



MEDINA, WASHINGTON

PLANNING COMMISSION MEETING

Hybrid-Virtual/In Person

Tuesday, March 28, 2023 – 6:00 PM

AGENDA

COMMISSION CHAIR | Laura Bustamante

COMMISSION VICE-CHAIR | Shawn Schubring

COMMISSIONERS | Li-Tan Hsu, David Langworthy, Mark Nelson, Laurel Preston, Mike Raskin

PLANNING MANAGER | Stephanie Keyser

Hybrid Meeting Participation

Planning Commission has moved to hybrid meetings, offering both in-person and online meeting participation. Members of the public may also participate by phone/online. Individuals who are participating online and wish to speak live must register their request with the Development Services Coordinator at 425.233.6414 or email rbennett@medina-wa.gov and leave a message before 12PM on the day of the March 28th Planning Commission meeting. Please reference Public Comments for March 28th Planning Commission Meeting on your correspondence. The Development Services Coordinator 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.

Join Zoom Meeting

<https://us06web.zoom.us/j/84937405346?pwd=QnliU09JTHBiRG9BWlcrTkJNdCtpUT09>

Meeting ID: 849 3740 5346

Passcode: 603015

One tap mobile

+12532158782,,84937405346#,,, *603015# US (Tacoma)

1. **CALL TO ORDER / ROLL CALL**

2. **APPROVAL OF MEETING AGENDA**

3. **APPROVAL OF MINUTES**

3.1 Planning Commission Minutes of February 28, 2023

Recommendation: Approve Minutes.

Staff Contact: Rebecca Bennett, Development Services Coordinator

4. **ANNOUNCEMENTS**

4.1 Staff/Commissioners

5. **AUDIENCE PARTICIPATION**

Individuals wishing to speak live during the Virtual Planning Commission meeting will need to register their request with the Development Services Coordinator, Rebecca Bennett, via email (rbennett@medina-wa.gov) or by leaving a message at 425.233.6414 before 12pm the day of the Planning Commission meeting. Please reference Public Comments for the March 28th Planning Commission meeting on your correspondence. The Development Services Coordinator 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.

6. **DISCUSSION**

6.1 Comprehensive Plan Update Schedule

Recommendation: N/A

Staff Contact(s): Stephanie Keyser, Planning Manager

Time Estimate: 30 minutes

6.2 Current Session Bills

Recommendation: N/A

Staff Contact(s): Stephanie Keyser, Planning Manager

Time Estimate: 60 minutes

7. **ADJOURNMENT**

ADDITIONAL INFORMATION

Planning Commission meetings are held on the 4th Tuesday of the month at 6 PM, unless otherwise specified.

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.

2023 UPCOMING MEETINGS

Tuesday, April 25th – Regular Meeting Cancelled

Tuesday, May 2nd – Special Meeting at 6:00PM

Tuesday, May 23rd – Regular Meeting at 6:00 PM

Tuesday, June 27th – Regular Meeting at 6:00 PM

Tuesday, July 26th – Regular Meeting at 6:00 PM

Tuesday, August 2nd – No PC Meeting

Tuesday, September 26th – Regular Meeting at 6:00 PM

Tuesday, October 24th – Regular Meeting at 6:00 PM

Tuesday, November 28th – Regular Meeting Cancelled – Special Meeting Date TBD

Tuesday, December 26th – Regular Meeting Cancelled – Special Meeting Date TBD



MEDINA, WASHINGTON

PLANNING COMMISSION MEETING

Hybrid-Virtual/In Person

Tuesday, February 28, 2023 – 6:00 PM

MINUTES

COMMISSION CHAIR | Laura Bustamante

COMMISSION VICE-CHAIR | Shawn Schubring

COMMISSIONERS | Li-Tan Hsu, David Langworthy, Mark Nelson, Laurel Preston, Mike Raskin

PLANNING MANAGER | Stephanie Keyser

1. CALL TO ORDER / ROLL CALL

Chair Bustamante called the meeting to order at 6:05pm.

PRESENT

- Chair Laura Bustamante
- Vice Chair Shawn Schubring
- Commissioner David Langworthy
- Commissioner Mark Nelson
- Commissioner Laurel Preston
- Commissioner Mike Raskin

ABSENT

- Commissioner Li-Tan Hsu

STAFF

- Bennett, Burns, Keyser

2. APPROVAL OF MEETING AGENDA

By consensus, Planning Commission approved the meeting agenda as presented.

3. APPROVAL OF MINUTES

3.1 Planning Commission Minutes of January 24, 2023

Recommendation: Approve Minutes.

Staff Contact: Rebecca Bennett, Development Services Coordinator

Keyser mentioned that there were minor edits to the minutes.

ACTION: Motion to approve minutes. (Approved 6-0)

Motion made by Commissioner Preston, Seconded by Commissioner Raskin.
Voting Yea: Chair Bustamante, Vice Chair Schubring, Commissioner Langworthy,
Commissioner Nelson, Commissioner Preston, Commissioner Raskin

4. ANNOUNCEMENTS

4.1 Staff/Commissioners

Keyser announced that we are moving the April 25th 2023 meeting to May 2nd 2023.

5. AUDIENCE PARTICIPATION

There was no audience participation.

6. DISCUSSION

6.1 Current Session Bills

Recommendation: N/A

Staff Contact(s): Stephanie Keyser, Planning Manager

Time Estimate: 10 minutes

Keyser gave powerpoint presentation. Commissioners discussed and asked questions.

6.2 Draft Housing Action Plan

Recommendation: N/A

Staff Contact(s): Stephanie Keyser, Planning Manager

Time Estimate: 90 minutes

Keyser gave powerpoint presentation. Commissioners discussed and asked questions.

7. ADJOURNMENT

Meeting adjourned at 7:20pm.

ACTION: Motion to adjourn. (Approved 6-0).



MEDINA, WASHINGTON

AGENDA BILL

Tuesday, March 28, 2023

Subject: Comprehensive Plan Update Schedule

Category: Discussion

Staff Contact(s): Stephanie Keyser, Planning Manager

Summary

To complete the Comprehensive Plan on time, Staff is proposing the attached schedule for chapter review.

Attachment(s)

A. Comp Plan Schedule Overview

Budget/Fiscal Impact: N/A

Recommendation: N/A

Proposed Council Motion: N/A

Time Estimate: 30 minutes



CITY OF MEDINA

501 EVERGREEN POINT ROAD | PO BOX 144 | MEDINA WA 98039-0144
TELEPHONE 425-233-6400 | www.medina-wa.gov

MEMORANDUM

DATE: March 28, 2023

TO: Medina Planning Commission

FROM: Stephanie Keyser, AICP, Planning Manager

RE: Comprehensive Plan Update Chapter Schedule

SCHEDULE FOR COMP PLAN CHAPTER REVIEW

OVERVIEW

Medina City Council, Planning Commission, Park Board, Staff and Consultants will work toward having a complete draft of the updated Comprehensive Plan available for public comment by the end of May/beginning of June 2024. This will provide enough time for the regulatory reviews that must be done (PRSC review, SEPA, 60-day notice to the Department of Commerce), and to ensure the public will have ample opportunity to view and comment on the entire document.

Planning Commission’s substantive chapter work will be finished in April 2024. The goal will be for Council to adopt the update at their October 14, 2024 meeting. Planning on adoption prior to the December 31, 2024, deadline will build in a 2-month buffer that we can utilize if necessary, and still remain compliant.

Process

Prior to Planning Commission discussing the drafts the Consultant has worked on, the drafts will be included as attachments to the Comp Plan Update Council standing agenda item. This is intended to give Council the opportunity to see what is being proposed prior to any Commission or Board discussion and to provide comments and direction. It is anticipated that there will be a back-and-forth of drafts between Council and Planning Commission. To ensure we stay on schedule, it is suggested that drafts are only sent between bodies twice.

The following is Planning Commission’s Comp Plan Update Schedule:

2023

Housing Chapter

March – July

The goal is for Council to begin their discussion of the Housing Chapter at their September 11th meeting. This means Planning Commission needs to be completed with their first draft in July

(reminder that we do not meet in August). There is additional guidance the Department of Commerce will release by the end of April to help cities implement the new housing requirements. It is possible Planning Commission will need to have a workshop in June or July to ensure a complete draft is available for Council to review in September.

August – No meeting

September

September 11 (Council Meeting) – Council will have a first in-depth discussion of the Housing Chapter draft that has been prepared by Planning Commission.

September 26 (PC Meeting) – It is assumed that Council will have sent back comments, direction, or clarification on the Housing draft and Planning Commission will continue to work on it.

October

October 9 (Council Meeting) – It is assumed Council will discuss the changes made to the Housing Draft and will send back further comments.

October 23 (PC Meeting) – It is assumed Planning Commission will address any changes Council would like on the Housing Draft. This will complete the two times, back-and-forth for the Housing Chapter. The rest of the revisions will be at Council-level.

Draft Deliverables from the Consultant:

The City will receive the following chapter drafts:

- Land Use
- Parks and Open Space
- Natural Element
- Shoreline Management
- Community Design

November

November 13 (Council Meeting) – It is assumed Council will discuss the changes made to the Housing Draft. The following drafts will be included as attachments in the Council packet: Land Use, Parks and Open Space, Natural Element, Shoreline Management, and Community Design. This will give Council a first quick review and will allow any specific direction to be made prior to Planning Commission beginning their review.

Draft Deliverables from the Consultant:

The City will receive the following chapter drafts:

- Transportation
- Utilities
- Capital Facilities

Planning Commission Workshop (4-hours) – date and time TBD

Staff would like to schedule a 4-hour workshop with Planning Commission in November to discuss the draft chapters we will receive in October from the consultant (Land Use, Parks & Open Space, Natural Element, Shoreline, and Community Design). Shoreline and Community Design will need to be in a first draft condition at the end of the workshop. The options for meeting are:

Saturday, November 4 th	9AM-1PM; 10AM-2PM
Sunday, November 5 th	9AM-1PM; 10AM-2PM
Saturday, November 11 th	9AM-1PM; 10AM-2PM
Sunday, November 12 th	9AM-1PM; 10AM-2PM
Tuesday, November 14 th	5PM-9PM
Saturday, November 18 th	9AM-1PM; 10AM-2PM
Sunday, November 19 th	9AM-1PM; 10AM-2PM

December

December 11 (Council Meeting) – Council will have a first in-depth discussion of the following Chapters: Shoreline, Community Design. The following drafts will be included as attachments in the Council packet: Transportation, Utilities, and Capital Facilities. This will give Council a first quick review and will allow any specific direction to be made prior to Planning Commission beginning their review.

December TBD (PC Meeting) – It is assumed Planning Commission will address any changes Council would like in the Shoreline and Community Design Chapters. Land Use, Parks & Open Space, and the Natural Element will continue to be discussed. Depending on the workload from the aforementioned chapters, Transportation, Utilities, and Capital Facilities could also have a first discussion.

2024

January

January 8 (Council Meeting) – Council will have a first in-depth discussion of the following Chapters: Land Use and Natural Element. Shoreline and Community Design will continue to be discussed.

January 16 (Park Board Meeting) – Park Board will discuss the Parks and Open Space chapter.

January 23 (PC Meeting) – It is assumed Planning Commission will address any changes to Shoreline and Community Design. This will complete the two times, back-and-forth for these chapters. The rest of the revisions will be at Council-level. Planning Commission will address any changes to Land Use and Natural Element and will discuss Transportation, Utilities, and Capital Facilities.

February

February 12 (Council Meeting) – Council will have a first in-depth discussion of the following Chapter: Parks & Open Space. Staff is anticipating 3 Council meetings to discuss Parks & Open space with a completion of April 8, 2024.

Council will complete the review of the Shoreline Element (the SMP was updated in 2019 and it is anticipated the changes to the Comp Plan will be very minimal, which is why this Chapter has the shorted proposed review time)

February 27 (PC Meeting) – It is assumed Planning Commission will address any changes to Parks & Open Space, Land Use and Natural Element. This will complete the two times, back-and-forth for these chapters. The rest of the revisions will be at Council-level.

March

March 11 (Council Meeting) – Council will have a first in-depth discussion of the following Chapters: Transportation, Utilities, Capital Facilities.

Council will complete the review of Natural Element and Community Design

March 26 (PC Meeting) – It is assumed Planning Commission will address any changes to Transportation, Utilities, and Capital Facilities.

April

April 8 (Council Meeting) – Council will continue to discuss Transportation, Utilities, and Capital Facilities.

Council will complete the review of Housing, Land Use, and Parks & Open Space

April 23 (PC Meeting) – It is assumed Planning Commission will address any changes to Transportation, Utilities, and Capital Facilities. This will complete the two times, back-and-forth for these chapters. The rest of the revisions will be at Council-level.

May

May 13 (Council Meeting) – ***Council will complete the review of Transportation, Utilities, and Capital Facilities***

May 28 (PC Meeting) – It is assumed Planning Commission will continue to finalize the development regulations required to support Comp Plan changes.

June – Full draft released for public comment.

June 25 (PC Meeting) - It is assumed Planning Commission will continue to work on new development regs.

July

July 23 (PC Meeting) – Public Hearing on Comp Plan Draft and Development Regs

September

September 9 (Council Meeting) – Public Hearing on the Comp Plan and Development Regs

October

October 14 (Council Meeting) – Council Adoption



MEDINA, WASHINGTON

AGENDA BILL

Tuesday, March 28, 2023

Subject: Current Session Bills

Category: Discussion

Staff Contact(s): Stephanie Keyser, Planning Manager

Summary

Staff would like to update Planning Commission on the most recent amendments to pending bills.

Attachment(s)

1. SB 5466 – Transit Oriented Development
2. HB 1110 – Middle Housing
3. HB 1245 – Lot Splitting
4. SB 5235 – ADU's

Budget/Fiscal Impact: N/A

Recommendation: N/A

Proposed Commission Motion: N/A

Time Estimate: 60 minutes

Housing Committee

ESSB 5466

Brief Description: Promoting transit-oriented development.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators Liias, Gildon, Kuderer, Lovelett, MacEwen, Mullet, Braun, Billig, Dhingra, Frame, Hunt, Kauffman, Nguyen, Nobles, Pedersen, Saldaña, Salomon, Shewmake, Stanford, Valdez, Van De Wege and Wilson, C.; by request of Office of the Governor).

Brief Summary of Engrossed Substitute Bill

- Establishes that cities planning under the Growth Management Act (GMA) may not enact or enforce any new development regulation within a transit station area or station hub that prohibits the siting of multifamily residential housing on parcels where any other residential use is permissible, with some exceptions.
- Prohibits cities planning under the GMA from enacting or enforcing any new development regulation within a transit station area or station hub that imposes a maximum floor area ratio of less than the transit-oriented density or imposes a maximum residential density, measured in residential units per acre or other metric of land area.
- Prohibits cities and counties planning under the GMA from requiring off-street parking as a condition of permitting development within a station area, with some exceptions.
- Requires the Department of Transportation to establish a competitive grant program to help finance qualifying housing projects within rapid transit corridors and to provide technical assistance for implementing transit-oriented development regulations.
- Expands the categorical exemption for infill development.

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.

Hearing Date: 3/16/23

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 (UGA) within their boundaries sufficient to accommodate a planned 20-year population projection range provided by the Office of Financial Management. 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.

The GMA also establishes 14 goals in a nonprioritized list to guide the development of comprehensive plans and development regulations of counties and cities that plan under the GMA. The transportation goal encourages efficient multimodal transportation systems based on regional priorities and coordinated with county and city transportation plans. The housing element must ensure the vitality and character of established residential neighborhoods. Among other things, the housing element must include:

- an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth;
- adequate provisions for existing and projected needs of all economic segments of the community;
- identification and implementation of policies and regulations to address and begin to undo racially disparate impacts, displacement, and exclusion of housing caused by local policies, plans, and actions; and
- establishment of antidisplacement policies.

Fully planning cities are encouraged to take an array of specified planning actions to increase

residential building capacity. This may include, for example:

- authorizing a development in one or more areas of certain size that include at least one train station served by commuter rail or light rail with an average of at least 50 residential units per acre that require no more than an average of one on-stop parking space per two bedrooms in the portions of multifamily zones located within the area; or
- authorizing a development in one or more areas of certain size and population that include at least one bus stop served by a scheduled bus service of at least four times per hour for 12 or more hours per day with an average of at least 25 residential units per acre that require no more than an average of one on-site parking space per two bedrooms in portions of the multifamily zones located within the area.

Limits on Minimum Residential Parking Requirements.

For housing units that are affordable to very low-income or extremely low-income individuals, and are located within .25 miles of a transit stop that receives transit service at least two times per hour for 12 or more hours per day, minimum residential parking requirements may be no greater than one parking space per bedroom or .75 of a parking space per unit. For market rate multifamily housing units that are located within .25 miles of a transit stop that receives transit service from at least one route that provides service at least four times per hour for 12 or more hours per day, minimum residential parking requirements may be no greater than one parking space per bedroom or .75 of a parking space per unit.

Cities and counties may establish a requirement for more than one parking space per bedroom for market rate multifamily housing, if the jurisdiction has determined a particular housing unit to be in an area with a lack of access to street parking capacity, physical space impediments, or other reasons supported by evidence that would make on-street parking infeasible for the unit. Fully planning cities under the GMA may not require the provision of off-street parking for accessory dwelling units within .25 miles of a major transit stop, such as a high-capacity transportation system stop, a rail stop, or certain bus stops, unless the city determines that on-street parking is infeasible for the accessory dwelling unit.

Average Minimum Density Requirements.

Floor area ratio is the measurement of a building's floor area in relation to the size of the lot or parcel on which the building is located. Minimum density specifies a minimum size, or floor area ratio, for new development.

State Environmental Policy Act.

The State Environmental Policy Act (SEPA) establishes a review process for state and local governments to identify environmental impacts that may result from governmental decisions, such as the issuance of permits or the adoption of land use plans. Government decisions identified as having significant adverse environmental impacts must then undertake an environmental impact statement (EIS). Under SEPA, certain nonproject actions are categorically exempt from threshold determinations and EISs in rule. Examples of categorical exemptions include various kinds of minor new construction and minor land use decisions.

SEPA Categorical Exemptions for Infill Development.

Counties and cities fully planning under the GMA may establish categorical exemptions from SEPA to accommodate infill development. Under the infill development categorical exemption, cities and counties may adopt categorical exemptions to exempt government action related to development that is new residential development, mixed-use development, or commercial development up to 65,000 square feet, proposed to fill in a UGA when:

- current density and intensity of the use in the area is roughly equal to or lower than called for in the goals and policies of the comprehensive plan;
- the action would not clearly exceed the density or intensity of use called for in the goals and policies of the comprehensive plan;
- the local government considers the specific probable adverse environmental impact of the proposed action and determines that those specific impacts are adequately addressed by other regulations, comprehensive plans, ordinances, or other local, state, and federal laws and rules; and
- the comprehensive plan was previously subjected to environmental analysis through an EIS.

Summary of Bill:

Development Regulations Within a Station Area or Station Hub.

A station area is comprised of all parcels within a UGA that are fully or partially within a .75 mile walking distance of a major transit stop or within .5 mile walking distance of a frequent bus stop. A station hub is comprised of all parcels within a UGA that area fully or partially within a .25 mile walking distance of a major transit station.

A major transit station is a site within a UGA that is or has been funded for development as: (1) a stop on a high capacity transportation system; (2) a commuter rail stop; or (3) a stop on rail or fixed guideway systems, including transitways. A major transit stop is a site within a UGA that is or has been funded for development as: (1) a major transit station characterized by fostering the interconnection of multiple transit routes, including high capacity transit, light rail, or commuter rail; or (2) a stop on a high capacity transit route or a route that runs on high occupancy vehicle lanes.

Cities planning under the GMA may not enact or enforce any new development regulation within a station area that prohibits the siting of multifamily residential housing on parcels where any other residential use is permissible. Cities planning under the GMA may not enact any new development regulation within a station area or station hub that:

- imposes a maximum floor area ratio of less than the transit-oriented density for any use otherwise permitted within a station area or station hub;
- imposes a maximum residential density, measured in residential units per acre or other metric of land area within a station area or station hub; or
- renders a parcel in a station area impracticable to build a usable structure for permitted uses at the transit-oriented density or floor area ratio except for: (1) development standards contained in a shoreline master program or critical area ordinance; or (2) any

parcel that is nonconforming with local subdivision standards or is listed in the Washington Heritage Register or the National Register of Historic Places.

Within any station area or station hub, any maximum floor area ratio must include an increased density bonus of 50 percent for affordable housing for: (1) households with incomes at or below 60 percent area median income; (2) permanent supportive housing; or (3) long-term inpatient care for behavioral health services. Child care facilities, a small business with fewer than 50 employees, and residential units with at least three bedrooms in multifamily housing that are within a station area must not be counted toward floor area ratio limits.

As an alternative, cities may designate parts of a station area or station hub to enact or enforce floor area ratios that are more or less than the transit-oriented density if the following conditions are met:

- the average maximum floor area ratio of all buildable land within a station area or station hub is no less than the applicable transit-oriented density;
- no part of a station hub is subject to a maximum floor area ratio that is less than 1.0; and
- no part of a station area is subject to a maximum floor area ratio that is less than 0.5.

If a city has enacted a development regulation that imposes a maximum floor area ratio of less than the transit-oriented density or a maximum residential density within a station area or station hub, the city must enforce and apply the development regulation consistent with this act instead. Cities planning under GMA must comply with the requirements above, and collaborate with tribes as outlined under the GMA, by the time of their next periodic comprehensive plan update.

The requirements on transit-oriented development regulations do not:

- alter, displace, or limit industrial uses or industrial areas within the urban growth area; or
- limit the amount of affordable housing provided through local mandatory housing affordability programs.

Parking.

Cities and counties planning under the GMA may not require off-street parking as a condition of permitting development within a station area, except for off-street parking that is permanently marked for the exclusive use of individuals with disabilities. A city or county may consult with the Washington State Department of Transportation (WSDOT), and if the city or county and the WSDOT determine that the lack of minimum parking requirements in a defined area would make on-street parking infeasible or unsafe for the authorized units, off-street parking may be allowed within a station area. If a project permit application within a station area does not provide off-street parking, the proposed absence of parking may not be treated as a basis for issuance of a determination of significance pursuant to SEPA. Minimum residential parking requirements for affordable housing units, housing units for seniors or persons with disabilities, and market rate multifamily housing units, in close proximity of certain transit stops, are removed.

State Environmental Policy Act.

The categorical exemption for infill development is expanded to include a project action that:

- is related to a proposed development that would fill in a station hub or station area;

- is related to a proposed multifamily residential development, mixed-use development, or commercial development; and
- is not inconsistent with the applicable comprehensive plan, and does not clearly exceed the density or intensity of use called for in the goals and policies of the applicable comprehensive plan.

A categorical exemption for sustainable transit-oriented development applies even if it differs from the categorical exemptions adopted by Department of Ecology rules.

Common Interest Communities.

Governing documents and declarations of common interest communities, including those such as condominiums and home owner associations, within cities that adopt development regulations related to maximum floor area ratios and maximum residential density provisions, may not prohibit construction or development of multifamily housing or transit-oriented density within a station area or require off-street parking that is inconsistent or in conflict with the parking provisions within a station area.

Transit-Oriented Development Technical Assistance and Grant Programs.

The WSDOT must create a new division within its agency or expand an existing division within its agency to:

- provide technical assistance and award planning grants to cities for transit-oriented development regulation adoption;
- provide compliance review of any transit-oriented development regulations; and
- mediate or help resolve disputes between the WSDOT, local governments, and project proponents regarding land use decisions and processing development permit applications.

The WSDOT must establish and administer a competitive grant program, in consultation with the Department of Commerce (Commerce), to assist with financing housing projects within rapid transit corridors. State agencies, local governments, and nonprofit or for-profit housing developers are eligible to receive grant awards, and grant awards may be used for project capital costs and infrastructure costs and to address gaps in project financing that would prevent ongoing or complete project construction. Eligible housing projects must meet the following requirements:

- be within one-quarter mile of a rapid transit corridor;
- comply with floor area ratio or net density minimums;
- produce at least 100 units of housing; and
- include a covenant on the property requiring at least 20 percent of units remain affordable for households with incomes at or below 80 percent of area median income for at least 99 years.

The WSDOT may award up to 5 percent of grant funds to housing projects within rapid transit corridors that meet such requirements except for either the 100-housing unit minimum requirement or the within one-quarter mile of a rapid transit corridor requirement. The WSDOT must also prioritize eligible projects by occupancy date, with a target occupancy date of

December 31, 2025, and consider certain criteria when prioritizing projects, such as those that:

- are comprised of the largest percentage of affordable units;
- have a high concentration of units affordable to households with incomes at or below 50 percent area median income;
- abide by antidisplacement measures, if appropriate; or
- include units with additional bedrooms or are intended for occupancy by families with multiple dependents.

The Transit-Oriented Development Housing Partnership Account is created in the custody of the state treasurer, and the secretary of the WSDOT, or their designees, and may authorize expenditures from the account. Account revenue may include gifts, donations, or other private contributions, with authorized expenditures for the competitive grant program to finance housing projects in rapid transit corridors and for costs related to duties of the new or expanded division created within the WSDOT.

If funds are appropriated to the Growth Management Planning and Environmental Review Fund in the transportation budget for awarding grants to cities to facilitate transit-oriented development, Commerce may award grants:

- to pay for the costs associated with environmental impact statements, planned action ordinances, subarea plans, the use of other tools under GMA or SEPA, and local code adoption and implementation; and
- to only fund efforts that address environmental impacts and consequences, alternatives, and mitigation measures to allow the analysis to be adopted by applicants for development permits within the geographic area analyzed in the plan.

In consultation with the WSDOT, Commerce must prioritize applications for grants to facilitate transit-oriented development that maximize certain policy objectives in the area covered by a proposal, such as:

- the total number of housing units authorized for new development in station areas, with specific attention to station hubs;
- proximity and quality of transit access;
- plans that exceed applicable transit-oriented densities for station areas and station hubs;
- plans in areas that eliminate on-site parking requirements;
- existence or establishment of incentive zoning, inclusionary housing, use of the multifamily tax exemption, or other tools to promote low-income housing in the area; and
- organization planning and financing of housing benefit districts.

Appropriation: None.

Fiscal Note: Available.

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

ENGROSSED SUBSTITUTE SENATE BILL 5466

State of Washington

68th Legislature

2023 Regular Session

By Senate Transportation (originally sponsored by Senators Lias, Gildon, Kuderer, Lovelett, MacEwen, Mullet, Braun, Billig, Dhingra, Frame, Hunt, Kauffman, Nguyen, Nobles, Pedersen, Saldaña, Salomon, Shewmake, Stanford, Valdez, Van De Wege, and C. Wilson; by request of Office of the Governor)

READ FIRST TIME 02/24/23.

1 AN ACT Relating to promoting transit-oriented development;
2 amending RCW 36.70A.030, 36.70A.500, 36.70A.620, and 43.21C.229;
3 adding new sections to chapter 47.01 RCW; adding a new section to
4 chapter 36.70A RCW; adding a new section to chapter 64.38 RCW; adding
5 a new section to chapter 64.90 RCW; adding a new section to chapter
6 64.34 RCW; adding a new section to chapter 64.32 RCW; and creating a
7 new section.

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

9 NEW SECTION. **Sec. 1.** The legislature finds that the state has
10 made groundbreaking investments in state-of-the-art mass transit and
11 intermodal infrastructure. The legislature finds that to maximize the
12 state's return on these investments, land use policies and practices
13 must keep pace with progress being implemented in transportation
14 infrastructure development. The legislature also intends new
15 development to reflect the state's commitment to vibrant, walkable,
16 accessible urban environments that improve health, expand multimodal
17 transportation options, and include varied community facilities,
18 parks, and green spaces that are open to people of all income levels.

19 The legislature recognizes that cities planning under chapter
20 36.70A RCW require direction and technical assistance to ensure the
21 benefits of state transportation investments are maximized and shared

1 equitably while avoiding unnecessary programmatic and cost b
2 local governments in their comprehensive planning, code enactment,
3 and permit processing workloads. The legislature further recognizes
4 that regulatory flexibility and local control are also important
5 features of optimal planning outcomes.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 47.01
7 RCW to read as follows:

8 (1) The department must create a new division within its agency
9 or expand an existing division within its agency to do the following:

10 (a) Provide technical assistance and award planning grants to
11 cities to implement the requirements under section 6 of this act;

12 (b) Provide compliance review of any transit-oriented development
13 regulations adopted consistent with section 6 of this act; and

14 (c) Mediate or help resolve disputes between the department,
15 local governments, and project proponents regarding land use
16 decisions and processing development permit applications.

17 (2) The department must adopt any rules necessary to implement
18 this section.

19 NEW SECTION. **Sec. 3.** A new section is added to chapter 47.01
20 RCW to read as follows:

21 (1) The department, in consultation with the department of
22 commerce, must establish and administer a competitive grant program
23 to assist in the financing of housing projects within rapid transit
24 corridors.

25 (2) Entities eligible to receive grant awards are state agencies,
26 local governments, and nonprofit or for-profit housing developers.
27 Eligible uses of grant awards include project capital costs and
28 infrastructure costs and addressing gaps in project financing that
29 would prevent ongoing or complete project construction.

30 (3)(a) Except as provided in (b) of this subsection, eligible
31 housing projects must meet the following requirements:

32 (i) Be within one-quarter mile of a rapid transit corridor. For
33 purposes of this section, "rapid transit corridor" includes light
34 rail, commuter rail, bus rapid transit, and bus stops that meet
35 certain high-use thresholds as defined in rule;

36 (ii) Comply with floor area ratio or net density minimums as
37 defined in rule;

38 (iii) Produce at least 100 units of housing; and

1 (iv) Include a covenant on the property requiring at
2 percent of units remain affordable for households with incomes at or
3 below 80 percent of area median income for at least 99 years.

4 (b) No more than five percent of grant funds may be awarded to
5 housing projects within rapid transit corridors that meet the
6 requirements under (a) of this subsection, except for requirements
7 under (a)(i) or (iii) of this subsection.

8 (4) The department must prioritize eligible projects by occupancy
9 date, with a target occupancy date of December 31, 2025. The
10 department must also consider the following criteria when
11 prioritizing projects:

- 12 (a) Are comprised of the largest percentage of affordable units;
- 13 (b) Have a high concentration of units affordable to households
14 with incomes at or below 50 percent area median income;
- 15 (c) Do not include costs related to land acquisition;
- 16 (d) Include land acquired at a reduced price or without cost;
- 17 (e) Abide by antidisplacement measures, if appropriate;
- 18 (f) Submitted by community-based housing developers;
- 19 (g) Include units with additional bedrooms or intended for
20 occupancy by families with multiple dependents; or
- 21 (h) Have acquired all necessary permits.

22 (5) The department may adopt any necessary rules to implement the
23 competitive grant program under this section, including any
24 additional project eligibility criteria and prioritization criteria.

25 NEW SECTION. **Sec. 4.** A new section is added to chapter 47.01
26 RCW to read as follows:

27 (1) The transit-oriented development housing partnership account
28 is created in the custody of the state treasurer.

29 (2) Revenues to the account must consist of appropriations by the
30 legislature and any gifts, grants, donations, or other private
31 contribution received by the secretary for the purposes set forth in
32 subsection (3) of this section.

33 (3) Expenditures from the account may be used only for the
34 following:

- 35 (a) Administration of the competitive grant program under section
36 3 of this act, including any technical assistance provided by the
37 department to eligible entities; and

1 (b) Costs related to technical assistance, awarding
2 grants, compliance review, and resolution services provided by the
3 department under section 2 of this act.

4 (4) Only the secretary or the secretary's designee may authorize
5 expenditures from the account. The account is subject to allotment
6 procedures under chapter 43.88 RCW, but an appropriation is not
7 required for expenditures.

8 **Sec. 5.** RCW 36.70A.030 and 2021 c 254 s 6 are each amended to
9 read as follows:

10 Unless the context clearly requires otherwise, the definitions in
11 this section apply throughout this chapter.

12 (1) "Adopt a comprehensive land use plan" means to enact a new
13 comprehensive land use plan or to update an existing comprehensive
14 land use plan.

15 (2) "Affordable housing" means, unless the context clearly
16 indicates otherwise, residential housing whose monthly costs,
17 including utilities other than telephone, do not exceed thirty
18 percent of the monthly income of a household whose income is:

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

23 (b) For owner-occupied housing, (~~eighty~~) 80 percent of the
24 median household income adjusted for household size, for the county
25 where the household is located, as reported by the United States
26 department of housing and urban development.

27 (3) "Agricultural land" means land primarily devoted to the
28 commercial production of horticultural, viticultural, floricultural,
29 dairy, apiary, vegetable, or animal products or of berries, grain,
30 hay, straw, turf, seed, Christmas trees not subject to the excise tax
31 imposed by RCW 84.33.100 through 84.33.140, finfish in upland
32 hatcheries, or livestock, and that has long-term commercial
33 significance for agricultural production.

34 (4) "City" means any city or town, including a code city.

35 (5) "Comprehensive land use plan," "comprehensive plan," or
36 "plan" means a generalized coordinated land use policy statement of
37 the governing body of a county or city that is adopted pursuant to
38 this chapter.

1 (6) "Critical areas" include the following areas and ec
2 (a) Wetlands; (b) areas with a critical recharging effect on aquifers
3 used for potable water; (c) fish and wildlife habitat conservation
4 areas; (d) frequently flooded areas; and (e) geologically hazardous
5 areas. "Fish and wildlife habitat conservation areas" does not
6 include such artificial features or constructs as irrigation delivery
7 systems, irrigation infrastructure, irrigation canals, or drainage
8 ditches that lie within the boundaries of and are maintained by a
9 port district or an irrigation district or company.

10 (7) "Department" means the department of commerce.

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

21 (9) "Emergency housing" means temporary indoor accommodations for
22 individuals or families who are homeless or at imminent risk of
23 becoming homeless that is intended to address the basic health, food,
24 clothing, and personal hygiene needs of individuals or families.
25 Emergency housing may or may not require occupants to enter into a
26 lease or an occupancy agreement.

27 (10) "Emergency shelter" means a facility that provides a
28 temporary shelter for individuals or families who are currently
29 homeless. Emergency shelter may not require occupants to enter into a
30 lease or an occupancy agreement. Emergency shelter facilities may
31 include day and warming centers that do not provide overnight
32 accommodations.

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

39 (12) "Floor area ratio" means a measure of development intensity
40 equal to building square footage divided by property square footage.

1 (13) "Forestland" means land primarily devoted to grow
 2 for long-term commercial timber production on land that can be
 3 economically and practically managed for such production, including
 4 Christmas trees subject to the excise tax imposed under RCW 84.33.100
 5 through 84.33.140, and that has long-term commercial significance. In
 6 determining whether forestland is primarily devoted to growing trees
 7 for long-term commercial timber production on land that can be
 8 economically and practically managed for such production, the
 9 following factors shall be considered: (a) The proximity of the land
 10 to urban, suburban, and rural settlements; (b) surrounding parcel
 11 size and the compatibility and intensity of adjacent and nearby land
 12 uses; (c) long-term local economic conditions that affect the ability
 13 to manage for timber production; and (d) the availability of public
 14 facilities and services conducive to conversion of forestland to
 15 other uses.

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

25 ~~((14))~~ (15) "Frequent bus stop" means a fixed route transit
 26 stop providing frequent transit service that operates seven days per
 27 week with a minimum of three buses per hour for a span of at least 10
 28 hours per day during weekdays.

29 (16) "Geologically hazardous areas" means areas that because of
 30 their susceptibility to erosion, sliding, earthquake, or other
 31 geological events, are not suited to the siting of commercial,
 32 residential, or industrial development consistent with public health
 33 or safety concerns.

34 ~~((15))~~ (17) "Long-term commercial significance" includes the
 35 growing capacity, productivity, and soil composition of the land for
 36 long-term commercial production, in consideration with the land's
 37 proximity to population areas, and the possibility of more intense
 38 uses of the land.

39 ~~((16))~~ (18) "Low-income household" means a single person,
 40 family, or unrelated persons living together whose adjusted income is

1 at or below (~~eighty~~) 80 percent of the median household
2 adjusted for household size, for the county where the household is
3 located, as reported by the United States department of housing and
4 urban development.

5 (~~(17)~~) (19) "Major transit station" means a site within an
6 urban growth area that is, or has been funded for development as:

7 (a) A stop on a high capacity transportation system funded or
8 expanded under chapter 81.104 RCW;

9 (b) A commuter rail stop; or

10 (c) A stop on rail or fixed guideway systems, including
11 transitways.

12 (20) "Major transit stop" means a site within an urban growth
13 area that is, or has been funded for development as:

14 (a) A major transit station characterized by fostering the
15 interconnection of multiple transit routes, including at least one of
16 the following modes: High capacity transit, light rail, or commuter
17 rail; or

18 (b) A stop on a high capacity transit route or a route that runs
19 on high occupancy vehicle lanes.

20 (21) "Minerals" include gravel, sand, and valuable metallic
21 substances.

22 (~~(18)~~) (22) "Moderate-income household" means a single person,
23 family, or unrelated persons living together whose adjusted income is
24 at or below 120 percent of the median household income adjusted for
25 household size, for the county where the household is located, as
26 reported by the United States department of housing and urban
27 development.

28 (~~(19)~~) (23) "Permanent supportive housing" is subsidized,
29 leased housing with no limit on length of stay that prioritizes
30 people who need comprehensive support services to retain tenancy and
31 utilizes admissions practices designed to use lower barriers to entry
32 than would be typical for other subsidized or unsubsidized rental
33 housing, especially related to rental history, criminal history, and
34 personal behaviors. Permanent supportive housing is paired with on-
35 site or off-site voluntary services designed to support a person
36 living with a complex and disabling behavioral health or physical
37 health condition who was experiencing homelessness or was at imminent
38 risk of homelessness prior to moving into housing to retain their
39 housing and be a successful tenant in a housing arrangement, improve
40 the resident's health status, and connect the resident of the housing

1 with community-based health care, treatment, or employment
2 Permanent supportive housing is subject to all of the rights and
3 responsibilities defined in chapter 59.18 RCW.

4 ~~((20))~~ (24) "Public facilities" include streets, roads,
5 highways, sidewalks, street and road lighting systems, traffic
6 signals, domestic water systems, storm and sanitary sewer systems,
7 parks and recreational facilities, and schools.

8 ~~((21))~~ (25) "Public services" include fire protection and
9 suppression, law enforcement, public health, education, recreation,
10 environmental protection, and other governmental services.

11 ~~((22))~~ (26) "Recreational land" means land so designated under
12 RCW 36.70A.1701 and that, immediately prior to this designation, was
13 designated as agricultural land of long-term commercial significance
14 under RCW 36.70A.170. Recreational land must have playing fields and
15 supporting facilities existing before July 1, 2004, for sports played
16 on grass playing fields.

17 ~~((23))~~ (27) "Rural character" refers to the patterns of land
18 use and development established by a county in the rural element of
19 its comprehensive plan:

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

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

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

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

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

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

32 (g) That are consistent with the protection of natural surface
33 water flows and groundwater and surface water recharge and discharge
34 areas.

35 ~~((24))~~ (28) "Rural development" refers to development outside
36 the urban growth area and outside agricultural, forest, and mineral
37 resource lands designated pursuant to RCW 36.70A.170. Rural
38 development can consist of a variety of uses and residential
39 densities, including clustered residential development, at levels
40 that are consistent with the preservation of rural character and th

1 requirements of the rural element. Rural development does
2 to agriculture or forestry activities that may be conducted in rural
3 areas.

4 ~~((25))~~ (29) "Rural governmental services" or "rural services"
5 include those public services and public facilities historically and
6 typically delivered at an intensity usually found in rural areas, and
7 may include domestic water systems, fire and police protection
8 services, transportation and public transit services, and other
9 public utilities associated with rural development and normally not
10 associated with urban areas. Rural services do not include storm or
11 sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

12 ~~((26))~~ (30) "Short line railroad" means those railroad lines
13 designated class II or class III by the United States surface
14 transportation board.

15 ~~((27))~~ (31) "Station area" means all parcels that are (a) fully
16 within an urban growth area and (b) fully or partially within a
17 three-quarter mile walking distance of a major transit stop, or fully
18 or partially within a half-mile walking distance of a frequent bus
19 stop. A city planning under RCW 36.70A.040 may adopt a station area
20 variance, but only after consultation with and approval by the
21 department of transportation.

22 (32) "Station hub" means all parcels that are (a) fully within an
23 urban growth area and (b) fully or partially within a one-quarter
24 mile walking distance of a major transit station. A city planning
25 under RCW 36.70A.040 may adopt a station hub variance, but only after
26 consultation with and approval by the department of transportation.

27 (33) "Transit-oriented density" means a floor area ratio of at
28 least 4.0 for all uses that are permitted in the station area, and a
29 floor area of at least 6.0 for all uses that are permitted in the
30 station hub.

31 (34) "Urban governmental services" or "urban services" include
32 those public services and public facilities at an intensity
33 historically and typically provided in cities, specifically including
34 storm and sanitary sewer systems, domestic water systems, street
35 cleaning services, fire and police protection services, public
36 transit services, and other public utilities associated with urban
37 areas and normally not associated with rural areas.

38 ~~((28))~~ (35) "Urban growth" refers to growth that makes
39 intensive use of land for the location of buildings, structures, and
40 impermeable surfaces to such a degree as to be incompatible with th

1 primary use of land for the production of food, other agricultural
2 products, or fiber, or the extraction of mineral resources, rural
3 uses, rural development, and natural resource lands designated
4 pursuant to RCW 36.70A.170. A pattern of more intensive rural
5 development, as provided in RCW 36.70A.070(5)(d), is not urban
6 growth. When allowed to spread over wide areas, urban growth
7 typically requires urban governmental services. "Characterized by
8 urban growth" refers to land having urban growth located on it, or to
9 land located in relationship to an area with urban growth on it as to
10 be appropriate for urban growth.

11 ~~((29))~~ (36) "Urban growth areas" means those areas designated
12 by a county pursuant to RCW 36.70A.110.

13 ~~((30))~~ (37) "Very low-income household" means a single person,
14 family, or unrelated persons living together whose adjusted income is
15 at or below ~~((fifty))~~ 50 percent of the median household income
16 adjusted for household size, for the county where the household is
17 located, as reported by the United States department of housing and
18 urban development.

19 ~~((31))~~ (38) "Wetland" or "wetlands" means areas that are
20 inundated or saturated by surface water or groundwater at a frequency
21 and duration sufficient to support, and that under normal
22 circumstances do support, a prevalence of vegetation typically
23 adapted for life in saturated soil conditions. Wetlands generally
24 include swamps, marshes, bogs, and similar areas. Wetlands do not
25 include those artificial wetlands intentionally created from
26 nonwetland sites, including, but not limited to, irrigation and
27 drainage ditches, grass-lined swales, canals, detention facilities,
28 wastewater treatment facilities, farm ponds, and landscape amenities,
29 or those wetlands created after July 1, 1990, that were
30 unintentionally created as a result of the construction of a road,
31 street, or highway. Wetlands may include those artificial wetlands
32 intentionally created from nonwetland areas created to mitigate
33 conversion of wetlands.

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

36 (1) Cities planning under RCW 36.70A.040 may not enact or enforce
37 any development regulation within a station area that would prohibit
38 the siting of multifamily residential housing on parcels where any
39 other residential use is permissible.

1 (2) Within any station area or station hub, any maximum
2 area ratio otherwise enacted or enforceable under this section must
3 include an increased density bonus of 50 percent for affordable
4 housing for households with incomes at or below 60 percent area
5 median income, for permanent supportive housing, or for long-term
6 inpatient care as defined in RCW 71.24.025. Any floor area within a
7 station area that is reserved for use by (a) a child care facility as
8 defined in RCW 35.63.170 or (b) a small business as defined in RCW
9 19.85.020, and residential units in multifamily housing that includes
10 at least three bedrooms, must not be counted toward applicable floor
11 area ratio limits.

12 (3)(a) Except as provided in (c) of this subsection, cities
13 planning under RCW 36.70A.040 may not enact any new development
14 regulation that imposes a maximum floor area ratio of less than the
15 applicable transit-oriented density for any use otherwise permitted
16 within a station area or station hub.

17 (b) Cities planning under RCW 36.70A.040 may not enact any new
18 development regulation that imposes a maximum residential density,
19 measured in residential units per acre or other metric of land area
20 within a station area or station hub.

21 (c) As an alternative to (a) of this subsection, cities planning
22 under RCW 36.70A.040 may by ordinance designate parts of a station
23 area or station hub in which to enact or enforce floor area ratios
24 that are more or less than the applicable transit-oriented density,
25 if:

26 (i) The average maximum floor area ratio of all buildable land
27 within a station area or station hub is no less than the applicable
28 transit-oriented density; and

29 (ii) No part of a station hub is subject to a maximum floor area
30 ratio that is less than 1.0, and no part of a station area is subject
31 to a maximum floor area ratio that is less than 0.5.

32 (4) Any city planning under RCW 36.70A.040 that has, as of the
33 effective date of this section, enacted any development regulation
34 that imposes within any station area or station hub (a) a maximum
35 floor area ratio of less than the applicable transit-oriented density
36 or (b) a maximum residential density measured in residential units
37 per acre or other metric of land area, the city must enforce and
38 apply such development regulation consistent with the requirements of
39 this section.

1 (5) (a) Except as provided in (b) of this subsection
2 planning under RCW 36.70A.040 may not enforce upon any parcel in a
3 station area any development standard that renders it impracticable
4 on that parcel to build a usable structure for the permitted uses at
5 the (i) applicable transit-oriented density or (ii) applicable floor
6 area ratio imposed under subsection (3) (c) of this section.

7 (b) This subsection (5) does not apply to development standards
8 contained in a shoreline master program or critical area ordinance,
9 or to any parcel that:

10 (i) Is nonconforming, legally or otherwise, with applicable local
11 subdivision standards including, but not limited to, standards
12 related to lot width, area, geometry, or street access; or

13 (ii) Is listed in the Washington heritage register described in
14 RCW 27.34.220 or the national register of historic places.

15 (6) Any city subject to the requirements of this section may
16 apply to the department of transportation for planning grants and
17 consult with the department of transportation for purposes of
18 obtaining technical assistance and compliance review with development
19 regulation adoption, pursuant to section 2 of this act.

20 (7) Nothing in this section requires alteration, displacement, or
21 limitation of industrial uses or industrial areas within the urban
22 growth area.

23 (8) (a) This section does not limit the amount of affordable
24 housing that a city may require to be provided, either on-site or
25 through an in-lieu payment, pursuant to a program enacted or expanded
26 under RCW 36.70A.540.

27 (b) This section does not modify, limit, or supersede
28 requirements under chapter 64.55 RCW.

29 (9) A city planning under RCW 36.70A.040 must comply with the
30 requirements of this section, and collaborate with federally
31 recognized tribes in accordance with RCW 36.70A.040(8) regarding such
32 requirements, by the time of its next periodic comprehensive plan
33 update required under RCW 36.70A.130.

34 **Sec. 7.** RCW 36.70A.500 and 2012 1st sp.s. c 1 s 310 are each
35 amended to read as follows:

36 (1) The department of commerce shall provide management services
37 for the growth management planning and environmental review fund
38 created by RCW 36.70A.490. The department shall establish procedures
39 for fund management. The department shall encourage participation in

1 the grant or loan program by other public agencies. The d
2 shall develop the grant or loan criteria, monitor the grant or loan
3 program, and select grant or loan recipients in consultation with
4 state agencies participating in the grant or loan program through the
5 provision of grant or loan funds or technical assistance.

6 (2) A grant or loan may be awarded to a county or city that is
7 required to or has chosen to plan under RCW 36.70A.040 and that is
8 qualified pursuant to this section. The grant or loan shall be
9 provided to assist a county or city in paying for the cost of
10 preparing an environmental analysis under chapter 43.21C RCW, that is
11 integrated with a comprehensive plan, subarea plan, plan element,
12 countywide planning policy, development regulation, monitoring
13 program, or other planning activity adopted under or implementing
14 this chapter that:

15 (a) Improves the process for project permit review while
16 maintaining environmental quality; or

17 (b) Encourages use of plans and information developed for
18 purposes of complying with this chapter to satisfy requirements of
19 other state programs.

20 (3) In order to qualify for a grant or loan, a county or city
21 shall:

22 (a) Demonstrate that it will prepare an environmental analysis
23 pursuant to chapter 43.21C RCW and subsection (2) of this section
24 that is integrated with a comprehensive plan, subarea plan, plan
25 element, countywide planning policy, development regulations,
26 monitoring program, or other planning activity adopted under or
27 implementing this chapter;

28 (b) Address environmental impacts and consequences, alternatives,
29 and mitigation measures in sufficient detail to allow the analysis to
30 be adopted in whole or in part by applicants for development permits
31 within the geographic area analyzed in the plan;

32 (c) Demonstrate that procedures for review of development permit
33 applications will be based on the integrated plans and environmental
34 analysis;

35 (d) Include mechanisms to monitor the consequences of growth as
36 it occurs in the plan area and to use the resulting data to update
37 the plan, policy, or implementing mechanisms and associated
38 environmental analysis;

39 (e) Demonstrate substantial progress towards compliance with the
40 requirements of this chapter. A county or city that is more than si

1 months out of compliance with a requirement of this chapter
2 not to be making substantial progress towards compliance; and

3 (f) Provide local funding, which may include financial
4 participation by the private sector.

5 (4) In awarding grants or loans, the department shall give
6 preference to proposals that include one or more of the following
7 elements:

8 (a) Financial participation by the private sector, or a public/
9 private partnering approach;

10 (b) Identification and monitoring of system capacities for
11 elements of the built environment, and to the extent appropriate, of
12 the natural environment;

13 (c) Coordination with state, federal, and tribal governments in
14 project review;

15 (d) Furtherance of important state objectives related to economic
16 development, protection of areas of statewide significance, and
17 siting of essential public facilities;

18 (e) Programs to improve the efficiency and effectiveness of the
19 permitting process by greater reliance on integrated plans and
20 prospective environmental analysis;

21 (f) Programs for effective citizen and neighborhood involvement
22 that contribute to greater likelihood that planning decisions can be
23 implemented with community support;

24 (g) Programs to identify environmental impacts and establish
25 mitigation measures that provide effective means to satisfy
26 concurrency requirements and establish project consistency with the
27 plans; or

28 (h) Environmental review that addresses the impacts of increased
29 density or intensity of comprehensive plans, subarea plans, or
30 receiving areas designated by a city or town under the regional
31 transfer of development rights program in chapter 43.362 RCW.

32 (5) If the local funding includes funding provided by other state
33 functional planning programs, including open space planning and
34 watershed or basin planning, the functional plan shall be integrated
35 into and be consistent with the comprehensive plan.

36 (6) State agencies shall work with grant or loan recipients to
37 facilitate state and local project review processes that will
38 implement the projects receiving grants or loans under this section.

39 (7)(a) Subject to the availability of funds appropriated to the
40 growth management planning and environmental review fund established

1 in RCW 36.70A.490 in the omnibus transportation appropriat
2 for the purpose of awarding grants to cities to facilitate transit-
3 oriented development, the department may use such grants to pay for
4 the costs associated with the preparation of state environmental
5 policy act environmental impact statements, planned action
6 ordinances, subarea plans, costs associated with the utilization of
7 other tools under this chapter or the state environmental policy act,
8 and the costs of local code adoption and implementation of such
9 efforts.

10 (b) Grant awards under this subsection (7) may only fund efforts
11 that address environmental impacts and consequences, alternatives,
12 and mitigation measures in sufficient detail to allow the analysis to
13 be adopted in whole or in part by applicants for development permits
14 within the geographic area analyzed in the plan.

15 (8) In consultation with the department of transportation, the
16 department shall prioritize applications for grants to facilitate
17 transit-oriented development under subsection (7) of this section
18 that maximize the following policy objectives in the area covered by
19 a proposal:

20 (a) The total number of housing units authorized for new
21 development in station areas, with specific attention to station
22 hubs;

23 (b) The proximity and quality of transit access in the area;

24 (c) Plans that exceed applicable transit-oriented densities for
25 station areas and station hubs;

26 (d) Plans that authorize, but do not mandate, ground floor retail
27 with housing above;

28 (e) Plans in areas that eliminate on-site parking requirements;

29 (f) Existence or establishment of incentive zoning, inclusionary
30 housing, use of the multifamily tax exemption, or other tools to
31 promote low-income housing in the area;

32 (g) Plans that include dedicated policies to support public or
33 nonprofit funded low-income or workforce housing;

34 (h) Plans designed to maximize and increase the variety of
35 allowable housing types and expected sale or rental rates; and

36 (i) Organization planning and financing of housing benefit
37 districts.

38 (9) For purposes of this section, "transit access" includes
39 walkable access to:

40 (a) Light rail and other fixed guideway rail systems;

- 1 (b) Bus rapid transit;
- 2 (c) High frequency bus service; or
- 3 (d) Park and ride lots.

4 **Sec. 8.** RCW 36.70A.620 and 2020 c 173 s 3 are each amended to
 5 read as follows:

6 ~~((In counties and cities planning under RCW 36.70A.040, minimum
 7 residential parking requirements mandated by municipal zoning
 8 ordinances for housing units constructed after July 1, 2019, are
 9 subject to the following requirements:~~

10 ~~(1) For housing units that are affordable to very low-income or
 11 extremely low-income individuals and that are located within one-
 12 quarter mile of a transit stop that receives transit service at least
 13 two times per hour for twelve or more hours per day, minimum
 14 residential parking requirements may be no greater than one parking
 15 space per bedroom or .75 space per unit. A city may require a
 16 developer to record a covenant that prohibits the rental of a unit
 17 subject to this parking restriction for any purpose other than
 18 providing for housing for very low-income or extremely low-income
 19 individuals. The covenant must address price restrictions and
 20 household income limits and policies if the property is converted to
 21 a use other than for low-income housing. A city may establish a
 22 requirement for the provision of more than one parking space per
 23 bedroom or .75 space per unit if the jurisdiction has determined a
 24 particular housing unit to be in an area with a lack of access to
 25 street parking capacity, physical space impediments, or other reasons
 26 supported by evidence that would make on-street parking infeasible
 27 for the unit.~~

28 ~~(2) For housing units that are specifically for seniors or people
 29 with disabilities, that are located within one-quarter mile of a
 30 transit stop that receives transit service at least four times per
 31 hour for twelve or more hours per day, a city may not impose minimum
 32 residential parking requirements for the residents of such housing
 33 units, subject to the exceptions provided in this subsection. A city
 34 may establish parking requirements for staff and visitors of such
 35 housing units. A city may establish a requirement for the provision
 36 of one or more parking space per bedroom if the jurisdiction has
 37 determined a particular housing unit to be in an area with a lack of
 38 access to street parking capacity, physical space impediments, or
 39 other reasons supported by evidence that would make on-street parking~~

1 infeasible for the unit. A city may require a developer to
2 covenant that prohibits the rental of a unit subject to this parking
3 restriction for any purpose other than providing for housing for
4 seniors or people with disabilities.

5 ~~(3) For market rate multifamily housing units that are located
6 within one-quarter mile of a transit stop that receives transit
7 service from at least one route that provides service at least four
8 times per hour for twelve or more hours per day, minimum residential
9 parking requirements may be no greater than one parking space per
10 bedroom or .75 space per unit. A city or county may establish a
11 requirement for the provision of more than one parking space per
12 bedroom or .75 space per unit if the jurisdiction has determined a
13 particular housing unit to be in an area with a lack of access to
14 street parking capacity, physical space impediments, or other reasons
15 supported by evidence that would make on-street parking infeasible~~

16 ~~for the unit.))~~ (1) To encourage transit-oriented development and
17 transit use and resulting substantial environmental benefits,
18 counties and cities planning under RCW 36.70A.040 may not require
19 off-street parking as a condition of permitting development within a
20 station area, except for off-street parking that is permanently
21 marked for the exclusive use of individuals with disabilities.

22 (2) If a project permit application within a station area, as
23 defined in RCW 36.70B.020, does not provide parking in compliance
24 with this section, the proposed absence of parking may not be treated
25 as a basis for issuance of a determination of significance pursuant
26 to chapter 43.21C RCW.

27 (3) The parking provisions of this section do not apply if the
28 city or county consults with the department of transportation and the
29 city or county and the department of transportation determine that
30 the lack of minimum parking requirements in a defined area would make
31 on-street parking infeasible or unsafe for the authorized units.

32 **Sec. 9.** RCW 43.21C.229 and 2020 c 87 s 1 are each amended to
33 read as follows:

34 (1) ((In order)) The purpose of this section is to provide cities
35 and counties with additional flexibility to accommodate infill
36 development, as well as to facilitate the timely and certain
37 deployment of sustainable transit-oriented development, and thereby
38 realize the goals and policies of comprehensive plans adopted
39 according to chapter 36.70A RCW((7-a)).

1 (2) A city or county planning under RCW 36.70A.
2 ~~authorized by this section to)) may~~ establish categorical exemptions
3 from the requirements of this chapter(~~(. An exemption adopted under~~
4 ~~this section applies even if it differs from the categorical~~
5 ~~exemptions adopted by rule of the department under RCW~~
6 ~~43.21C.110(1)(a). An exemption may be adopted by a city or county~~
7 ~~under this section)) if it meets the following criteria:~~

8 (a) It categorically exempts government action related to
9 development proposed to fill in an urban growth area, designated
10 according to RCW 36.70A.110, where current density and intensity of
11 use in the area is roughly equal to or lower than called for in the
12 goals and policies of the applicable comprehensive plan and the
13 development is either:

- 14 (i) Residential development;
- 15 (ii) Mixed-use development; or
- 16 (iii) Commercial development up to (~~sixty-five thousand~~) 65,000
17 square feet, excluding retail development;

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

22 (c) The local government considers the specific probable adverse
23 environmental impacts of the proposed action and determines that
24 these specific impacts are adequately addressed by the development
25 regulations or other applicable requirements of the comprehensive
26 plan, subarea plan element of the comprehensive plan, planned action
27 ordinance, or other local, state, or federal rules or laws; and

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

32 (ii) The city or county has prepared an environmental impact
33 statement that considers the proposed use or density and intensity of
34 use in the area proposed for an exemption under this (~~section~~)
35 subsection.

36 (~~(2) Any~~) (3) Any project action that meets the following
37 criteria is categorically exempt from the requirements of this
38 chapter:

39 (a) It is related to a proposed development that would fill in a
40 station hub or station area as defined in RCW 36.70A.030;

- 1 (b) It is related to a proposed:
- 2 (i) Multifamily residential development;
- 3 (ii) Mixed-use development; or
- 4 (iii) Commercial development; and
- 5 (c) It is not inconsistent with the applicable comprehensive
- 6 plan, and does not clearly exceed the density or intensity of use
- 7 called for in the goals and policies of the applicable comprehensive
- 8 plan.

9 (4) Any categorical exemption under this section applies even if
 10 it differs from the categorical exemptions adopted by rule of the
 11 department of ecology under RCW 43.21C.110(1)(a). However, any
 12 categorical exemption ((adopted by a city or county)) under this
 13 section ((shall be)) is subject to the rules of the department
 14 adopted according to RCW 43.21C.110(1)(a) that provide exceptions to
 15 the use of categorical exemptions adopted by the department.

16 NEW SECTION. Sec. 10. A new section is added to chapter 64.38
 17 RCW to read as follows:

18 Governing documents created after the effective date of this
 19 section and applicable to associations located fully or partially
 20 within a station area as defined in RCW 36.70A.030 may not prohibit
 21 the construction or development of multifamily housing or transit-
 22 oriented density that must be permitted by cities under section 6 of
 23 this act or require off-street parking inconsistent or in conflict
 24 with RCW 36.70A.620.

25 NEW SECTION. Sec. 11. A new section is added to chapter 64.90
 26 RCW to read as follows:

27 Declarations and governing documents created after the effective
 28 date of this section and applicable to a common interest community
 29 located fully or partially within a station area as defined in RCW
 30 36.70A.030 may not prohibit the construction or development of
 31 multifamily housing or transit-oriented density that must be
 32 permitted by cities under section 6 of this act or require off-street
 33 parking inconsistent or in conflict with RCW 36.70A.620.

34 NEW SECTION. Sec. 12. A new section is added to chapter 64.34
 35 RCW to read as follows:

36 A declaration created after the effective date of this section
 37 and applicable to an association located fully or partially within

1 station area as defined in RCW 36.70A.030 may not proh
2 construction or development of multifamily housing or transit-
3 oriented density that must be permitted by cities under section 6 of
4 this act or require off-street parking inconsistent or in conflict
5 with RCW 36.70A.620.

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

8 A declaration created after the effective date of this section
9 and applicable to an association of apartment owners located fully or
10 partially within a station area as defined in RCW 36.70A.030 may not
11 prohibit the construction or development of multifamily housing or
12 transit-oriented density that must be permitted by cities under
13 section 6 of this act or require off-street parking inconsistent or
14 in conflict with RCW 36.70A.620.

--- END ---

SENATE BILL REPORT

E2SHB 1110

As Reported by Senate Committee On:
Housing, March 22, 2023

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: House Committee on Appropriations (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).

Brief History: Passed House: 3/6/23, 75-21.

Committee Activity: Housing: 3/17/23, 3/22/23 [DPA-WM, DNP, w/oRec].

<p>Brief Summary of Amended Bill</p> <ul style="list-style-type: none"> • Requires certain cities planning under the Growth management Act to authorize minimum development densities on lots zoned predominately for residential use and include specific provisions related to middle housing in their development regulations. • Requires the Department of Commerce to develop model middle housing ordinances, a process for cities to seek approval of alternative local actions, guidance to assist cities on items to include in a parking study, and provide technical assistance to cities to implement the requirements.
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SENATE COMMITTEE ON HOUSING

Majority Report: Do pass as amended and be referred to Committee on Ways & Means. Signed by Senators Kuderer, Chair; Frame, Vice Chair; Cleveland, Saldaña,

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.

Shewmake and Trudeau.

Minority Report: Do not pass.

Signed by Senators Fortunato, Ranking Member; Wilson, J..

Minority Report: That it be referred without recommendation.

Signed by Senators Braun, Gildon and Rivers.

Staff: Melissa Van Gorkom (786-7491)

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 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. When developing their comprehensive plans, counties and cities must consider various goals set forth in statute, and include mandatory elements such as housing and a capital facilities plan. Comprehensive plans are implemented through locally adopted development regulations, and both must be reviewed and revised every ten years. The review and revision deadlines are staggered as follows:

- on or before December 31, 2024 for King, Kitsap, Pierce, and Snohomish counties, and the cities within those counties, with the following review, and if needed, revision on or before June 30, 2034;
- on or before June 30, 2025 for Clallam, Clark, Island, Jefferson, Lewis, Mason, San Juan, Skagit, Thurston, and Whatcom counties and the cities within those counties;
- on or before June 30, 2026 for Benton, Chelan, Cowlitz, Douglas, Franklin, Kittitas, Skamania, Spokane, Walla Walla, and Yakima counties and the cities within those counties; and
- on or before June 30, 2027 for Adams, Asotin, Columbia, Ferry, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, and Whitman counties and the cities within those counties.

The Department of Commerce (Commerce) must establish a program of technical and financial assistance to encourage and facilitate cities and counties to adopt and implement

comprehensive plans.

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 provided by Commerce;
- 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;
- adequate provisions for existing and projected needs of all economic segments of the community;
- 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 caused by local policies, plans, and actions;
- 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 which include, for example:

- authorizing a duplex, triplex, quadplex, sixplex, stacked flat, townhouse, or courtyard apartment on parcels;
- 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 accessory-dwelling units 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 lack of on-street parking when private roads are used, 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 are not subject to administrative or judicial appeal under SEPA, and any action taken by a city prior to April 1, 2023, to amend its comprehensive plan or adopt or

amend ordinances or development regulations, solely to increase residential building capacity are not subject to legal challenge under the GMA.

Affordable Housing Incentive Programs. Jurisdictions that fully plan under the GMA are authorized to enact or expand affordable housing incentive programs to provide for the development of low-income housing units if various requirements, such as committing low-income housing units developed to continuing affordability for at least 50 years, are met. These programs may be implemented through development regulations, conditions on rezoning or permit decisions, or both, on residential, commercial, industrial, and mixed-use development.

Common Interest Communities. A common interest community (CIC) is a form of real estate in which each unit owner or homeowner has an exclusive interest in a unit or lot and a shared or undivided interest in common area property. In Washington, several statutes govern residential CICs, such as condominiums and homeowners' associations (HOA). Generally these groups can regulate or limit the use of property by its members.

Summary of Amended Bill: Density Requirements. A fully planning city meeting the population criteria, must provide by ordinance and incorporate into its development regulations, zoning regulations, and other official controls, authorization for the development of a minimum number of units on all lots zoned predominately for residential use by six months after the city's next required comprehensive plan update, or 12 months after OFM determines a city has reached the population threshold, whichever is later.

A fully planning city with a population of at least 25,000 but less than 75,000, that is not within a contiguous UGA with the largest city in a county with a population of more than 275,000, must include authorization for at least:

- two units per lot;
- four units per lot if at least one unit is affordable housing; and
- four units per lot within one-half mile walking distance of a major transit stop.

A fully planning city with a population of at least 75,000, or any city located within a contiguous UGA with the largest city in a county with a population of more than 275,000, must include authorization for at least:

- four units per lot;
- six units per lot if at least two of the units are affordable housing; and
- six units per lot within one-quarter mile walking distance of a major transit stop.

To qualify for the additional units the applicant must commit to renting or selling the required number of units as affordable housing. The units must be maintained as affordable for a term of at least 50 years, and record a covenant or deed restriction that ensures the continuing affordability and address criteria and policies to maintain public benefit if the property is converted to a use other than which continues to provide for permanent affordable housing. The units dedicated as affordable must:

- be generally distributed throughout the development;
- be provided in a range of sizes comparable to other units in the development;
- to the extent practicable, provide the same proportion of bedrooms in affordable units as the number of bedrooms in units within the entire development; and
- have substantially the same functionality as the other units in the development.

A city with an affordable housing incentive program may vary from these affordable housing requirements and require any development to provide affordable housing, either on-site or through an in-lieu payment.

Density requirements do not apply:

- to lots designated with critical areas or their buffers; or
- to a watershed serving a reservoir for potable water if that watershed is, or was listed as of the effective date, as impaired or threatened under the federal Clean Water Act.

Alternative Density Requirement. *Alternative for Certain Cities within Contiguous Urban Growth Areas.* As an alternative, cities with a population of less than 75,000 within a contiguous UGA with the largest city in a county with a population of more than 275,000 may authorize at least:

- three units per lot;
- four units per lot if at least one unit is affordable housing; and
- six units per lot within one-quarter mile walking distance of a major transit stop.

Seventy-five Percent Alternative. Cities subject to the density requirements may choose to implement the density requirements for at least 75 percent of lots in the city that are primarily dedicated to single-family detached housing units. Unless identified as at higher risk of displacement, the 75 percent of lots allowing the minimum densities must include any areas:

- for which the exclusion would further racially disparate impacts or result in zoning with a discriminatory effect;
- historically covered by a covenant or deed restriction excluding racial minorities from owning property or living in the area; or
- within one-half mile walking distance of a major transit stop.

The 25 percent where density requirements are not implemented must include:

- any areas within the city for which Commerce has certified an extension due to the risk of displacement or lack of infrastructure capacity;
- any lots designated with critical areas or their buffers;
- any portion of the city within a one-mile radius of a commercial airport with at least 9 million annual enplanements that is exempt from parking requirements; and
- any areas subject to sea level rise, increased flooding, or geological hazards over the next 100 years.

A city that implements the density requirements for at least 75 percent of lots in the city that

are primarily dedicated to single-family detached housing units may apply to Commerce for an extension: to timelines established; or for areas at risk of displacement as determined by the antidisplacement analysis. The city must create a plan for implementing antidisplacement policies by their next comprehensive plan implementation progress report. Any extensions of the timelines established may only be applied to specific areas where a city can demonstrate water, sewer, stormwater or fire protection services lack capacity to accommodate the density required, and the city has: included one or more improvements within its capital facilities plan to increase capacity; or identified which special district is responsible for providing the necessary infrastructure. The extension of timelines remains in effect until the earliest of:

- the infrastructure is improved to accommodate the capacity;
- the city's deadline to complete its next periodic comprehensive plan update; or
- the city's deadline to complete its comprehensive plan implementation progress report to Commerce.

If an extension of the timeline is requested due to lack of water supply from the city or the purveyors who serve water within the city, Commerce's evaluation must be based on the applicable water system plans in effect and approved by the Department of Health. A city may reapply for an additional timeline 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 granted an extension of timeliness for a specific area must allow development if the developer commits to providing the necessary water, sewer, or stormwater infrastructure.

Middle Housing Requirements. A city must allow at least six of the nine of middle housing types and may allow accessory dwelling units to achieve the unit density requirements. 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, stacked flats, courtyard apartments, and cottage housing.

Any city subject to the middle housing requirements:

- must allow zero lot line short subdivision where the number of lots created is equal to the unit density required;
- may only adopt objective development and design standards on the development of middle housing;
- may only apply a development permit process for middle housing whereby an application is reviewed, approved, or denied based solely on objective design and development standards without a public meeting or hearing, unless such review is otherwise required by state or federal law, or the structure is a designated landmark or historic district established under a local preservation ordinance;
- 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 regulations that apply to detached single-family residences, unless otherwise required by state law;
- may not require off-street parking as a condition of permitting development of middle housing within one-half mile walking distance 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 6000 square feet
- 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 6000 square feet; and
- may impose a limit of two units on a residential lot of 2000 square feet or less created through a lot split.

A categorical exemption from SEPA is established for development regulations that remove parking requirements for infill development. The parking provisions do not apply:

- if the local government submits to Commerce an empirical study prepared by a credentialed transportation or land use planning expert that clearly demonstrates, and Commerce finds and certifies, the application of parking provisions in a defined area would be significantly less safe for vehicle drivers or passengers, pedestrians, or bicyclists than if the jurisdiction's parking requirements were applied in the same location for the same number of detached houses; or
- to portions of cities within a one-mile radius of a commercial airport with at least 9 million annual enplanements.

No city shall approve a building permit for housing without adequate water supply. If a city or its water providers do not have an adequate water supply to serve the housing required by the density requirements the city may limit the areas subject to the requirement to match the increased housing capacity with the water supply. Cities must document and the Department of Ecology must certify the water supply capacity and the water demand reduced by the areas not subject to the density requirements in the record of the regulations adopted.

Population associated with permits for middle housing units are exempt from the threshold of an OFM population projection to a county or a county population allocation to a city.

A city that adopts the density and missing middle requirements is:

- not required to update the capital facility plan element required under the GMA to accommodate the increased housing and population capacity until the periodic comprehensive plan update required on or after June 30, 2034, unless Commerce grants a timeline extension; and
- deemed to be in compliance with the requirement under the housing element to make adequate provisions for existing and projected needs of all economic segments of the community, and identify and implement policies and regulations to address and begin to undo racially disparate impacts, displacement, and exclusion in housing caused by

local policies, plans, and actions until June 30, 2032, and has until the first periodic comprehensive plan update required on or after June 30, 2034 to comply with those requirements.

Department of Commerce. Commerce must develop and publish model middle housing ordinances within six months after the act takes effect. The model ordinances supersede, preempt, and invalidate local development regulations that fail to allow middle housing within the time frames provided until the city takes action to adopt density and middle housing regulations.

Commerce must establish a process for cities to seek approval of alternative local actions to meet density requirements, and may approve actions for cities that have adopted a comprehensive plan by January 1, 2023, and have adopted, or within one year of the effective date adopts, permanent development regulations that are substantially similar to the density and missing middle requirements. Commerce must find as substantially similar plans and regulations that:

- 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 density requirements were adopted;
- allow for middle housing throughout the city, rather than just in targeted locations; and
- allow for additional density near major transit stops, and for projects that incorporate dedicated affordable housing.

If a city can clearly demonstrate that the regulations adopted will result in a greater increase in middle housing production within single family zones than would be allowed through the density requirements, Commerce may determine that a comprehensive plan and development regulations that do not meet these criteria are substantially similar. Any alternative local actions approved by Commerce are exempt from appeals under the GMA and SEPA.

Commerce must develop guidance to assist cities on items to include in a parking study and provide technical assistance to implement the requirements prioritized based on cities demonstrating the greatest need.

Commerce may establish by rule and any standards or procedures necessary to implement the density and middle housing requirements.

Common Interest Communities. Governing documents and declarations of CICs, including those such as condominiums and HOAs, within cities subject to the middle housing and density requirements created after the act takes effect may not prohibit construction, development, or use of the additional housing units.

EFFECT OF HOUSING COMMITTEE AMENDMENT(S):

- Makes technical corrections.
- Provides that cities may allow accessory dwelling units to achieve the unit density required.
- Clarifies that cities may only apply administrative design review for middle housing.
- Clarifies that cities considered in compliance with requirements to make adequate provisions for existing and projected needs of all economic segments of the community and identify and implement policies and regulations to address and begin to undo racially disparate impacts, displacement, and exclusion in housing caused by local policies, plans, and actions until June 30, 2032, by meeting the density requirements have until the first periodic comprehensive plan update required on or after June 30, 2034, to comply with those requirements.
- Removes community amenity from the list of requirements for the alternative density requirement and review of substantially similar plans and regulations conducted by Commerce.
- Removes areas within one-half mile walking distance of a building, shopping center or business area containing 100,000 square feet of retail space from the list of areas that must allow the minimum density under the alternative density requirement.
- Allows cities with a population of less than 75,000 within a contiguous UGA with the largest city in a county with a population of more than 275,000, to authorize the development of at least six units per lot within one-quarter, rather than one-half, mile walking distance of a major transit stop.
- Clarifies that Commerce may approve actions by cities that have adopted permanent development regulations that are substantially similar to the requirements.
- Allows a city to limit the areas subject to the requirements to match the increased housing capacity with the water supply. The city must document and the Department of Ecology must certify the water supply capacity and the water demand reduced by the areas not subject to the requirements.
- Requires the Commerce evaluation of the extension to be based on the applicable water system plans in effect and approved by the Department of Health if an extension of the implementation timelines is requested due to lack of water supply from the city or the purveyors who serve water within the city.
- Clarifies that Commerce rule-making authority applies to the density and missing middle provisions of the bill.

Appropriation: The bill contains a null and void clause requiring specific funding be provided in an omnibus appropriation act.

Fiscal Note: Available. New fiscal note requested on March 24, 2023.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed Second Substitute House Bill: *The*

committee recommended a different version of the bill than what was heard. PRO: This is a key element to help us with our housing crisis. It is not unique for the state to be involved in land use at the local level. Under the bill cities will still be allowed to provide for sufficient infrastructure to meet the growth. Majority of cities don't allow this, currently only 5% of permits are for middle housing. When 75% infill land is kept single family only you are keeping people out of housing. It is essential to use developable land available to grow housing without changing the overall character. There are examples throughout the Puget Sound region that shows that updates in codes result in additional housing. This bill would create the floor for jurisdictions so that they are not relying on their neighbors to meet housing needs. Implementation will still be up to each community.

This bill is not about apartment buildings it is about duplexes and other similar buildings. It will not get rid of single-family dwellings but will provide more options. This is intended for redevelopment of homes where it makes financial sense or on vacant lots. Developers will build these if the market demands it which will help lower the cost to buy and rent for new homeowners. Local land use regulations limit the number and type of homes and piecemealing reform will not provide the number of housing needed. Building more housing is complicated and a statewide framework would help us make more progress.

More and cheaper housing is a priority, but we need to be careful that by treating one problem we don't create another problem by creating more wealth inequality. Homeownership is a top way to build wealth, so we need to make sure that the homes are available for purchase rather than rental. The city has noticed long term residents being priced out and forced to move elsewhere which is why the city has adopted a program to allow housing like this. Middle housing types are more affordable in large part because of land costs. There is a need for housing for people with disabilities, especially near transit. Keep people with disabilities in mind so that they can be in these communities. Access to quality housing near parks and schools is essential to everyone's quality of life.

Housing is identified as the states number 1 priority and people prefer more housing walkable to transit and more middle housing types. Production has not kept up with demand and we need creative solutions to solve this problem. Only 15% of Washington households can afford medium priced homes and this allows for more people to go from renters to owners. Affordable housing for people with middle class incomes is critical for UW to allow for staff to afford housing so that we can recruit faculty to our university. We are struggling to attract workers because of lack of housing. Healthy communities need healthy housing markets, and we need both for a good economy. Most people support updating zoning laws and building more housing in their neighborhoods.

The work on this bill makes me proud because it brings people together to make decisions and find the best approach. This bill would provide a safe harbor for cities who implement the density requirements and allows cities to authorize the alternative option or seek approval for substantially similar codes providing additional time for those entities to implement any changes that may be needed. Don't want this bill to get watered down more,

it has already been done with parking to allow for more lot area for parking in some cases. Urge aligning the bill with Oregon's middle housing parking and completely eliminate parking requirements for affordable units. Most of this housing is meant to be in transit areas and should not need parking.

CON: In favor of the spirit of the bill and are working hard to increase housing. We are committed to update the comprehensive plan to meet the housing needs of the state, but this bill is flawed. Housing needs should be addressed by locals who know their needs. We need to concentrate our growth where the services, jobs and infrastructure is and would like to be disconnected from the larger cities. Support higher density housing with affordability requirements around transit options but this bill doesn't meet these standards as it fails to address infrastructure needs. This bill should align with the transit-oriented development bill. The GMA has a process to set targets for cities and counties and if they are meeting their targets they should be exempt from these requirements. Shoreline is on target to meet its growth requirements and should be allowed to continue to do its own thing.

Current homeowners should not be pushed out of their neighborhoods because of increased property tax. If you build a quadplex next to my house each of those units would be on the market for a large amount and won't be affordable housing. This would promote market rate housing and not affordable housing. There is the option for development of additional housing if certain numbers are kept as affordable, but this is not a requirement. Affordable housing should be a true component of the bill.

I understand the need for affordable housing and childcare, but it needs to protect the livability of our neighborhoods. The parking restrictions in this bill would push a lot of vehicles onto the street in residential areas. Language to protect urban forest needs to be added to this bill. There should also be requirements for tree canopy. A 2020 King County report stated that there are higher rates of asthma and other medical issues which are caused by air pollutants. Majority of these communities are BIPOC. Trees are known to clean these air pollutants. Few communities have strong tree ordinances, and we need more protection of our existing forest.

OTHER: This year's bill is much better than previous legislation and we are skeptical that developers will choose this option and support allowing more housing options. Growth should be encouraged in areas where public facilities and infrastructure are available, but this cannot be done in some areas. Some cities don't own utilities and rely on outside agencies to provide those. While there is an extension to the timeline included in the bill it does not recognize that infrastructure improvements will take longer than that. The bill doesn't take into account infill requirements or address impacts for cities that don't already have transit. Need to allow parking so that street parking is not used. Appreciate the tiered approach to parking that are in this bill.

There are concerns with state preemption. Land use decisions are best made at the local level. Local impacts and conditions should be taken into consideration to provide a

reasonable, implementable, and balanced approach. There should be reporting so that we can see what is working.

The alternative compliance pathway is helpful. Need to make sure the bill is compatible with other housing density bills such as the ADU bills which should be eligible for meeting the density requirements under this bill. There are concerns around lot splitting and potential doubling up on the number of units that can be created. Large family size rentals might be torn down and replaced with smaller units. This type of development may result in loss of tree canopy. Language should be added to protect wildland urban interface. Protecting critical areas is important and those areas should be exempt from these requirements. Would recommend adding susceptibility to wildfires in section 4 (2)(e).

Persons Testifying: PRO: Representative Jessica Bateman, Prime Sponsor; MATTHEW HUTCHINS AIA CPHD, American Institute of Architects Washington Council; Ryan Donohue, Habitat for Humanity Seattle-King & Kittitas Counties; Lyset Cadena, City of Burien; Anthony Mixer, Conservative Advocate; Dylan Sluder, Master Builders Association of King and Snohomish Counties; Linda Chia; Joe Tovar, Washington State Department of Commerce; Tricia Gullion, Building Industry Association of Washington; Kurt Wilson, Building Industry Association of Washington; Amanda Kost, University of Washington; Rachel Smith, Seattle Metropolitan Chamber of Commerce; Andrea Reay, Tacoma-Pierce County Chamber; Bryce Yadon, Futurewise; Ken Winkes; Shelli Lucus-Kennedy, BIAW; Dan Bertolet, Sightline Institute; Bill Riley, Washington REALTORS; Linda Moran; Rep. Andrew Barkis, WA State House Member.

CON: Salim Nice, City of Mercer Island; Tom McCormick; Mayor Mike Millman, City of Woodinville, Mayor; Laurence WILLIAMSON, N/A; Jonelle Kemmerling; Councilmember Syd Dawson, City of Maple Valley; Kathleen Russell; Lois Martin; Sandy Shettler.

OTHER: Richard Voget; Mary Lou Pauly, Mayor, City of Issaquah; Carl Schroeder, Association of Washington Cities; Arne Woodard, Councilmember, City of Spokane Valley; Dana Ralph, Mayor of the City of Kent; Tiffany Speir, City of Lakewood; Lacey Jane Wolfe, City of Bellevue; Melissa Bailey, City of Auburn, Mayor.

Persons Signed In To Testify But Not Testifying: No one.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1110

State of Washington 68th Legislature 2023 Regular Session

By House Appropriations (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 02/24/23.

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,
4 43.21C.495, and 43.21C.450; 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 new sections.

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
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 a designated landmark or historic
31 district established under 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
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) "Comprehensive land use plan," "comprehensive plan,"
18 or "plan" means a generalized coordinated land use policy statement
19 of the governing body of a county or city that is adopted pursuant to
20 this chapter.

21 ~~((6))~~ (7) "Cottage housing" means residential units on a lot
22 with a common open space that either: (a) Is owned in common; or (b)
23 has units owned as condominium units with property owned in common
24 and a minimum of 20 percent of the lot size as open space.

25 (8) "Courtyard apartments" means up to four attached dwelling
26 units arranged on two or three sides of a yard or court.

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

36 ~~((7))~~ (10) "Department" means the department of commerce.

37 ~~((8))~~ (11) "Development regulations" or "regulation" means the
38 controls placed on development or land use activities by a county or
39 city, including, but not limited to, zoning ordinances, critical
40 areas ordinances, shoreline master programs, official controls

1 planned unit development ordinances, subdivision ordinan
2 binding site plan ordinances together with any amendments thereto. A
3 development regulation does not include a decision to approve a
4 project permit application, as defined in RCW 36.70B.020, even though
5 the decision may be expressed in a resolution or ordinance of the
6 legislative body of the county or city.

7 ~~((9))~~ (12) "Emergency housing" means temporary indoor
8 accommodations for individuals or families who are homeless or at
9 imminent risk of becoming homeless that is intended to address the
10 basic health, food, clothing, and personal hygiene needs of
11 individuals or families. Emergency housing may or may not require
12 occupants to enter into a lease or an occupancy agreement.

13 ~~((10))~~ (13) "Emergency shelter" means a facility that provides
14 a temporary shelter for individuals or families who are currently
15 homeless. Emergency shelter may not require occupants to enter into a
16 lease or an occupancy agreement. Emergency shelter facilities may
17 include day and warming centers that do not provide overnight
18 accommodations.

19 ~~((11))~~ (14) "Extremely low-income household" means a single
20 person, family, or unrelated persons living together whose adjusted
21 income is at or below thirty percent of the median household income
22 adjusted for household size, for the county where the household is
23 located, as reported by the United States department of housing and
24 urban development.

25 ~~((12))~~ (15) "Forestland" means land primarily devoted to
26 growing trees for long-term commercial timber production on land that
27 can be economically and practically managed for such production,
28 including Christmas trees subject to the excise tax imposed under RCW
29 84.33.100 through 84.33.140, and that has long-term commercial
30 significance. In determining whether forestland is primarily devoted
31 to growing trees for long-term commercial timber production on land
32 that can be economically and practically managed for such production,
33 the following factors shall be considered: (a) The proximity of the
34 land to urban, suburban, and rural settlements; (b) surrounding
35 parcel size and the compatibility and intensity of adjacent and
36 nearby land uses; (c) long-term local economic conditions that affect
37 the ability to manage for timber production; and (d) the availability
38 of public facilities and services conducive to conversion of
39 forestland to other uses.

1 ((~~13~~)) (16) "Freight rail dependent uses" means build
2 other infrastructure that are used in the fabrication, processing,
3 storage, and transport of goods where the use is dependent on and
4 makes use of an adjacent short line railroad. Such facilities are
5 both urban and rural development for purposes of this chapter.
6 "Freight rail dependent uses" does not include buildings and other
7 infrastructure that are used in the fabrication, processing, storage,
8 and transport of coal, liquefied natural gas, or "crude oil" as
9 defined in RCW 90.56.010.

10 ((~~14~~)) (17) "Geologically hazardous areas" means areas that
11 because of their susceptibility to erosion, sliding, earthquake, or
12 other geological events, are not suited to the siting of commercial,
13 residential, or industrial development consistent with public health
14 or safety concerns.

15 ((~~15~~)) (18) "Long-term commercial significance" includes the
16 growing capacity, productivity, and soil composition of the land for
17 long-term commercial production, in consideration with the land's
18 proximity to population areas, and the possibility of more intense
19 uses of the land.

20 ((~~16~~)) (19) "Low-income household" means a single person,
21 family, or unrelated persons living together whose adjusted income is
22 at or below eighty percent of the median household income adjusted
23 for household size, for the county where the household is located, as
24 reported by the United States department of housing and urban
25 development.

26 ((~~17~~)) (20) "Major transit stop" means:
27 (a) A stop on a high capacity transportation system funded or
28 expanded under the provisions of chapter 81.104 RCW;
29 (b) Commuter rail stops;
30 (c) Stops on rail or fixed guideway systems, including
31 transitways; or
32 (d) Stops on bus rapid transit routes.

33 (21) "Middle housing" means buildings that are compatible in
34 scale, form, and character with single-family houses and contain two
35 or more attached, stacked, or clustered homes including duplexes,
36 triplexes, fourplexes, fiveplexes, sixplexes, townhouses, stacked
37 flats, courtyard apartments, and cottage housing.

38 (22) "Minerals" include gravel, sand, and valuable metallic
39 substances.

1 (~~(18)~~) (23) "Moderate-income household" means a single
2 family, or unrelated persons living together whose adjusted income is
3 at or below 120 percent of the median household income adjusted for
4 household size, for the county where the household is located, as
5 reported by the United States department of housing and urban
6 development.

7 (~~(19)~~) (24) "Permanent supportive housing" is subsidized,
8 leased housing with no limit on length of stay that prioritizes
9 people who need comprehensive support services to retain tenancy and
10 utilizes admissions practices designed to use lower barriers to entry
11 than would be typical for other subsidized or unsubsidized rental
12 housing, especially related to rental history, criminal history, and
13 personal behaviors. Permanent supportive housing is paired with on-
14 site or off-site voluntary services designed to support a person
15 living with a complex and disabling behavioral health or physical
16 health condition who was experiencing homelessness or was at imminent
17 risk of homelessness prior to moving into housing to retain their
18 housing and be a successful tenant in a housing arrangement, improve
19 the resident's health status, and connect the resident of the housing
20 with community-based health care, treatment, or employment services.
21 Permanent supportive housing is subject to all of the rights and
22 responsibilities defined in chapter 59.18 RCW.

23 (~~(20)~~) (25) "Public facilities" include streets, roads,
24 highways, sidewalks, street and road lighting systems, traffic
25 signals, domestic water systems, storm and sanitary sewer systems,
26 parks and recreational facilities, and schools.

27 (~~(21)~~) (26) "Public services" include fire protection and
28 suppression, law enforcement, public health, education, recreation,
29 environmental protection, and other governmental services.

30 (~~(22)~~) (27) "Recreational land" means land so designated under
31 RCW 36.70A.1701 and that, immediately prior to this designation, was
32 designated as agricultural land of long-term commercial significance
33 under RCW 36.70A.170. Recreational land must have playing fields and
34 supporting facilities existing before July 1, 2004, for sports played
35 on grass playing fields.

36 (~~(23)~~) (28) "Rural character" refers to the patterns of land
37 use and development established by a county in the rural element of
38 its comprehensive plan:

- 39 (a) In which open space, the natural landscape, and vegetation
40 predominate over the built environment;

1 (b) That foster traditional rural lifestyles, ru
2 economies, and opportunities to both live and work in rural areas;

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

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

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

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

11 (g) That are consistent with the protection of natural surface
12 water flows and groundwater and surface water recharge and discharge
13 areas.

14 ((+24)) (29) "Rural development" refers to development outside
15 the urban growth area and outside agricultural, forest, and mineral
16 resource lands designated pursuant to RCW 36.70A.170. Rural
17 development can consist of a variety of uses and residential
18 densities, including clustered residential development, at levels
19 that are consistent with the preservation of rural character and the
20 requirements of the rural element. Rural development does not refer
21 to agriculture or forestry activities that may be conducted in rural
22 areas.

23 ((+25)) (30) "Rural governmental services" or "rural services"
24 include those public services and public facilities historically and
25 typically delivered at an intensity usually found in rural areas, and
26 may include domestic water systems((+7)) and fire and police
27 protection services(~~(, transportation and public transit services,~~
28 ~~and other public utilities)~~) associated with rural development and
29 normally not associated with urban areas. Rural services do not
30 include storm or sanitary sewers, except as otherwise authorized by
31 RCW 36.70A.110(4).

32 ((+26)) (31) "Short line railroad" means those railroad lines
33 designated class II or class III by the United States surface
34 transportation board.

35 ((+27)) (32) "Stacked flat" means dwelling units in a
36 residential building of no more than three stories on a residential
37 zoned lot in which each floor may be separately rented or owned.

38 (33) "Townhouses" means buildings that contain three or more
39 attached single-family dwelling units that extend from foundation to
40 roof and that have a yard or public way on not less than two sides.

1 (34) "Urban governmental services" or "urban services" those public services and public facilities at an intensity
2 those public services and public facilities at an intensity
3 historically and typically provided in cities, specifically including
4 storm and sanitary sewer systems, domestic water systems, street
5 cleaning services, fire and police protection services, public
6 transit services, and other public utilities associated with urban
7 areas and normally not associated with rural areas.

8 ~~((28))~~ (35) "Urban growth" refers to growth that makes
9 intensive use of land for the location of buildings, structures, and
10 impermeable surfaces to such a degree as to be incompatible with the
11 primary use of land for the production of food, other agricultural
12 products, or fiber, or the extraction of mineral resources, rural
13 uses, rural development, and natural resource lands designated
14 pursuant to RCW 36.70A.170. A pattern of more intensive rural
15 development, as provided in RCW 36.70A.070(5)(d), is not urban
16 growth. When allowed to spread over wide areas, urban growth
17 typically requires urban governmental services. "Characterized by
18 urban growth" refers to land having urban growth located on it, or to
19 land located in relationship to an area with urban growth on it as to
20 be appropriate for urban growth.

21 ~~((29))~~ (36) "Urban growth areas" means those areas designated
22 by a county pursuant to RCW 36.70A.110.

23 ~~((30))~~ (37) "Very low-income household" means a single person,
24 family, or unrelated persons living together whose adjusted income is
25 at or below fifty percent of the median household income adjusted for
26 household size, for the county where the household is located, as
27 reported by the United States department of housing and urban
28 development.

29 ~~((31))~~ (38) "Wetland" or "wetlands" means areas that are
30 inundated or saturated by surface water or groundwater at a frequency
31 and duration sufficient to support, and that under normal
32 circumstances do support, a prevalence of vegetation typically
33 adapted for life in saturated soil conditions. Wetlands generally
34 include swamps, marshes, bogs, and similar areas. Wetlands do not
35 include those artificial wetlands intentionally created from
36 nonwetland sites, including, but not limited to, irrigation and
37 drainage ditches, grass-lined swales, canals, detention facilities,
38 wastewater treatment facilities, farm ponds, and landscape amenities,
39 or those wetlands created after July 1, 1990, that were
40 unintentionally created as a result of the construction of a road

1 street, or highway. Wetlands may include those artificial
2 intentionally created from nonwetland areas created to mitigate
3 conversion of wetlands.

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

6 (1) Except as provided in section 4, 5, or 6 of this act, any
7 city that is required or chooses to plan under RCW 36.70A.040 must
8 provide by ordinance and incorporate into its development
9 regulations, zoning regulations, and other official controls,
10 authorization for the following:

11 (a) For cities with a population of at least 25,000 but less than
12 75,000, that are not within a contiguous urban growth area with the
13 largest city in a county with a population of more than 275,000,
14 based on office of financial management population estimates:

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

17 (ii) The development of at least four units per lot on all lots
18 zoned predominantly for residential use within one-half mile walking
19 distance of a major transit stop; and

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

23 (b) For cities with a population of at least 75,000, or any city
24 within a contiguous urban growth area with the largest city in a
25 county with a population of more than 275,000, based on office of
26 financial management population estimates:

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

29 (ii) The development of at least six units per lot on all lots
30 zoned predominantly for residential use within one-quarter mile
31 walking distance of a major transit stop; and

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

35 (2)(a) To qualify for the additional units allowed under
36 subsection (1) of this section, the applicant must commit to renting
37 or selling the required number of units as affordable housing. The
38 units must be maintained as affordable for a term of at least 50
39 years, and the property must satisfy that commitment and all required

1 affordability and income eligibility conditions adopted by
2 government under this chapter. A city must require the applicant to
3 record a covenant or deed restriction that ensures the continuing
4 rental of units subject to these affordability requirements
5 consistent with the conditions in chapter 84.14 RCW for a period of
6 no less than 50 years. The covenant or deed restriction must also
7 address criteria and policies to maintain public benefit if the
8 property is converted to a use other than which continues to provide
9 for permanently affordable housing.

10 (b) The units dedicated as affordable must be provided in a range
11 of sizes comparable to other units in the development. To the extent
12 practicable, the number of bedrooms in affordable units must be in
13 the same proportion as the number of bedrooms in units within the
14 entire development. The affordable units must generally be
15 distributed throughout the development and have substantially the
16 same functionality as the other units in the development.

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

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

26 (4) A city must allow at least six of the nine types of middle
27 housing to achieve the unit density required in subsection (1) of
28 this section. A city must also allow zero lot line short subdivision
29 where the number of lots created is equal to the unit density
30 required in subsection (1) of this section.

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

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

34 (b) May only apply administrative design review;

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

1 (d) Shall apply to middle housing the same development p
2 environmental review processes that apply to detached single-family
3 residences, unless otherwise required by state law including, but not
4 limited to, shoreline regulations under chapter 90.58 RCW, building
5 codes under chapter 19.27 RCW, energy codes under chapter 19.27A RCW,
6 or electrical codes under chapter 19.28 RCW;

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

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

13 (g) Shall not require more than two off-street parking spaces per
14 unit as a condition of permitting development of middle housing on
15 lots greater than 6,000 square feet; and

16 (h) May impose a limit of two units on a residential lot of 2,000
17 square feet or less created through a lot split pursuant to RCW
18 36.70A.--- (section 2, chapter . . . (ESSB 1245), Laws of 2023).

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

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

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

34 (7) The provisions of this section do not apply to lots
35 designated with critical areas or their buffers as designated in RCW
36 36.70A.060, or to a watershed serving a reservoir for potable water
37 if that watershed is or was listed, as of the effective date of this
38 section, as impaired or threatened under section 303(d) of the
39 federal clean water act (33 U.S.C. Sec. 1313(d)).

1 (8) Nothing in this section prohibits a city from p
2 detached single-family residences.

3 (9) Nothing in this section requires a city to issue a building
4 permit if other federal, state, and local requirements for a building
5 permit are not met.

6 (10) A city must comply with the requirements of this section or
7 section 4 of this act on 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 (11) Except for specific areas granted an implementation timeline
14 extension under section 10 of this act and for a city implementing
15 the alternative density requirements under section 5 of this act, the
16 capital facilities plan element required by RCW 36.70A.070(3) is not
17 required to be updated to accommodate the increased housing and
18 population capacity required by this act until the periodic
19 comprehensive plan update required for the city under RCW
20 36.70A.130(5) that occurs on or after June 30, 2034.

21 (12) Any city that adopts development regulations consistent with
22 the requirements of section 3 of this act shall be considered in
23 compliance with RCW 36.70A.070(2)(f) until June 30, 2032.

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

26 (1) As an alternative to the density requirements in section 3(1)
27 of this act, a city may implement the density requirements in section
28 3(1) of this act for at least 75 percent of lots in the city that are
29 primarily dedicated to single-family detached housing units.

30 (2) The 25 percent of lots for which the requirements of section
31 3(1) of this act are not implemented must include:

32 (a) Any areas within the city for which the department has
33 certified an extension of the implementation timelines under section
34 8 of this act due to the risk of displacement;

35 (b) Any areas within the city for which the department has
36 certified an extension of the implementation timelines under section
37 10 of this act due to a lack of infrastructure capacity;

1 (c) Any lots designated with critical areas or their buf
2 are exempt from the density requirements as provided in section 3(7)
3 of this act;

4 (d) Any portion of a city within a one-mile radius of a
5 commercial airport with at least 9,000,000 annual enplanements that
6 is exempt from the parking requirements under section 3(6)(b) of this
7 act; and

8 (e) Any areas subject to sea level rise, increased flooding, or
9 geological hazards over the next 100 years.

10 (3) Unless identified as at higher risk of displacement under RCW
11 36.70A.070(g), the 25 percent of lots for which the requirements of
12 section 3(1) of this act are not implemented may not include:

13 (a) Any areas for which the exclusion would further racially
14 disparate impacts or result in zoning with a discriminatory effect;

15 (b) Any areas within one-half mile walking distance of a major
16 transit stop or community amenity;

17 (c) Any areas historically covered by a covenant or deed
18 restriction excluding racial minorities from owning property or
19 living in the area, as known to the city at the time of each
20 comprehensive plan update; or

21 (d) Any areas within one-half mile walking distance of a
22 building, shopping center, or business area containing at least
23 100,000 square feet of retail space.

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

26 As an alternative to the density requirements in section 3(1)(b)
27 of this act, cities with a population of less than 75,000 within a
28 contiguous urban growth area with the largest city in a county with a
29 population of more than 275,000, based on office of financial
30 management population estimates, may authorize:

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

33 (2) 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; and

36 (3) The development of at least four units per lot on all lots
37 zoned predominantly for residential use if at least one unit is
38 affordable housing.

1 NEW SECTION. **Sec. 6.** A new section is added to chapt
2 RCW to read as follows:

3 Population associated with permits for middle housing units are
4 exempt from the threshold of an office of financial management
5 population projection to a county or a county population allocation
6 to a city.

7 NEW SECTION. **Sec. 7.** A new section is added to chapter 36.70A
8 RCW to read as follows:

9 (1)(a) The department is directed to provide technical assistance
10 to cities as they implement the requirements under section 3, 4, or 5
11 of this act.

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

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

17 (b) In any city subject to section 3 of this act that has not
18 passed ordinances, regulations, or other official controls within the
19 time frames provided under section 3(10) of this act, the model
20 ordinance supersedes, preempts, and invalidates local development
21 regulations until the city takes all actions necessary to implement
22 section 3, 4, or 5 of this act.

23 (3)(a) The department is directed to establish a process by which
24 cities implementing the requirements of section 3 of this act may
25 seek approval of alternative local action necessary to meet the
26 requirements of this act.

27 (b) The department may approve actions under this section for
28 cities that have, by January 1, 2023, adopted a comprehensive plan
29 that is substantially similar to the requirements of this act and,
30 within one year of the effective date of this section, adopts
31 permanent development regulations that are substantially similar to
32 the requirements of this act. In determining whether a city's adopted
33 comprehensive plan and permanent development regulations are
34 substantially similar, the department must find as substantially
35 similar plans and regulations that:

36 (i) Result in an overall increase in housing units allowed in
37 single-family zones that is at least 75 percent of the increase in
38 housing units allowed in single-family zones if the specific
39 provisions of this act were adopted;

1 (ii) Allow for middle housing throughout the city, ra
2 just in targeted locations; and

3 (iii) Allow for additional density near major transit stops and
4 community amenities, and for projects that incorporate dedicated
5 affordable housing.

6 (c) The department may determine that a comprehensive plan and
7 development regulations that do not meet these criteria are otherwise
8 substantially similar to the requirements of this act if the city can
9 clearly demonstrate that the regulations adopted will result in a
10 greater increase in middle housing production within single family
11 zones than would be allowed through implementation of section 3 of
12 this act.

13 (d) Any local actions approved by the department pursuant to (a)
14 of this subsection to implement the requirements under section 3 of
15 this act are exempt from appeals under this chapter and chapter
16 43.21C RCW.

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

21 (4) For the purpose of this section, "single-family zones" means
22 those zones where single-family detached housing is the predominant
23 land use.

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

26 Any city choosing the alternative density requirements in section
27 4 of this act may apply to the department for, and the department may
28 certify, an extension for areas at risk of displacement as determined
29 by the antidisplacement analysis that a jurisdiction is required to
30 complete under RCW 36.70A.070(2). The city must create a plan for
31 implementing antidisplacement policies by their next implementation
32 progress report required by RCW 36.70A.130(9).

33 **Sec. 9.** RCW 36.70A.280 and 2011 c 360 s 17 are each amended to
34 read as follows:

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

37 (a) That, except as provided otherwise by this subsection, a
38 state agency, county, or city planning under this chapter is not i

1 compliance with the requirements of this chapter, chapter
2 as it relates to the adoption of shoreline master programs or
3 amendments thereto, or chapter 43.21C RCW as it relates to plans,
4 development regulations, or amendments, adopted under RCW 36.70A.040
5 or chapter 90.58 RCW. Nothing in this subsection authorizes the board
6 to hear petitions alleging noncompliance with RCW 36.70A.5801;

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

10 (c) That the approval of a work plan adopted under RCW
11 36.70A.735(1)(a) is not in compliance with the requirements of the
12 program established under RCW 36.70A.710;

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

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

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

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

27 (3) For purposes of this section "person" means any individual,
28 partnership, corporation, association, state agency, governmental
29 subdivision or unit thereof, or public or private organization or
30 entity of any character.

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

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

1 The rationale for any adjustment that is adopted by
2 must be documented and filed with the office of financial management
3 within ten working days after adoption.

4 If adjusted by the board, a county growth management planning
5 population projection shall only be used for the planning purposes
6 set forth in this chapter and shall be known as the "board adjusted
7 population projection." None of these changes shall affect the
8 official state and county population forecasts prepared by the office
9 of financial management, which shall continue to be used for state
10 budget and planning purposes.

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

13 (1) Any city choosing the alternative density requirements in
14 section 4 of this act may apply to the department for, and the
15 department may certify, an extension of the implementation timelines
16 established under section 3(10) of this act.

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

21 (a) Included one or more improvements, as needed, within its
22 capital facilities plan to adequately increase capacity; or

23 (b) Identified which special district is responsible for
24 providing the necessary infrastructure if the infrastructure is
25 provided by a special purpose district.

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

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

29 (b) The city's deadline to complete its next periodic
30 comprehensive plan update under RCW 36.70A.130; or

31 (c) The city's deadline to complete its implementation progress
32 report to the department as required under RCW 36.70A.130(9).

33 (4) A city that has received an extension under this section may
34 reapply for any needed extension with its next periodic comprehensive
35 plan update under RCW 36.70A.130 or its implementation progress
36 report to the department under RCW 36.70A.130(9). The application for
37 an additional extension must include a list of infrastructure
38 improvements necessary to meet the capacity required in section 3 of
39 this act. Such additional extension must only be to address

1 infrastructure deficiency that a city is not reasonably
2 address within the first extension.

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

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

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

15 (8) No city shall approve a building permit for housing under
16 section 3 or 4 of this act without compliance with the adequate water
17 supply requirements of RCW 19.27.097.

18 **Sec. 11.** RCW 43.21C.495 and 2022 c 246 s 3 are each amended to
19 read as follows:

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

30 (2) Amendments to development regulations and other nonproject
31 actions taken by a city to implement the requirements under section 3
32 of this act pursuant to section 7(3)(b) of this act are not subject
33 to administrative or judicial appeals under this chapter.

34 **Sec. 12.** RCW 43.21C.450 and 2012 1st sp.s. c 1 s 307 are each
35 amended to read as follows:

36 The following nonproject actions are categorically exempt from
37 the requirements of this chapter:

1 (1) Amendments to development regulations that are required to
2 ensure consistency with an adopted comprehensive plan pursuant to RCW
3 36.70A.040, where the comprehensive plan was previously subjected to
4 environmental review pursuant to this chapter and the impacts
5 associated with the proposed regulation were specifically addressed
6 in the prior environmental review;

7 (2) Amendments to development regulations that are required to
8 ensure consistency with a shoreline master program approved pursuant
9 to RCW 90.58.090, where the shoreline master program was previously
10 subjected to environmental review pursuant to this chapter and the
11 impacts associated with the proposed regulation were specifically
12 addressed in the prior environmental review;

13 (3) Amendments to development regulations that, upon
14 implementation of a project action, will provide increased
15 environmental protection, limited to the following:

16 (a) Increased protections for critical areas, such as enhanced
17 buffers or setbacks;

18 (b) Increased vegetation retention or decreased impervious
19 surface areas in shoreline jurisdiction; and

20 (c) Increased vegetation retention or decreased impervious
21 surface areas in critical areas;

22 (4) Amendments to technical codes adopted by a county, city, or
23 town to ensure consistency with minimum standards contained in state
24 law, including the following:

25 (a) Building codes required by chapter 19.27 RCW;

26 (b) Energy codes required by chapter 19.27A RCW; and

27 (c) Electrical codes required by chapter 19.28 RCW.

28 (5) Amendments to development regulations to remove requirements
29 for parking from development proposed to fill in an urban growth area
30 designated according to RCW 36.70A.110.

31 NEW SECTION. Sec. 13. A new section is added to chapter 36.70A
32 RCW to read as follows:

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

37 NEW SECTION. Sec. 14. A new section is added to chapter 64.34
38 RCW to read as follows:

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

6 NEW SECTION. **Sec. 15.** A new section is added to chapter 64.32
7 RCW to read as follows:

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

14 NEW SECTION. **Sec. 16.** A new section is added to chapter 64.38
15 RCW to read as follows:

16 Governing documents of associations within cities subject to the
17 middle housing requirements in section 3 of this act that are created
18 after the effective date of this section may not actively or
19 effectively prohibit the construction, development, or use of
20 additional housing units as required in section 3 of this act.

21 NEW SECTION. **Sec. 17.** A new section is added to chapter 64.90
22 RCW to read as follows:

23 Declarations and governing documents of a common interest
24 community within cities subject to the middle housing requirements in
25 section 3 of this act that are created after the effective date of
26 this section 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. 18.** A new section is added to chapter 64.90
30 RCW to read as follows:

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

33 NEW SECTION. **Sec. 19.** If specific funding for the purposes of
34 this act, referencing this act by bill or chapter number, is not

1 provided by June 30, 2023, in the omnibus appropriations
2 act is null and void.

--- END ---

SENATE BILL REPORT

ESHB 1245

As of March 14, 2023

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

Brief Description: Increasing housing options through lot splitting.

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

Brief History: Passed House: 3/1/23, 94-2.

Committee Activity: Local Government, Land Use & Tribal Affairs: 3/14/23.

Brief Summary of Bill

- Requires cities planning under the Growth Management Act to incorporate certain lot splitting regulations into their development regulations, zoning regulations, and other official controls.

SENATE COMMITTEE ON LOCAL GOVERNMENT, LAND USE & TRIBAL AFFAIRS

Staff: Maggie Douglas (786-7279)

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.

The GMA also directs fully planning jurisdictions to adopt internally consistent

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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. Comprehensive plans must be reviewed and, if necessary, revised every ten years to ensure that it complies with 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 enumerated elements, including mandatory land use and housing elements. The housing element must ensure the vitality and character of established residential neighborhoods and among other requirements consider the role of accessory dwelling units in meeting housing needs.

Increased Residential Building Capacity. Cities planning fully under the GMA are encouraged to take two or more of the following actions to increase residential building capacity:

- authorize development of at least 50 residential units per acre in one or more areas of not fewer than 500 acres that include one or more train stations served by commuter rail or light rail;
- authorize development of an average of at least 25 residential units per acre in one or more areas of not fewer than 500 acres in cities with a population greater than 40,000, or areas of not fewer than 250 acres in cities with a population less than 40,000, that include one or more bus stops served by scheduled bus service of at least four times per hour for 12 or more hours per day;
- authorize at least one duplex, triplex, or courtyard apartment on each parcel in one or more zoning districts that permit single-family residences unless a city documents a specific infrastructure or physical constraint that would make this requirement unfeasible for a particular parcel;
- authorize cluster zoning or lot size averaging in all zoning districts that permit single-family residences;
- authorize accessory dwelling units on all lots located in zoning districts that permit single-family residences, subject to certain restrictions;
- adopt a subarea plan pursuant to the State Environmental Policy Act (SEPA);
- adopt a planned action pursuant to the planned action provisions of SEPA, except that an Environmental Impact Statement (EIS) need not be prepared for such a planned action;
- adopt increases in categorical exemptions pursuant to the infill development provisions of SEPA for single-family and multifamily development;
- adopt a form-based code in one or more zoning districts that permit residential uses;
- authorize a duplex on each corner lot within all zoning districts that permit single-family residences;
- allow for the division or redivision of land into the maximum number of lots through the short subdivision process; and
- authorize a minimum net density of six dwelling units per acre in all residential zones.

Summary of Bill: Cities fully planning under the GMA must adopt or amend their development regulations, zoning regulations, or other official controls prior to allow for the splitting of residential lots under certain conditions. These regulations must take effect six months after the jurisdiction's next periodic comprehensive plan update. When regulating lot splitting, cities may not:

- prohibit the splitting of a residential lot within a residential zone if the following conditions are met:
 1. the resulting lots are at least 2000 square feet;
 2. the resulting lots are at least 40 percent of the size of the original lot;
 3. the resulting lots are consistent with the minimum review standards for subdivisions;
 4. the original lot was not created through the splitting of a single residential lot as authorized by this act; and
 5. the lot split would not require the 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; and
- impose regulations on a residential lot that is the result of a lot split that:
 1. requires more than one off-street parking space per lot;
 2. requires more than 20 feet of frontage width per lot;
 3. require easement widths of more than five feet for access to rear lots unless site-specific conditions require otherwise;
 4. impose permitting requirements or other standards and fees on the construction on a lot resulting from a lot split that are greater than those imposed on new residential construction within the same zone; or
 5. impose requirements for the dedications of rights-of-way or for the construction of off-site improvements unless site specific conditions require otherwise.

Any construction on the resulting lots is subject to all existing state and local laws regarding stormwater runoff, critical areas, shorelines, and conservation areas.

The requirements of this act apply and take effect in any city that has not adopted or amended their development regulations, regulations, or other official controls and supersede, preempt, and invalidate any conflicting local development regulations within six months after the jurisdiction's next periodic comprehensive plan update.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill is part of a suite of bills that we have

been working on around housing supply this session. It increases the supply and the opportunity to build and create density. There are some technical changes that need to be made as the bill advances to be clear in what the lot splitting process is. We need to move away from the current housing market trend of building exceedingly large homes and instead have compatible lot sizes with the homes that builders want to build and buyers want to buy. This bill helps trim additional land acquisition costs, which in turn can help builders better address urban infill development. Consequentially this increases the diversity and flexibility in what kind of homes can be built and is available to buyers. This will help address the racial homeownership gap by moving away from the large lot sizes that single-family homes must be built on.

CON: There is a concern for how this bill will combine with the other land use bills being discussed by the Legislature. This bill has the potential to double the impact of the other bills discussed, thereby adding strain to infrastructure. This bill does not address anti-displacement measures, strain on infrastructure, and other potential issues like undevelopable lands. The process to review a lot split is unclear, and is challenging to explain to the public how a lot that is already the minimum lot size may then be divided again into smaller lots. Minimum review standards mentioned in the bill are undefined and it is unclear how those standards apply. This bill preempts local control and imposes unfunded mandates on cities.

OTHER: The biggest issue facing lot splitting is not the minimum size, but that permitting and engineering costs makes lot splitting unfeasible. This bill won't work unless it limits the costs associated with the lot split.

Persons Testifying: PRO: Representative Andrew Barkis, Prime Sponsor; Ryan Donohue, Habitat for Humanity Seattle-King & Kittitas Counties; Alex Hur, Master Builders Association of King and Snohomish Counties; Bill Clarke, WA REALTORS; Dan Bertolet, Sightline Institute; Josie Cummings, BIAW.

CON: Carla Nichols; CARL SCHROEDER, Association of Washington Cities; Lacey Jane Wolfe, City of Bellevue; Kristen Holdsworth, City of Kent Long Range Planning Manager; Salim Nice, City of Mercer Island.

OTHER: Jakob Perry.

Persons Signed In To Testify But Not Testifying: No one.

ENGROSSED 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
2 ordinance, and incorporate into their development regulations, zoning
3 regulations, and other official controls the requirements of
4 subsection (2) of this section, to take effect six months after the
5 jurisdiction's next periodic comprehensive plan update required under
6 RCW 36.70A.130, to apply within the city's urban growth area.

7 (b) In any city that has not adopted or amended ordinances,
8 regulations, or other official controls as required under this
9 section, the requirements of this section supersede, preempt, and
10 invalidate 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 2,000 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 five 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
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 ---

Housing Committee

SSB 5235

Brief Description: Concerning accessory dwelling units.

Sponsors: Senate Committee on Local Government, Land Use & Tribal Affairs (originally sponsored by Senators Shewmake, Frame, Lovelett, Nguyen, Pedersen and Salomon).

<p>Brief Summary of Substitute Bill</p> <ul style="list-style-type: none"> • Requires fully planning cities and counties to allow for the construction of accessory dwelling units (ADUs) in urban growth areas (UGAs). • Prohibits certain ADU regulations within UGAs. • Allows cities and counties to offer incentives for the construction or development of ADUs.
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Hearing Date: 3/13/23

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 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

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urban in nature. Each city in a county must be included in a UGA. UGAs must include 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. Comprehensive plans must be reviewed and, if necessary, revised every ten years to ensure that it complies with 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 and, among other requirements, consider the role of ADUs in meeting housing needs.

Accessory Dwelling Units.

An ADU is a residential living unit providing independent living facilities and permanent provisions for sleeping, cooking, sanitation, and living on the same lot as a single-family home, duplex, triplex, townhome, or other housing unit. An attached ADU is a dwelling unit located within or attached to another housing unit. A detached ADU is separate and detached from another housing unit.

Cities with more than 20,000 people, counties with more than 125,000 people, and counties that are required to plan under the Growth Management Act are required to incorporate in their development and zoning regulations recommendations made in 1993 by the then Department of Community, Trade, and Economic Development, now the Department of Commerce, for the development and placement of accessory apartments.

As of July 1, 2021, fully planning cities under the GMA may not require the provision of off-street parking for ADUs within a quarter mile of a major transit stop, such as a high-capacity transportation system stop, a rail stop, or certain bus stops, unless the city determines that on-street parking is infeasible for the ADU.

Summary of Bill:

By their next comprehensive plan update after July 1, 2021, fully planning cities and counties must ensure local development regulations allow for the construction of ADUs within UGAs. City and county ADU regulations may not include:

- a limit on ADUs of fewer than one attached and one detached ADU on a residential lot with a total square footage of more than 4,500 square feet, unless the lot is otherwise zoned to allow: (1) at least two dwelling units, in which case at least one additional attached or detached ADU must be allowed; or (2) at least three dwelling units;
- a limit on ADUs of fewer than one attached or one detached ADU on a lot zoned for

residential use with a total square footage of less than 4,500 square feet, unless the lot is otherwise zoned to allow at least two dwelling units;

- any prohibition of the sale of a condominium unit independently of a principal unit based solely on the grounds that the condominium unit was originally built as an ADU, if the condominium has independent utilities;
- any owner occupancy requirements on a lot containing an ADU unless: (1) an ADU on the lot is offered or used for short-term rental; or (2) the city or county administers a general program, begun prior to December 31, 2022, offering the waiver or reduction of impact fees and costs associated with ADU construction, if the units are offered at or below 80 percent of the area median income;
- off-street parking requirements within .25 miles of a major transit stop, unless the city or county makes a determination, supported by evidence, that the ADU is in an area that would make on-street parking infeasible or unsafe for the ADU; or
- other development regulations for the construction of ADUs that are more restrictive than regulations for single-family or other residential developments.

Cities and counties may apply certain regulations to ADUs, including:

- generally applicable development regulations;
- public health, safety, building code, and environmental permitting requirements, including regulations to protect ground and surface waters from on-site wastewater, that would be applicable to a principal unit;
- a prohibition on the construction of ADUs on lots that are not connected to or served by public sewers; and
- a prohibition or restriction on the construction of ADUs in residential zones with a density of one dwelling unit per acre or less that are within areas designated as wetlands, fish and wildlife habitats, floodplains, or geologically hazardous areas.

Cities and counties may offer incentives to encourage the development or construction of ADUs, including waiving or deferring fees, deferring the payment of taxes, or waiving specific regulations, if the units are subject to binding commitments or covenants that they will not be regularly offered for short-term rental.

A restrictive covenant or deed restriction created after the effective date of the act for property located within a UGA may not impose any restriction or prohibition on the construction, development, or use of an ADU that city or county would be prohibited from imposing. A city or county issuing a permit for the construction of an ADU may not be held civilly liable on the basis that the construction of the ADU would violate a restrictive covenant or deed restriction that was created after the effective date of the act.

Appropriation: None.

Fiscal Note: Available.

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

passed.

SUBSTITUTE SENATE BILL 5235

State of Washington

68th Legislature

2023 Regular Session

By Senate Local Government, Land Use & Tribal Affairs (originally sponsored by Senators Shewmake, Frame, Lovelett, Nguyen, Pedersen, and Salomon)

READ FIRST TIME 02/10/23.

1 AN ACT Relating to accessory dwelling units; amending RCW
2 36.70A.696, 36.70A.697, and 36.70A.698; reenacting and amending RCW
3 36.70A.070; adding new sections to chapter 36.70A RCW; and creating a
4 new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that there is a
7 shortage of affordable housing units available for home ownership or
8 long-term rental within most urban growth areas of the state. This
9 lack of affordable housing forces many residents to spend more than
10 30 percent of their household income on housing, greatly increasing
11 housing insecurity and contributing to the state's crisis of
12 unacceptable numbers of persons experiencing homelessness. Increasing
13 the availability of accessory dwelling units, also referred to as
14 "ADUs," may increase opportunities for people to age in their own
15 home and increase multigenerational family ties along with offering
16 opportunities to reduce intergenerational poverty by increasing home
17 ownership. The legislature finds that accessory dwelling units can be
18 one way to add affordable long-term housing and to provide a needed
19 increase in housing density within urban growth areas with benefits
20 to reducing fossil fuel use and other contributions to climate change
21 due to housing and transportation patterns. The legislature seeks to

1 encourage accessory dwelling unit availability as a modest
 2 option by streamlining local government regulations that may
 3 unintentionally make accessory dwelling units less economical. Since
 4 residents in a region may be choosing between cities, it is important
 5 to acknowledge that one city cannot build affordability on its own.
 6 An expansion in supply of affordable housing in a small city, but not
 7 neighboring cities, may satisfy some of the demand for affordable
 8 housing, but without a regional strategy, small cities will not be
 9 able to build affordability on their own. Statewide action is needed.
 10 Furthermore, the legislature finds that research from several cities
 11 shows that when accessory dwelling units are built or that are
 12 converted and offered for short-term rental for tourists and business
 13 visitors, they may not improve housing affordability. Therefore, it
 14 is the intent of the legislature to meet these important policy goals
 15 by increasing the availability of accessory dwelling units as modest
 16 housing options, limiting the restrictions that can be imposed on the
 17 development and use of accessory dwelling units within urban growth
 18 areas, and authorizing local governments to adopt programs to
 19 incentivize or reduce local government-imposed cost or time related
 20 obstacles to the development of accessory dwelling units when the
 21 accessory dwelling units will be utilized for long-term housing.

22 **Sec. 2.** RCW 36.70A.070 and 2022 c 246 s 2 and 2022 c 220 s 1 are
 23 each reenacted and amended to read as follows:

24 The comprehensive plan of a county or city that is required or
 25 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,
 26 and descriptive text covering objectives, principles, and standards
 27 used to develop the comprehensive plan. The plan shall be an
 28 internally consistent document and all elements shall be consistent
 29 with the future land use map. A comprehensive plan shall be adopted
 30 and amended with public participation as provided in RCW 36.70A.140.
 31 Each comprehensive plan shall include a plan, scheme, or design for
 32 each of the following:

33 (1) A land use element designating the proposed general
 34 distribution and general location and extent of the uses of land,
 35 where appropriate, for agriculture, timber production, housing,
 36 commerce, industry, recreation, open spaces, general aviation
 37 airports, public utilities, public facilities, and other land uses.
 38 The land use element shall include population densities, building
 39 intensities, and estimates of future population growth. The land use

1 element shall provide for protection of the quality and qu
2 groundwater used for public water supplies. Wherever possible, the
3 land use element should consider utilizing urban planning approaches
4 that promote physical activity. Where applicable, the land use
5 element shall review drainage, flooding, and stormwater runoff in the
6 area and nearby jurisdictions and provide guidance for corrective
7 actions to mitigate or cleanse those discharges that pollute waters
8 of the state, including Puget Sound or waters entering Puget Sound.

9 (2) A housing element ensuring the vitality and character of
10 established residential neighborhoods that:

11 (a) Includes an inventory and analysis of existing and projected
12 housing needs that identifies the number of housing units necessary
13 to manage projected growth, as provided by the department of
14 commerce, including:

15 (i) Units for moderate, low, very low, and extremely low-income
16 households; and

17 (ii) Emergency housing, emergency shelters, and permanent
18 supportive housing;

19 (b) Includes a statement of goals, policies, objectives, and
20 mandatory provisions for the preservation, improvement, and
21 development of housing, including single-family residences, and
22 within an urban growth area boundary, moderate density housing
23 options including, but not limited to, duplexes, triplexes, and
24 townhomes;

25 (c) Identifies sufficient capacity of land for housing including,
26 but not limited to, government-assisted housing, housing for
27 moderate, low, very low, and extremely low-income households,
28 manufactured housing, multifamily housing, group homes, foster care
29 facilities, emergency housing, emergency shelters, permanent
30 supportive housing, and within an urban growth area boundary,
31 consideration of duplexes, triplexes, and townhomes;

32 (d) Makes adequate provisions for existing and projected needs of
33 all economic segments of the community, including:

34 (i) Incorporating consideration for low, very low, extremely low,
35 and moderate-income households;

36 (ii) Documenting programs and actions needed to achieve housing
37 availability including gaps in local funding, barriers such as
38 development regulations, and other limitations;

39 (iii) Consideration of housing locations in relation to
40 employment location; and

1 (iv) Consideration (~~of the role~~) and utilization of
2 dwelling units in meeting housing needs in compliance with RCW
3 36.70A.698;

4 (e) Identifies local policies and regulations that result in
5 racially disparate impacts, displacement, and exclusion in housing,
6 including:

7 (i) Zoning that may have a discriminatory effect;

8 (ii) Disinvestment; and

9 (iii) Infrastructure availability;

10 (f) Identifies and implements policies and regulations to address
11 and begin to undo racially disparate impacts, displacement, and
12 exclusion in housing caused by local policies, plans, and actions;

13 (g) Identifies areas that may be at higher risk of displacement
14 from market forces that occur with changes to zoning development
15 regulations and capital investments; and

16 (h) Establishes antidisplacement policies, with consideration
17 given to the preservation of historical and cultural communities as
18 well as investments in low, very low, extremely low, and moderate-
19 income housing; equitable development initiatives; inclusionary
20 zoning; community planning requirements; tenant protections; land
21 disposition policies; and consideration of land that may be used for
22 affordable housing.

23 In counties and cities subject to the review and evaluation
24 requirements of RCW 36.70A.215, any revision to the housing element
25 shall include consideration of prior review and evaluation reports
26 and any reasonable measures identified. The housing element should
27 link jurisdictional goals with overall county goals to ensure that
28 the housing element goals are met.

29 The adoption of ordinances, development regulations and
30 amendments to such regulations, and other nonproject actions taken by
31 a city that is required or chooses to plan under RCW 36.70A.040 that
32 increase housing capacity, increase housing affordability, and
33 mitigate displacement as required under this subsection (2) and that
34 apply outside of critical areas are not subject to administrative or
35 judicial appeal under chapter 43.21C RCW unless the adoption of such
36 ordinances, development regulations and amendments to such
37 regulations, or other nonproject actions has a probable significant
38 adverse impact on fish habitat.

39 (3) A capital facilities plan element consisting of: (a) An
40 inventory of existing capital facilities owned by public entities

1 showing the locations and capacities of the capital facilities
2 forecast of the future needs for such capital facilities; (c) the
3 proposed locations and capacities of expanded or new capital
4 facilities; (d) at least a six-year plan that will finance such
5 capital facilities within projected funding capacities and clearly
6 identifies sources of public money for such purposes; and (e) a
7 requirement to reassess the land use element if probable funding
8 falls short of meeting existing needs and to ensure that the land use
9 element, capital facilities plan element, and financing plan within
10 the capital facilities plan element are coordinated and consistent.
11 Park and recreation facilities shall be included in the capital
12 facilities plan element.

13 (4) A utilities element consisting of the general location,
14 proposed location, and capacity of all existing and proposed
15 utilities((7)) including, but not limited to, electrical lines,
16 telecommunication lines, and natural gas lines.

17 (5) Rural element. Counties shall include a rural element
18 including lands that are not designated for urban growth,
19 agriculture, forest, or mineral resources. The following provisions
20 shall apply to the rural element:

21 (a) Growth management act goals and local circumstances. Because
22 circumstances vary from county to county, in establishing patterns of
23 rural densities and uses, a county may consider local circumstances,
24 but shall develop a written record explaining how the rural element
25 harmonizes the planning goals in RCW 36.70A.020 and meets the
26 requirements of this chapter.

27 (b) Rural development. The rural element shall permit rural
28 development, forestry, and agriculture in rural areas. The rural
29 element shall provide for a variety of rural densities, uses,
30 essential public facilities, and rural governmental services needed
31 to serve the permitted densities and uses. To achieve a variety of
32 rural densities and uses, counties may provide for clustering,
33 density transfer, design guidelines, conservation easements, and
34 other innovative techniques that will accommodate appropriate rural
35 economic advancement, densities, and uses that are not characterized
36 by urban growth and that are consistent with rural character.

37 (c) Measures governing rural development. The rural element shall
38 include measures that apply to rural development and protect the
39 rural character of the area, as established by the county, by:

40 (i) Containing or otherwise controlling rural development;

1 (ii) Assuring visual compatibility of rural development
2 surrounding rural area;

3 (iii) Reducing the inappropriate conversion of undeveloped land
4 into sprawling, low-density development in the rural area;

5 (iv) Protecting critical areas, as provided in RCW 36.70A.060,
6 and surface water and groundwater resources; and

7 (v) Protecting against conflicts with the use of agricultural,
8 forest, and mineral resource lands designated under RCW 36.70A.170.

9 (d) Limited areas of more intensive rural development. Subject to
10 the requirements of this subsection and except as otherwise
11 specifically provided in this subsection (5)(d), the rural element
12 may allow for limited areas of more intensive rural development,
13 including necessary public facilities and public services to serve
14 the limited area as follows:

15 (i) Rural development consisting of the infill, development, or
16 redevelopment of existing commercial, industrial, residential, or
17 mixed-use areas, whether characterized as shoreline development,
18 villages, hamlets, rural activity centers, or crossroads
19 developments.

20 (A) A commercial, industrial, residential, shoreline, or mixed-
21 use area are subject to the requirements of (d)(iv) of this
22 subsection, but are not subject to the requirements of (c)(ii) and
23 (iii) of this subsection.

24 (B) Any development or redevelopment other than an industrial
25 area or an industrial use within a mixed-use area or an industrial
26 area under this subsection (5)(d)(i) must be principally designed to
27 serve the existing and projected rural population.

28 (C) Any development or redevelopment in terms of building size,
29 scale, use, or intensity may be permitted subject to confirmation
30 from all existing providers of public facilities and public services
31 of sufficient capacity of existing public facilities and public
32 services to serve any new or additional demand from the new
33 development or redevelopment. Development and redevelopment may
34 include changes in use from vacant land or a previously existing use
35 so long as the new use conforms to the requirements of this
36 subsection (5) and is consistent with the local character. Any
37 commercial development or redevelopment within a mixed-use area must
38 be principally designed to serve the existing and projected rural
39 population and must meet the following requirements:

1 (I) Any included retail or food service space must not e
2 footprint of previously occupied space or 5,000 square feet,
3 whichever is greater, for the same or similar use; and

4 (II) Any included retail or food service space must not exceed
5 2,500 square feet for a new use;

6 (ii) The intensification of development on lots containing, or
7 new development of, small-scale recreational or tourist uses,
8 including commercial facilities to serve those recreational or
9 tourist uses, that rely on a rural location and setting, but that do
10 not include new residential development. A small-scale recreation or
11 tourist use is not required to be principally designed to serve the
12 existing and projected rural population. Public services and public
13 facilities shall be limited to those necessary to serve the
14 recreation or tourist use and shall be provided in a manner that does
15 not permit low-density sprawl;

16 (iii) The intensification of development on lots containing
17 isolated nonresidential uses or new development of isolated cottage
18 industries and isolated small-scale businesses that are not
19 principally designed to serve the existing and projected rural
20 population and nonresidential uses, but do provide job opportunities
21 for rural residents. Rural counties may allow the expansion of small-
22 scale businesses as long as those small-scale businesses conform with
23 the rural character of the area as defined by the local government
24 according to RCW 36.70A.030(23). Rural counties may also allow new
25 small-scale businesses to utilize a site previously occupied by an
26 existing business as long as the new small-scale business conforms to
27 the rural character of the area as defined by the local government
28 according to RCW 36.70A.030(23). Public services and public
29 facilities shall be limited to those necessary to serve the isolated
30 nonresidential use and shall be provided in a manner that does not
31 permit low-density sprawl;

32 (iv) A county shall adopt measures to minimize and contain the
33 existing areas of more intensive rural development, as appropriate,
34 authorized under this subsection. Lands included in such existing
35 areas shall not extend beyond the logical outer boundary of the
36 existing area, thereby allowing a new pattern of low-density sprawl.
37 Existing areas are those that are clearly identifiable and contained
38 and where there is a logical boundary delineated predominately by the
39 built environment, but that may also include undeveloped lands if
40 limited as provided in this subsection. The county shall establish

1 the logical outer boundary of an area of more intensi
2 development. In establishing the logical outer boundary, the county
3 shall address (A) the need to preserve the character of existing
4 natural neighborhoods and communities, (B) physical boundaries, such
5 as bodies of water, streets and highways, and land forms and
6 contours, (C) the prevention of abnormally irregular boundaries, and
7 (D) the ability to provide public facilities and public services in a
8 manner that does not permit low-density sprawl;

9 (v) For purposes of this subsection (5)(d), an existing area or
10 existing use is one that was in existence:

11 (A) On July 1, 1990, in a county that was initially required to
12 plan under all of the provisions of this chapter;

13 (B) On the date the county adopted a resolution under RCW
14 36.70A.040(2), in a county that is planning under all of the
15 provisions of this chapter under RCW 36.70A.040(2); or

16 (C) On the date the office of financial management certifies the
17 county's population as provided in RCW 36.70A.040(5), in a county
18 that is planning under all of the provisions of this chapter pursuant
19 to RCW 36.70A.040(5).

20 (e) Exception. This subsection shall not be interpreted to permit
21 in the rural area a major industrial development or a master planned
22 resort unless otherwise specifically permitted under RCW 36.70A.360
23 and 36.70A.365.

24 (6) A transportation element that implements, and is consistent
25 with, the land use element.

26 (a) The transportation element shall include the following
27 subelements:

28 (i) Land use assumptions used in estimating travel;

29 (ii) Estimated traffic impacts to state-owned transportation
30 facilities resulting from land use assumptions to assist the
31 department of transportation in monitoring the performance of state
32 facilities, to plan improvements for the facilities, and to assess
33 the impact of land-use decisions on state-owned transportation
34 facilities;

35 (iii) Facilities and services needs, including:

36 (A) An inventory of air, water, and ground transportation
37 facilities and services, including transit alignments and general
38 aviation airport facilities, to define existing capital facilities
39 and travel levels as a basis for future planning. This inventory must

1 include state-owned transportation facilities within the
2 county's jurisdictional boundaries;

3 (B) Level of service standards for all locally owned arterials
4 and transit routes to serve as a gauge to judge performance of the
5 system. These standards should be regionally coordinated;

6 (C) For state-owned transportation facilities, level of service
7 standards for highways, as prescribed in chapters 47.06 and 47.80
8 RCW, to gauge the performance of the system. The purposes of
9 reflecting level of service standards for state highways in the local
10 comprehensive plan are to monitor the performance of the system, to
11 evaluate improvement strategies, and to facilitate coordination
12 between the county's or city's six-year street, road, or transit
13 program and the office of financial management's (~~ten-year~~) 10-year
14 investment program. The concurrency requirements of (b) of this
15 subsection do not apply to transportation facilities and services of
16 statewide significance except for counties consisting of islands
17 whose only connection to the mainland are state highways or ferry
18 routes. In these island counties, state highways and ferry route
19 capacity must be a factor in meeting the concurrency requirements in
20 (b) of this subsection;

21 (D) Specific actions and requirements for bringing into
22 compliance locally owned transportation facilities or services that
23 are below an established level of service standard;

24 (E) Forecasts of traffic for at least (~~ten~~) 10 years based on
25 the adopted land use plan to provide information on the location,
26 timing, and capacity needs of future growth;

27 (F) Identification of state and local system needs to meet
28 current and future demands. Identified needs on state-owned
29 transportation facilities must be consistent with the statewide
30 multimodal transportation plan required under chapter 47.06 RCW;

31 (iv) Finance, including:

32 (A) An analysis of funding capability to judge needs against
33 probable funding resources;

34 (B) A multiyear financing plan based on the needs identified in
35 the comprehensive plan, the appropriate parts of which shall serve as
36 the basis for the six-year street, road, or transit program required
37 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW
38 35.58.2795 for public transportation systems. The multiyear financing
39 plan should be coordinated with the (~~ten-year~~) 10-year investment

1 program developed by the office of financial management as
2 by RCW 47.05.030;

3 (C) If probable funding falls short of meeting identified needs,
4 a discussion of how additional funding will be raised, or how land
5 use assumptions will be reassessed to ensure that level of service
6 standards will be met;

7 (v) Intergovernmental coordination efforts, including an
8 assessment of the impacts of the transportation plan and land use
9 assumptions on the transportation systems of adjacent jurisdictions;

10 (vi) Demand-management strategies;

11 (vii) Pedestrian and bicycle component to include collaborative
12 efforts to identify and designate planned improvements for pedestrian
13 and bicycle facilities and corridors that address and encourage
14 enhanced community access and promote healthy lifestyles.

15 (b) After adoption of the comprehensive plan by jurisdictions
16 required to plan or who choose to plan under RCW 36.70A.040, local
17 jurisdictions must adopt and enforce ordinances which prohibit
18 development approval if the development causes the level of service
19 on a locally owned transportation facility to decline below the
20 standards adopted in the transportation element of the comprehensive
21 plan, unless transportation improvements or strategies to accommodate
22 the impacts of development are made concurrent with the development.
23 These strategies may include increased public transportation service,
24 ride-sharing programs, demand management, and other transportation
25 systems management strategies. For the purposes of this subsection
26 (6), "concurrent with the development" means that improvements or
27 strategies are in place at the time of development, or that a
28 financial commitment is in place to complete the improvements or
29 strategies within six years. If the collection of impact fees is
30 delayed under RCW 82.02.050(3), the six-year period required by this
31 subsection (6)(b) must begin after full payment of all impact fees is
32 due to the county or city.

33 (c) The transportation element described in this subsection (6),
34 the six-year plans required by RCW 35.77.010 for cities, RCW
35 36.81.121 for counties, and RCW 35.58.2795 for public transportation
36 systems, and the (~~ten-year~~) 10-year investment program required by
37 RCW 47.05.030 for the state, must be consistent.

38 (7) An economic development element establishing local goals,
39 policies, objectives, and provisions for economic growth and vitality
40 and a high quality of life. A city that has chosen to be

1 residential community is exempt from the economic development
2 requirement of this subsection.

3 (8) A park and recreation element that implements, and is
4 consistent with, the capital facilities plan element as it relates to
5 park and recreation facilities. The element shall include: (a)
6 Estimates of park and recreation demand for at least a (~~ten-year~~)
7 10-year period; (b) an evaluation of facilities and service needs;
8 and (c) an evaluation of intergovernmental coordination opportunities
9 to provide regional approaches for meeting park and recreational
10 demand.

11 (9) It is the intent that new or amended elements required after
12 January 1, 2002, be adopted concurrent with the scheduled update
13 provided in RCW 36.70A.130. Requirements to incorporate any such new
14 or amended elements shall be null and void until funds sufficient to
15 cover applicable local government costs are appropriated and
16 distributed by the state at least two years before local government
17 must update comprehensive plans as required in RCW 36.70A.130.

18 **Sec. 3.** RCW 36.70A.696 and 2021 c 306 s 2 are each amended to
19 read as follows:

20 The definitions in this section apply throughout RCW 36.70A.697
21 and 36.70A.698 unless the context clearly requires otherwise.

22 (1) "Accessory dwelling unit" means a dwelling unit located on
23 the same lot as a single-family housing unit, duplex, triplex,
24 townhome, or other housing unit.

25 (2) "Attached accessory dwelling unit" means an accessory
26 dwelling unit located within or attached to a single-family housing
27 unit, duplex, triplex, townhome, or other housing unit. An attached
28 accessory dwelling unit must have a substantial portion of its
29 footprint within the other housing unit, and must share structural
30 elements with the other unit.

31 (3) "City" means any city, code city, and town located in a
32 county planning under RCW 36.70A.040.

33 (4) "County" means any county planning under RCW 36.70A.040.

34 (5) "Detached accessory dwelling unit" means an accessory
35 dwelling unit that consists partly or entirely of a building that is
36 separate and detached from a single-family housing unit, duplex,
37 triplex, townhome, or other housing unit and is on the same property.

38 (6) "Dwelling unit" means a residential living unit that provides
39 complete independent living facilities for one or more persons and

1 that includes permanent provisions for living, sleeping,
2 cooking, and sanitation.

3 (7) "Major transit stop" means:

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

6 (b) Commuter rail stops;

7 (c) Stops on rail or fixed guideway systems, including
8 transitways;

9 (d) Stops on bus rapid transit routes or routes that run on high
10 occupancy vehicle lanes; or

11 (e) Stops for a bus or other transit mode providing actual fixed
12 route service at intervals of ~~((at least fifteen))~~ no greater than 15
13 minutes for at least five hours during the peak hours of operation on
14 weekdays.

15 ~~(8) ("Owner" means any person who has at least 50 percent~~
16 ~~ownership in a property on which an accessory dwelling unit is~~
17 ~~located.~~

18 ~~(9))~~ "Short-term rental" means a lodging use, that is not a
19 hotel or motel or bed and breakfast, in which a dwelling unit, or
20 portion thereof, is offered or provided to a guest by a short-term
21 rental operator for a fee for fewer than 30 consecutive nights.

22 **Sec. 4.** RCW 36.70A.697 and 2020 c 217 s 3 are each amended to
23 read as follows:

24 (1) Cities and counties must adopt or amend by ordinance, and
25 incorporate into their development regulations, zoning regulations,
26 and other official controls the requirements of RCW 36.70A.698 to
27 take effect by the time of the city's or county's next comprehensive
28 plan update after July 1, 2021.

29 (2) Beginning ~~((July 1, 2021))~~ after the deadline in subsection
30 (1) of this section, the requirements of RCW 36.70A.698:

31 (a) Apply and take effect in any city or county that has not
32 adopted or amended ordinances, regulations, or other official
33 controls as required under this section; and

34 (b) Supersede, preempt, and invalidate any local development
35 regulations that conflict with RCW 36.70A.698.

36 **Sec. 5.** RCW 36.70A.698 and 2020 c 217 s 4 are each amended to
37 read as follows:

1 ~~(1) ((Except as provided in subsection[s] (2) and (3)~~
2 ~~section, through ordinances, development regulations, zoning~~
3 ~~regulations, and other official controls as required under RCW~~
4 ~~36.70A.697, cities)) Cities and counties may not ((require)) prohibit
5 the construction of accessory dwelling units on residentially zoned
6 lots within urban growth areas.~~

7 (2) When regulating accessory dwelling units, cities and counties
8 may not:

9 (a) Impose a limit on accessory dwelling units of fewer than one
10 attached and one detached accessory dwelling unit on a lot zoned for
11 residential use with a total square footage of more than 4,500 square
12 feet, unless the lot is otherwise zoned to allow:

13 (i) At least two dwelling units, in which case at least one
14 additional attached or detached accessory dwelling unit must be
15 allowed;

16 (ii) At least three dwelling units;

17 (b) Impose a limit on accessory dwelling units of fewer than one
18 attached or one detached accessory dwelling unit on a lot zoned for
19 residential use with a total square footage of less than 4,500 square
20 feet, unless the lot is otherwise zoned to allow at least two
21 dwelling units;

22 (c) Impose any prohibition of the sale or other conveyance of a
23 condominium unit independently of a principal unit that is based
24 solely on the grounds that the condominium unit was originally built
25 as an accessory dwelling unit, provided that the condominium unit is
26 served by utilities that are independent of the principal unit;

27 (d) Impose any owner occupancy requirements on any housing or
28 dwelling unit on a lot containing an accessory dwelling unit. A city
29 or county may retain an owner occupancy requirement if:

30 (i) An accessory dwelling unit on the lot is offered or used for
31 short-term rental as defined in RCW 36.70A.696; or

32 (ii) The city or county administers a general program, begun
33 prior to December 31, 2022, offering the waiver or reduction of
34 impact fees and costs associated with accessory dwelling unit
35 construction, if the units are offered at or below 80 percent of the
36 area median income;

37 (e) Require the provision of off-street parking for accessory
38 dwelling units within one-quarter mile of a major transit stop,
39 except that a city or county may require the provision of off-street
40 parking for such an accessory dwelling unit if the city or count

1 makes a determination, supported by evidence, that the
2 dwelling unit is in an area that would make on-street parking
3 infeasible or unsafe for the accessory dwelling unit; or

4 (f) Apply other development regulations to the construction of
5 accessory dwelling units that are more restrictive than regulations
6 on single-family or other residential developments.

7 ~~((2) A city may require the provision of off-street parking for~~
8 ~~an accessory dwelling unit located within one-quarter mile of a major~~
9 ~~transit stop if the city has determined that the accessory dwelling~~
10 ~~unit is in an area with a lack of access to street parking capacity,~~
11 ~~physical space impediments, or other reasons supported by evidence~~
12 ~~that would make on-street parking infeasible for the accessory~~
13 ~~dwelling unit.~~

14 ~~(3) A city that has adopted or substantively amended accessory~~
15 ~~dwelling unit regulations within the four years previous to June 11,~~
16 ~~2020, is not subject to the requirements of this section.)~~

17 (3) Regulations that may be applied to accessory dwelling units
18 by cities and counties include:

19 (a) Generally applicable development regulations;

20 (b) Public health, safety, building code, and environmental
21 permitting requirements, including regulations to protect ground and
22 surface waters from on-site wastewater, that would be applicable to a
23 principal unit;

24 (c) A prohibition on the construction of accessory dwelling units
25 on lots that are not connected to or served by public sewers;

26 (d) A prohibition or restriction on the construction of accessory
27 dwelling units in residential zones with a density of one dwelling
28 unit per acre or less that are within areas designated as wetlands,
29 fish and wildlife habitats, floodplains, or geologically hazardous
30 areas.

31 (4) This section and section 4 of this act apply only within
32 urban growth areas required by this chapter.

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

35 To encourage the use of accessory dwelling units for long-term
36 housing, cities and counties may adopt ordinances, development
37 regulations, and other official controls which waive or defer fees,
38 including impact fees; defer the payment of taxes; or waive specific
39 regulations. Cities and counties may only offer such reduced o

1 deferred fees, deferred taxes, waivers, or other incentives
2 development or construction of accessory dwelling units if such units
3 are subject to effective binding commitments or covenants that the
4 units will not be regularly offered for short-term rental.

5 NEW SECTION. **Sec. 7.** A new section is added to chapter 36.70A
6 RCW to read as follows:

7 (1) No restrictive covenant or deed restriction created after the
8 effective date of this section and applicable to a property located
9 within an urban growth area may impose any restriction or prohibition
10 on the construction, development, or use on a lot of an accessory
11 dwelling unit that the city or county in which the urban growth area
12 is located would be prohibited from imposing under RCW 36.70A.698.

13 (2) A city or county issuing a permit for the construction of an
14 accessory dwelling unit may not be held civilly liable on the basis
15 that the construction of the accessory dwelling unit would violate a
16 restrictive covenant or deed restriction that was created after the
17 effective date of this section and that is contrary to subsection (1)
18 of this section.

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