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HOUSE BILL 1782

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State of Washington

67th Legislature

2022 Regular Session

**By** Representatives Bateman, Macri, Berry, Fitzgibbon, Ryu, Dolan, Wicks, Barkis, Davis, Goodman, Gregerson, Morgan, Peterson, Ramel, Simmons, Slatter, Bergquist, Valdez, Thai, Duerr, Stonier, Riccelli, Ormsby, Taylor, Harris-Talley, Hackney, Kloba, and Frame; by request of Office of the Governor

Prefiled 01/05/22. Read first time 01/10/22. Referred to Committee on Local Government.

1 AN ACT Relating to creating additional middle housing near  
2 transit and in areas traditionally dedicated to single-family  
3 detached housing; amending RCW 36.70A.030 and 43.21C.495; and adding  
4 new sections to chapter 36.70A RCW.

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

6 **Sec. 1.** RCW 36.70A.030 and 2021 c 254 s 6 are each amended to  
7 read as follows:

8 Unless the context clearly requires otherwise, the definitions in  
9 this section apply throughout this chapter.

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

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

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

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

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

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

13 (5) "Comprehensive land use plan," "comprehensive plan," or  
14 "plan" means a generalized coordinated land use policy statement of  
15 the governing body of a county or city that is adopted pursuant to  
16 this chapter.

17 (6) "Courtyard apartments" means up to six attached dwelling  
18 units arranged on two or three sides of a central courtyard or lawn  
19 area.

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

29 ((+7)) (8) "Department" means the department of commerce.

30 ((+8)) (9) "Development regulations" or "regulation" means the  
31 controls placed on development or land use activities by a county or  
32 city, including, but not limited to, zoning ordinances, critical  
33 areas ordinances, shoreline master programs, official controls,  
34 planned unit development ordinances, subdivision ordinances, and  
35 binding site plan ordinances together with any amendments thereto. A  
36 development regulation does not include a decision to approve a  
37 project permit application, as defined in RCW 36.70B.020, even though  
38 the decision may be expressed in a resolution or ordinance of the  
39 legislative body of the county or city.

1       (~~(9)~~)    (10)    "Emergency housing" means temporary indoor  
2 accommodations for individuals or families who are homeless or at  
3 imminent risk of becoming homeless that is intended to address the  
4 basic health, food, clothing, and personal hygiene needs of  
5 individuals or families. Emergency housing may or may not require  
6 occupants to enter into a lease or an occupancy agreement.

7       (~~(10)~~)   (11)    "Emergency shelter" means a facility that provides  
8 a temporary shelter for individuals or families who are currently  
9 homeless. Emergency shelter may not require occupants to enter into a  
10 lease or an occupancy agreement. Emergency shelter facilities may  
11 include day and warming centers that do not provide overnight  
12 accommodations.

13       (~~(11)~~)   (12)    "Extremely low-income household" means a single  
14 person, family, or unrelated persons living together whose adjusted  
15 income is at or below thirty 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       (~~(12)~~)   (13)    "Forestland" means land primarily devoted to  
20 growing trees for long-term commercial timber production on land that  
21 can be economically and practically managed for such production,  
22 including Christmas trees subject to the excise tax imposed under RCW  
23 84.33.100 through 84.33.140, and that has long-term commercial  
24 significance. In determining whether forestland is primarily devoted  
25 to growing trees for long-term commercial timber production on land  
26 that can be economically and practically managed for such production,  
27 the following factors shall be considered: (a) The proximity of the  
28 land to urban, suburban, and rural settlements; (b) surrounding  
29 parcel size and the compatibility and intensity of adjacent and  
30 nearby land uses; (c) long-term local economic conditions that affect  
31 the ability to manage for timber production; and (d) the availability  
32 of public facilities and services conducive to conversion of  
33 forestland to other uses.

34       (~~(13)~~)   (14)    "Freight rail dependent uses" means buildings and  
35 other infrastructure that are used in the fabrication, processing,  
36 storage, and transport of goods where the use is dependent on and  
37 makes use of an adjacent short line railroad. Such facilities are  
38 both urban and rural development for purposes of this chapter.  
39 "Freight rail dependent uses" does not include buildings and other  
40 infrastructure that are used in the fabrication, processing, storage,

1 and transport of coal, liquefied natural gas, or "crude oil" as  
2 defined in RCW 90.56.010.

3 ~~((14))~~ (15) "Geologically hazardous areas" means areas that  
4 because of their susceptibility to erosion, sliding, earthquake, or  
5 other geological events, are not suited to the siting of commercial,  
6 residential, or industrial development consistent with public health  
7 or safety concerns.

8 ~~((15))~~ (16) "Long-term commercial significance" includes the  
9 growing capacity, productivity, and soil composition of the land for  
10 long-term commercial production, in consideration with the land's  
11 proximity to population areas, and the possibility of more intense  
12 uses of the land.

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

19 ~~((17))~~ (18) "Major transit stop" means:

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

22 (b) Commuter rail stops;

23 (c) Stops on rail or fixed guideway systems, including  
24 transitways;

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

27 (e) Stops for a bus or other transit mode providing actual fixed  
28 route service at intervals of at least 15 minutes for at least five  
29 hours during the peak hours of operation on weekdays; or

30 (f) Washington state ferry terminals.

31 (19) "Middle housing" means duplexes, triplexes, fourplexes,  
32 fiveplexes, sixplexes, stacked flats, townhouses, and courtyard  
33 apartments.

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

36 ~~((18))~~ (21) "Moderate-income household" means a single person,  
37 family, or unrelated persons living together whose adjusted income is  
38 at or below 120 percent of the median household income adjusted for  
39 household size, for the county where the household is located, as

1 reported by the United States department of housing and urban  
2 development.

3 ~~((19))~~ (22) "Permanent supportive housing" is subsidized,  
4 leased housing with no limit on length of stay that prioritizes  
5 people who need comprehensive support services to retain tenancy and  
6 utilizes admissions practices designed to use lower barriers to entry  
7 than would be typical for other subsidized or unsubsidized rental  
8 housing, especially related to rental history, criminal history, and  
9 personal behaviors. Permanent supportive housing is paired with on-  
10 site or off-site voluntary services designed to support a person  
11 living with a complex and disabling behavioral health or physical  
12 health condition who was experiencing homelessness or was at imminent  
13 risk of homelessness prior to moving into housing to retain their  
14 housing and be a successful tenant in a housing arrangement, improve  
15 the resident's health status, and connect the resident of the housing  
16 with community-based health care, treatment, or employment services.  
17 Permanent supportive housing is subject to all of the rights and  
18 responsibilities defined in chapter 59.18 RCW.

19 ~~((20))~~ (23) "Public facilities" include streets, roads,  
20 highways, sidewalks, street and road lighting systems, traffic  
21 signals, domestic water systems, storm and sanitary sewer systems,  
22 parks and recreational facilities, and schools.

23 ~~((21))~~ (24) "Public services" include fire protection and  
24 suppression, law enforcement, public health, education, recreation,  
25 environmental protection, and other governmental services.

26 ~~((22))~~ (25) "Recreational land" means land so designated under  
27 RCW 36.70A.1701 and that, immediately prior to this designation, was  
28 designated as agricultural land of long-term commercial significance  
29 under RCW 36.70A.170. Recreational land must have playing fields and  
30 supporting facilities existing before July 1, 2004, for sports played  
31 on grass playing fields.

32 ~~((23))~~ (26) "Rural character" refers to the patterns of land  
33 use and development established by a county in the rural element of  
34 its comprehensive plan:

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

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

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

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

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

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

7 (g) That are consistent with the protection of natural surface  
8 water flows and groundwater and surface water recharge and discharge  
9 areas.

10 ~~((24))~~ (27) "Rural development" refers to development outside  
11 the urban growth area and outside agricultural, forest, and mineral  
12 resource lands designated pursuant to RCW 36.70A.170. Rural  
13 development can consist of a variety of uses and residential  
14 densities, including clustered residential development, at levels  
15 that are consistent with the preservation of rural character and the  
16 requirements of the rural element. Rural development does not refer  
17 to agriculture or forestry activities that may be conducted in rural  
18 areas.

19 ~~((25))~~ (28) "Rural governmental services" or "rural services"  
20 include those public services and public facilities historically and  
21 typically delivered at an intensity usually found in rural areas, and  
22 may include domestic water systems~~((7))~~ and fire and police  
23 protection ~~((services, transportation and public transit services,~~  
24 ~~and other))~~ public utilities associated with rural development and  
25 normally not associated with urban areas. Rural services do not  
26 include storm or sanitary sewers, except as otherwise authorized by  
27 RCW 36.70A.110(4).

28 ~~((26))~~ (29) "Short line railroad" means those railroad lines  
29 designated class II or class III by the United States surface  
30 transportation board.

31 ~~((27))~~ (30) "Townhouses" means dwelling units constructed in a  
32 row of two or more attached units, where each dwelling unit is  
33 located on an individual lot or parcel and shares at least one common  
34 wall with an adjacent unit.

35 (31) "Urban governmental services" or "urban services" include  
36 those public services and public facilities at an intensity  
37 historically and typically provided in cities, specifically including  
38 storm and sanitary sewer systems, domestic water systems, street  
39 cleaning services, fire and police protection services, public

1 transit services, and other public utilities associated with urban  
2 areas and normally not associated with rural areas.

3 ~~((28))~~ (32) "Urban growth" refers to growth that makes  
4 intensive use of land for the location of buildings, structures, and  
5 impermeable surfaces to such a degree as to be incompatible with the  
6 primary use of land for the production of food, other agricultural  
7 products, or fiber, or the extraction of mineral resources, rural  
8 uses, rural development, and natural resource lands designated  
9 pursuant to RCW 36.70A.170. A pattern of more intensive rural  
10 development, as provided in RCW 36.70A.070(5)(d), is not urban  
11 growth. When allowed to spread over wide areas, urban growth  
12 typically requires urban governmental services. "Characterized by  
13 urban growth" refers to land having urban growth located on it, or to  
14 land located in relationship to an area with urban growth on it as to  
15 be appropriate for urban growth.

16 ~~((29))~~ (33) "Urban growth areas" means those areas designated  
17 by a county pursuant to RCW 36.70A.110.

18 ~~((30))~~ (34) "Very low-income household" means a single person,  
19 family, or unrelated persons living together whose adjusted income is  
20 at or below fifty percent of the median household income adjusted for  
21 household size, for the county where the household is located, as  
22 reported by the United States department of housing and urban  
23 development.

24 ~~((31))~~ (35) "Wetland" or "wetlands" means areas that are  
25 inundated or saturated by surface water or groundwater at a frequency  
26 and duration sufficient to support, and that under normal  
27 circumstances do support, a prevalence of vegetation typically  
28 adapted for life in saturated soil conditions. Wetlands generally  
29 include swamps, marshes, bogs, and similar areas. Wetlands do not  
30 include those artificial wetlands intentionally created from  
31 nonwetland sites, including, but not limited to, irrigation and  
32 drainage ditches, grass-lined swales, canals, detention facilities,  
33 wastewater treatment facilities, farm ponds, and landscape amenities,  
34 or those wetlands created after July 1, 1990, that were  
35 unintentionally created as a result of the construction of a road,  
36 street, or highway. Wetlands may include those artificial wetlands  
37 intentionally created from nonwetland areas created to mitigate  
38 conversion of wetlands.

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

3        (1) (a) Any city with a population of 20,000 or more, as of the  
4 effective date of this section, that is required or chooses to plan  
5 under RCW 36.70A.040 must provide by ordinance and incorporate into  
6 its development regulations, zoning regulations, and other official  
7 controls, authorization for the development of all middle housing  
8 types on all lots zoned for detached single-family residential use  
9 and within one-half mile of a major transit stop.

10        (b) (i) Such cities must also allow development of duplexes,  
11 triplexes, and fourplexes on all other lots zoned for single-family  
12 residential use.

13        (ii) As an alternative to the requirements of this subsection  
14 (1) (b):

15        (A) Any city with a population of 500,000 or more may alter local  
16 zoning to allow an average minimum density equivalent to 40 dwelling  
17 units or more per gross acre across the entirety of the city's urban  
18 growth area;

19        (B) Any city with a population of at least 100,000, but less than  
20 500,000, may alter local zoning to allow an average minimum density  
21 equivalent to 30 dwelling units or more per gross acre across the  
22 entirety of the city's urban growth area; and

23        (C) Any city with a population of at least 20,000, but less than  
24 100,000, may alter local zoning to allow an average minimum density  
25 equivalent to 25 dwelling units or more per gross acre across the  
26 entirety of the city's urban growth area.

27        (c) Any city subject to the requirements under (a) of this  
28 subsection that has not adopted local antidisplacement measures as a  
29 portion of the city's mandatory housing element under RCW  
30 36.70A.070(2) must, within nine months of the effective date of this  
31 section, perform the actions specified in RCW 36.70A.070(2) (e), (f),  
32 (g), and (h) for areas within one-half mile of a major transit stop.

33        (2) (a) Any city with a population of 10,000 or more, as of the  
34 effective date of this section, that is required or chooses to plan  
35 under RCW 36.70A.040 must provide by ordinance and incorporate into  
36 its development regulations, zoning regulations, and other official  
37 controls, authorization for the development of duplexes on all lots  
38 zoned for detached single-family residential use. Nothing in this  
39 subsection prohibits a city from allowing middle housing types in  
40 addition to duplexes.

1 (b) As an alternative to the requirements under (a) of this  
2 subsection, any city with a population of at least 10,000, but less  
3 than 20,000, may alter local zoning to allow an average minimum  
4 density equivalent to 15 dwelling units or more per gross acre.

5 (3) Any city choosing to adopt an average minimum density  
6 pursuant to subsection (1)(b)(ii) or (2)(b) of this section shall  
7 also adopt findings of fact demonstrating that actions taken to  
8 implement that average minimum density will not result in racially  
9 disparate impacts, displacement, or further exclusion in housing. The  
10 city shall transmit such findings to the department.

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

12 (a) May adopt development and design standards related to siting  
13 and design of middle housing. However, such development and design  
14 standards may not discourage the development of middle housing  
15 through unreasonable costs, fees, delays, or other requirements or  
16 actions which individually, or cumulatively, make impracticable the  
17 permitting, siting, or construction of middle housing;

18 (b) Shall not require zoning, development, siting, or design  
19 review standards for middle housing that are more restrictive than  
20 those required for detached single-family residences;

21 (c) Shall apply to middle housing the same development permit and  
22 environmental review processes that apply to detached single-family  
23 residences;

24 (d) Shall not require off-street parking as a condition of  
25 permitting development of middle housing within one-half mile of a  
26 major transit stop;

27 (e) Shall not require more than one off-street parking space per  
28 lot as a condition of permitting development of middle housing on  
29 lots smaller than 6,000 square feet;

30 (f) Shall not require more than two off-street parking spaces per  
31 lot as a condition of permitting development of middle housing on  
32 lots greater than 6,000 square feet.

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

35 (6) The requirements of this section apply and take effect on the  
36 latter of:

37 (a) Twenty-four months following the effective date of this  
38 section for cities with a population of 10,000 or more; or

1 (b) Twelve months after a determination by the office of  
2 financial management that a city has reached a population threshold  
3 established under this section.

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

6 (1)(a) The department is directed to provide technical assistance  
7 to cities as they implement the requirements under section 2 of this  
8 act.

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

11 (2)(a) The department shall publish model middle housing  
12 ordinances no later than 18 months following the effective date of  
13 this section.

14 (b) In any city subject to section 2 of this act that has not  
15 passed ordinances, regulations, or other official controls within the  
16 time frames provided under section 2(6) of this act, the model  
17 ordinance supersedes, preempts, and invalidates local development  
18 regulations until the city takes all actions necessary to implement  
19 section 2 of this act.

20 (3)(a) The department is directed to establish a process by which  
21 cities implementing the requirements of section 2 of this act may  
22 seek approval of necessary local actions.

23 (b) Any local actions approved by the department pursuant to (a)  
24 of this subsection to implement the requirements under section 2 of  
25 this act are exempt from appeals under this chapter and chapter  
26 43.21C RCW.

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

29 (1) Any city subject to the requirements under section 2 of this  
30 act may apply to the department for, and the department may certify,  
31 an extension of the implementation timelines established under  
32 section 2(6) of this act.

33 (2) An extension certified under this section may be applied only  
34 to specific areas where a city has identified water, sewer,  
35 stormwater, or transportation services that are currently deficient,  
36 or are expected to be deficient within the next five years, and for  
37 which the local government has established a plan of actions that  
38 will remedy the deficiency in those services on a specific timeline.

1 The department may certify additional extensions of a city's  
2 remediation timeline.

3 (3) An application for an implementation timeline extension by a  
4 city must be filed with the department no later than 24 months  
5 following the effective date of this section.

6 (4) The department may establish by rule any procedures necessary  
7 to implement this section.

8 **Sec. 5.** RCW 43.21C.495 and 2020 c 173 s 2 are each amended to  
9 read as follows:

10 (1) If adopted by April 1, 2023, amendments to development  
11 regulations and other nonproject actions taken by a city to implement  
12 RCW 36.70A.600 (1) or (4), with the exception of the action specified  
13 in RCW 36.70A.600(1)(f), are not subject to administrative or  
14 judicial appeals under this chapter.

15 (2) Amendments to development regulations and other nonproject  
16 actions taken by a city to implement requirements under section 2 of  
17 this act pursuant to section 3(3)(b) of this act are not subject to  
18 administrative or judicial appeals under this chapter.

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