues to provide
20 for permanently affordable low-income housing.

21 (b) The units dedicated as affordable must be provided in a range
22 of sizes comparable to other units in the development. To the extent
23 practicable, the number of bedrooms in affordable units must be in
24 the same proportion as the number of bedrooms in units within the
25 entire development. The affordable units must generally be
26 distributed throughout the development and have substantially the
27 same functionality as the other units in the development.

28 (c) If a city has enacted a program under RCW 36.70A.540, the
29 terms of that program govern to the extent they vary from the
30 requirements of this subsection.

31 (3) If a city has enacted a program under RCW 36.70A.540,
32 subsection (1) of this section does not preclude the city from
33 requiring any development, including development described in
34 subsection (1) of this section, to provide affordable housing, either
35 on-site or through an in-lieu payment, nor limit the city's ability
36 to expand such a program or modify its requirements.

37 (4) A city must allow at least six of the eight types of middle
38 housing to achieve the unit density required in subsection (1) of
39 this section.

40 (5) Any city subject to the requirements of this section:

1 (a) May only adopt objective development and design standards on
2 the development of middle housing;

3 (b) May only apply administrative design review;

4 (c) Except as provided in (a) of this subsection, shall not
5 require through development regulations any standards for middle
6 housing that are more restrictive than those required for detached
7 single-family residences, but may apply any objective development
8 regulations that are required for detached single-family residences,
9 including set-back and tree canopy and retention requirements;

10 (d) Shall apply to middle housing the same development permit and
11 environmental review processes that apply to detached single-family
12 residences, unless otherwise required by state law including, but not
13 limited to, shoreline regulations under chapter 90.58 RCW, building
14 codes under chapter 19.27 RCW, energy codes under chapter 19.27A RCW,
15 or electrical codes under chapter 19.28 RCW;

16 (e) Shall not require off-street parking as a condition of
17 permitting development of middle housing within one-half mile walking
18 distance of a major transit stop;

19 (f) Shall not require more than one off-street parking space per
20 unit as a condition of permitting development of middle housing on
21 lots smaller than 6,000 square feet; and

22 (g) Shall not require more than two off-street parking spaces per
23 unit as a condition of permitting development of middle housing on
24 lots greater than 6,000 square feet.

25 (6) The provisions of subsection (5)(e) through (g) of this
26 section do not apply:

27 (a) If a local government submits to the department an empirical
28 study prepared by a credentialed transportation or land use planning
29 expert that clearly demonstrates, and the department finds and
30 certifies, that the application of the parking limitations of
31 subsection (5)(e) through (g) of this section for middle housing will
32 be significantly less safe for vehicle drivers or passengers,
33 pedestrians, or bicyclists than if the jurisdiction's parking
34 requirements were applied to the same location for the same number of
35 detached houses. The department must develop guidance to assist
36 cities on items to include in the study; or

37 (b) To portions of cities within a one-mile radius of a
38 commercial airport in Washington with at least 9,000,000 annual
39 enplanements.

1 (7) The provisions of this section do not apply to lots
2 designated with critical areas or their buffers as designated in RCW
3 36.70A.060.

4 (8) Nothing in this section prohibits a city from permitting
5 detached single-family residences.

6 (9) A city must comply with the requirements of this section on
7 the latter of:

8 (a) Six months after its next periodic comprehensive plan update
9 required under RCW 36.70A.130; or

10 (b) 12 months after a determination by the office of financial
11 management that the city has reached a population threshold
12 established under this section.

13 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70A
14 RCW to read as follows:

15 Population associated with permits for middle housing units are
16 exempt from the threshold of an office of financial management
17 population projection to a county or a county population allocation
18 to a city.

19 NEW SECTION. **Sec. 5.** A new section is added to chapter 36.70A
20 RCW to read as follows:

21 (1)(a) The department is directed to provide technical assistance
22 to cities as they implement the requirements under section 3 of this
23 act.

24 (b) The department shall prioritize such technical assistance to
25 cities demonstrating the greatest need.

26 (2)(a) The department shall publish model middle housing
27 ordinances no later than six months following the effective date of
28 this section.

29 (b) In any city subject to section 3 of this act that has not
30 passed ordinances, regulations, or other official controls within the
31 time frames provided under section 3(9) of this act, the model
32 ordinance supersedes, preempts, and invalidates local development
33 regulations until the city takes all actions necessary to implement
34 section 3 of this act.

35 (3)(a) The department is directed to establish a process by which
36 cities implementing the requirements of section 3 of this act may
37 seek approval of alternative local action necessary to meet the
38 requirements of this act.

1 (b) The department may approve actions under this section for
2 cities that have, by January 1, 2023, adopted a comprehensive plan
3 that is substantially similar to the requirements of this act and,
4 within one year of the effective date of this section, adopts
5 permanent development regulations that are substantially similar to
6 the requirements of this act. In determining whether a city's adopted
7 comprehensive plan and permanent development regulations are
8 substantially similar, the department must find as substantially
9 similar plans and regulations that:

10 (i) Result in an overall increase in housing units allowed in
11 single-family zones that is at least 75 percent of the increase in
12 housing units allowed in single-family zones if the specific
13 provisions of this act were adopted;

14 (ii) Allow for middle housing throughout the city, rather than
15 just in targeted locations; and

16 (iii) Allow for additional density near major transit stops and
17 community amenities, and for projects that incorporate dedicated
18 affordable housing.

19 (c) The department may determine that a comprehensive plan and
20 development regulations that do not meet these criteria are otherwise
21 substantially similar to the requirements of this act if the city can
22 clearly demonstrate that the regulations adopted will result in a
23 greater increase in housing production within existing urban areas.

24 (d) Any local actions approved by the department pursuant to (a)
25 of this subsection to implement the requirements under section 3 of
26 this act are exempt from appeals under this chapter and chapter
27 43.21C RCW.

28 (e) The department's final decision to approve or reject actions
29 by cities implementing section 3 of this act may be appealed to the
30 growth management hearings board by filing a petition as provided in
31 RCW 36.70A.290.

32 (4) For the purpose of this section, "single-family zones" means
33 those zones where single-family detached housing is the predominate
34 land use.

35 NEW SECTION. **Sec. 6.** A new section is added to chapter 36.70A
36 RCW to read as follows:

37 Any city subject to the requirements of section 3 of this act may
38 apply to the department for, and the department may certify, an
39 extension for areas at risk of displacement as determined by th

1 antidisplacement analysis that a jurisdiction is required to complete
 2 under RCW 36.70A.070(2). The city must create a plan for implementing
 3 antidisplacement policies by their next implementation progress
 4 report required by RCW 36.70A.130(9).

5 **Sec. 7.** RCW 36.70A.280 and 2011 c 360 s 17 are each amended to
 6 read as follows:

7 (1) The growth management hearings board shall hear and determine
 8 only those petitions alleging either:

9 (a) That, except as provided otherwise by this subsection, a
 10 state agency, county, or city planning under this chapter is not in
 11 compliance with the requirements of this chapter, chapter 90.58 RCW
 12 as it relates to the adoption of shoreline master programs or
 13 amendments thereto, or chapter 43.21C RCW as it relates to plans,
 14 development regulations, or amendments, adopted under RCW 36.70A.040
 15 or chapter 90.58 RCW. Nothing in this subsection authorizes the board
 16 to hear petitions alleging noncompliance with RCW 36.70A.5801;

17 (b) That the twenty-year growth management planning population
 18 projections adopted by the office of financial management pursuant to
 19 RCW 43.62.035 should be adjusted;

20 (c) That the approval of a work plan adopted under RCW
 21 36.70A.735(1)(a) is not in compliance with the requirements of the
 22 program established under RCW 36.70A.710;

23 (d) That regulations adopted under RCW 36.70A.735(1)(b) are not
 24 regionally applicable and cannot be adopted, wholly or partially, by
 25 another jurisdiction; ((~~or~~))

26 (e) That a department certification under RCW 36.70A.735(1)(c) is
 27 erroneous; or

28 (f) That the department's final decision to approve or reject
 29 actions by a city implementing section 3 of this act is erroneous.

30 (2) A petition may be filed only by: (a) The state, or a county
 31 or city that plans under this chapter; (b) a person who has
 32 participated orally or in writing before the county or city regarding
 33 the matter on which a review is being requested; (c) a person who is
 34 certified by the governor within sixty days of filing the request
 35 with the board; or (d) a person qualified pursuant to RCW 34.05.530.

36 (3) For purposes of this section "person" means any individual,
 37 partnership, corporation, association, state agency, governmental
 38 subdivision or unit thereof, or public or private organization or
 39 entity of any character.

1 (4) To establish participation standing under subsection (2)(b)
 2 of this section, a person must show that his or her participation
 3 before the county or city was reasonably related to the person's
 4 issue as presented to the board.

5 (5) When considering a possible adjustment to a growth management
 6 planning population projection prepared by the office of financial
 7 management, the board shall consider the implications of any such
 8 adjustment to the population forecast for the entire state.

9 The rationale for any adjustment that is adopted by the board
 10 must be documented and filed with the office of financial management
 11 within ten working days after adoption.

12 If adjusted by the board, a county growth management planning
 13 population projection shall only be used for the planning purposes
 14 set forth in this chapter and shall be known as the "board adjusted
 15 population projection." None of these changes shall affect the
 16 official state and county population forecasts prepared by the office
 17 of financial management, which shall continue to be used for state
 18 budget and planning purposes.

19 NEW SECTION. **Sec. 8.** A new section is added to chapter 36.70A
 20 RCW to read as follows:

21 (1) Any city subject to the requirements of section 3 of this act
 22 may apply to the department for, and the department may certify, an
 23 extension of the implementation timelines established under section
 24 3(9) of this act.

25 (2) An extension certified under this section may be applied only
 26 to specific areas where a city can demonstrate that water, sewer,
 27 stormwater, or fire protection services lack capacity to accommodate
 28 the density required in section 3 of this act, and the city has:

29 (a) Included an improvement within its capital facilities plan to
 30 increase capacity; or

31 (b) Identified which special district is responsible for
 32 providing the necessary infrastructure if the infrastructure is
 33 provided by a special purpose district.

34 (3) An extension granted under this section remains in effect
 35 until the earliest of:

36 (a) The infrastructure is improved to accommodate the capacity;

37 (b) The city completes its next periodic comprehensive plan
 38 update under RCW 36.70A.130; or

1 (c) The city submits its implementation progress report to the
2 department as required under RCW 36.70A.130(9).

3 (4) A city that has received an extension under this section may
4 reapply for any needed extension with its next periodic comprehensive
5 plan update under RCW 36.70A.130 or its implementation progress
6 report to the department under RCW 36.70A.130(9). The application for
7 an additional extension must include a list of infrastructure
8 improvements necessary to meet the capacity required in section 3 of
9 this act.

10 (5) The department may establish by rule any standards or
11 procedures necessary to implement this section.

12 (6) The department must provide the legislature with a list of
13 projects identified in a city's capital facilities plan that were the
14 basis for the extension under this section, including planning level
15 estimates. Additionally, the city must contact special purpose
16 districts to identify additional projects associated with extensions
17 under this section.

18 (7) A city granted an extension for a specific area must allow
19 development as provided under section 3 of this act if the developer
20 commits to providing the necessary water, sewer, or stormwater
21 infrastructure.

22 **Sec. 9.** RCW 43.21C.495 and 2022 c 246 s 3 are each amended to
23 read as follows:

24 (1) Adoption of ordinances, development regulations and
25 amendments to such regulations, and other nonproject actions taken by
26 a city to implement: The actions specified in section 2, chapter 246,
27 Laws of 2022 unless the adoption of such ordinances, development
28 regulations and amendments to such regulations, or other nonproject
29 actions has a probable significant adverse impact on fish habitat;
30 and the increased residential building capacity actions identified in
31 RCW 36.70A.600(1), with the exception of the action specified in RCW
32 36.70A.600(1)(f), are not subject to administrative or judicial
33 appeals under this chapter.

34 (2) Amendments to development regulations and other nonproject
35 actions taken by a city to implement the requirements under section 3
36 of this act pursuant to section 5(3)(b) of this act are not subject
37 to administrative or judicial appeals under this chapter.

1 **Sec. 10.** RCW 43.21C.229 and 2020 c 87 s 1 are each amended to
2 read as follows:

3 (1) In order to accommodate infill development and thereby
4 realize the goals and policies of comprehensive plans adopted
5 according to chapter 36.70A RCW, a city or county planning under RCW
6 36.70A.040 is authorized by this section to establish categorical
7 exemptions from the requirements of this chapter. An exemption
8 adopted under this section applies even if it differs from the
9 categorical exemptions adopted by rule of the department under RCW
10 43.21C.110(1)(a). An exemption may be adopted by a city or county
11 under this section if it meets the following criteria:

12 (a) It categorically exempts (~~(government)~~):

13 (i) Government action related to development proposed to fill in
14 an urban growth area, designated according to RCW 36.70A.110, where
15 current density and intensity of use in the area is roughly equal to
16 or lower than called for in the goals and policies of the applicable
17 comprehensive plan and the development is either:

18 (~~(i)~~) (A) Residential development;

19 (~~(ii)~~) (B) Mixed-use development; or

20 (~~(iii)~~) (C) Commercial development up to sixty-five thousand
21 square feet, excluding retail development; or

22 (ii) Government action to amend development regulations to remove
23 requirements for parking from development proposed to fill in an
24 urban growth area designated according to RCW 36.70A.110.

25 (b) It does not exempt government action related to development
26 that is inconsistent with the applicable comprehensive plan or would
27 clearly exceed the density or intensity of use called for in the
28 goals and policies of the applicable comprehensive plan;

29 (c) The local government considers the specific probable adverse
30 environmental impacts of the proposed action and determines that
31 these specific impacts are adequately addressed by the development
32 regulations or other applicable requirements of the comprehensive
33 plan, subarea plan element of the comprehensive plan, planned action
34 ordinance, or other local, state, or federal rules or laws; and

35 (d) (i) The city or county's applicable comprehensive plan was
36 previously subjected to environmental analysis through an
37 environmental impact statement under the requirements of this chapter
38 prior to adoption; or

1 (ii) The city or county has prepared an environmental impact
2 statement that considers the proposed use or density and intensity of
3 use in the area proposed for an exemption under this section.

4 (2) Any categorical exemption adopted by a city or county under
5 this section shall be subject to the rules of the department adopted
6 according to RCW 43.21C.110(1)(a) that provide exceptions to the use
7 of categorical exemptions adopted by the department.

8 NEW SECTION. **Sec. 11.** A new section is added to chapter 36.70A
9 RCW to read as follows:

10 A city that adopts development regulations that are consistent
11 with and implement this act and RCW 35A.21.430 or 35.21.683 shall be
12 deemed in compliance with the requirements of RCW 36.70A.070(2)(d)
13 until June 30, 2032.

14 NEW SECTION. **Sec. 12.** A new section is added to chapter 64.34
15 RCW to read as follows:

16 A declaration created after the effective date of this section
17 and applicable to an area within a city subject to the middle housing
18 requirements in section 3 of this act may not actively or effectively
19 prohibit the construction, development, or use of additional housing
20 units as required in section 3 of this act.

21 NEW SECTION. **Sec. 13.** A new section is added to chapter 64.32
22 RCW to read as follows:

23 A declaration created after the effective date of this section
24 and applicable to an association of apartment owners located within
25 an area of a city subject to the middle housing requirements in
26 section 3 of this act may not actively or effectively prohibit the
27 construction, development, or use of additional housing units as
28 required in section 3 of this act.

29 NEW SECTION. **Sec. 14.** A new section is added to chapter 64.38
30 RCW to read as follows:

31 Governing documents of associations within cities subject to the
32 middle housing requirements in section 3 of this act that are created
33 after the effective date of this section may not actively or
34 effectively prohibit the construction, development, or use of
35 additional housing units as required in section 3 of this act.

1 NEW SECTION. **Sec. 15.** A new section is added to chapter 64.90
2 RCW to read as follows:

3 Declarations and governing documents of a common interest
4 community within cities subject to the middle housing requirements in
5 section 3 of this act that are created after the effective date of
6 this section may not actively or effectively prohibit the
7 construction, development, or use of additional housing units as
8 required in section 3 of this act.

9 NEW SECTION. **Sec. 16.** A new section is added to chapter 64.90
10 RCW to read as follows:

11 The department of commerce may establish by rule any standards or
12 procedures necessary to implement this act.

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