

E2SHB 1110 - S COMM AMD
By Committee on Ways & Means

ADOPTED AS AMENDED 04/11/2023

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that Washington is
4 facing an unprecedented housing crisis for its current population and
5 a lack of housing choices, and is not likely to meet the
6 affordability goals for future populations. In order to meet the goal
7 of 1,000,000 new homes by 2044, and enhanced quality of life and
8 environmental protection, innovative housing policies will need to be
9 adopted.

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

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

18 Homes developed at higher densities are more affordable by design
19 for Washington residents both in their construction and reduced
20 household energy and transportation costs.

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

25 The state has made historic investments in subsidized affordable
26 housing through the housing trust fund, yet even with these historic
27 investments, the magnitude of the housing shortage requires both
28 public and private investment.

29 In addition to addressing the housing shortage, allowing more
30 housing options in areas already served by urban infrastructure will
31 reduce the pressure to develop natural and working lands, support key

1 strategies for climate change, food security, and Puget Sound
2 recovery, and save taxpayers and ratepayers money.

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

5 Unless the context clearly requires otherwise, the definitions in
6 this section apply throughout this chapter.

7 (1) "Administrative design review" means a development permit
8 process whereby an application is reviewed, approved, or denied by
9 the planning director or the planning director's designee based
10 solely on objective design and development standards without a public
11 predecision hearing, unless such review is otherwise required by
12 state or federal law, or the structure is a designated landmark or
13 historic district established under a local preservation ordinance. A
14 city may utilize public meetings, hearings, or voluntary review
15 boards to consider, recommend, or approve requests for variances from
16 locally established design review standards.

17 (2) "Adopt a comprehensive land use plan" means to enact a new
18 comprehensive land use plan or to update an existing comprehensive
19 land use plan.

20 ((+2)) (3) "Affordable housing" means, unless the context
21 clearly indicates otherwise, residential housing whose monthly costs,
22 including utilities other than telephone, do not exceed thirty
23 percent of the monthly income of a household whose income is:

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

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

32 ((+3)) (4) "Agricultural land" means land primarily devoted to
33 the commercial production of horticultural, viticultural,
34 floricultural, dairy, apiary, vegetable, or animal products or of
35 berries, grain, hay, straw, turf, seed, Christmas trees not subject
36 to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish
37 in upland hatcheries, or livestock, and that has long-term commercial
38 significance for agricultural production.

39 ((+4)) (5) "City" means any city or town, including a code city.

1 ~~((5))~~ (6) "Comprehensive land use plan," "comprehensive plan,"
2 or "plan" means a generalized coordinated land use policy statement
3 of the governing body of a county or city that is adopted pursuant to
4 this chapter.

5 ~~((6))~~ (7) "Cottage housing" means residential units on a lot
6 with a common open space that either: (a) Is owned in common; or (b)
7 has units owned as condominium units with property owned in common
8 and a minimum of 20 percent of the lot size as open space.

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

11 (9) "Critical areas" include the following areas and ecosystems:
12 (a) Wetlands; (b) areas with a critical recharging effect on aquifers
13 used for potable water; (c) fish and wildlife habitat conservation
14 areas; (d) frequently flooded areas; and (e) geologically hazardous
15 areas. "Fish and wildlife habitat conservation areas" does not
16 include such artificial features or constructs as irrigation delivery
17 systems, irrigation infrastructure, irrigation canals, or drainage
18 ditches that lie within the boundaries of and are maintained by a
19 port district or an irrigation district or company.

20 ~~((7))~~ (10) "Department" means the department of commerce.

21 ~~((8))~~ (11) "Development regulations" or "regulation" means the
22 controls placed on development or land use activities by a county or
23 city, including, but not limited to, zoning ordinances, critical
24 areas ordinances, shoreline master programs, official controls,
25 planned unit development ordinances, subdivision ordinances, and
26 binding site plan ordinances together with any amendments thereto. A
27 development regulation does not include a decision to approve a
28 project permit application, as defined in RCW 36.70B.020, even though
29 the decision may be expressed in a resolution or ordinance of the
30 legislative body of the county or city.

31 ~~((9))~~ (12) "Emergency housing" means temporary indoor
32 accommodations for individuals or families who are homeless or at
33 imminent risk of becoming homeless that is intended to address the
34 basic health, food, clothing, and personal hygiene needs of
35 individuals or families. Emergency housing may or may not require
36 occupants to enter into a lease or an occupancy agreement.

37 ~~((10))~~ (13) "Emergency shelter" means a facility that provides
38 a temporary shelter for individuals or families who are currently
39 homeless. Emergency shelter may not require occupants to enter into a
40 lease or an occupancy agreement. Emergency shelter facilities may

1 include day and warming centers that do not provide overnight
2 accommodations.

3 ~~((11))~~ (14) "Extremely low-income household" means a single
4 person, family, or unrelated persons living together whose adjusted
5 income is at or below thirty percent of the median household income
6 adjusted for household size, for the county where the household is
7 located, as reported by the United States department of housing and
8 urban development.

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

24 ~~((13))~~ (16) "Freight rail dependent uses" means buildings and
25 other infrastructure that are used in the fabrication, processing,
26 storage, and transport of goods where the use is dependent on and
27 makes use of an adjacent short line railroad. Such facilities are
28 both urban and rural development for purposes of this chapter.
29 "Freight rail dependent uses" does not include buildings and other
30 infrastructure that are used in the fabrication, processing, storage,
31 and transport of coal, liquefied natural gas, or "crude oil" as
32 defined in RCW 90.56.010.

33 ~~((14))~~ (17) "Geologically hazardous areas" means areas that
34 because of their susceptibility to erosion, sliding, earthquake, or
35 other geological events, are not suited to the siting of commercial,
36 residential, or industrial development consistent with public health
37 or safety concerns.

38 ~~((15))~~ (18) "Long-term commercial significance" includes the
39 growing capacity, productivity, and soil composition of the land for
40 long-term commercial production, in consideration with the land's

1 proximity to population areas, and the possibility of more intense
2 uses of the land.

3 ~~((16))~~ (19) "Low-income household" means a single person,
4 family, or unrelated persons living together whose adjusted income is
5 at or below eighty percent of the median household income adjusted
6 for household size, for the county where the household is located, as
7 reported by the United States department of housing and urban
8 development.

9 ~~((17))~~ (20) "Major transit stop" means:

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

12 (b) Commuter rail stops;

13 (c) Stops on rail or fixed guideway systems; or

14 (d) Stops on bus rapid transit routes.

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

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

22 ~~((18))~~ (23) "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))~~ (24) "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 services.
2 Permanent supportive housing is subject to all of the rights and
3 responsibilities defined in chapter 59.18 RCW.

4 ~~((20))~~ (25) "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))~~ (26) "Public services" include fire protection and
9 suppression, law enforcement, public health, education, recreation,
10 environmental protection, and other governmental services.

11 ~~((22))~~ (27) "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))~~ (28) "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))~~ (29) "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 the

1 requirements of the rural element. Rural development does not refer
2 to agriculture or forestry activities that may be conducted in rural
3 areas.

4 ~~((25))~~ (30) "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(~~(7)~~) and fire and police
8 protection services(~~(, transportation and public transit services,~~
9 ~~and other public utilities)~~) associated with rural development and
10 normally not associated with urban areas. Rural services do not
11 include storm or sanitary sewers, except as otherwise authorized by
12 RCW 36.70A.110(4).

13 ~~((26))~~ (31) "Short line railroad" means those railroad lines
14 designated class II or class III by the United States surface
15 transportation board.

16 ~~((27))~~ (32) "Single-family zones" means those zones where
17 single-family detached housing is the predominant land use.

18 (33) "Stacked flat" means dwelling units in a residential
19 building of no more than three stories on a residential zoned lot in
20 which each floor may be separately rented or owned.

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

24 (35) "Urban governmental services" or "urban services" include
25 those public services and public facilities at an intensity
26 historically and typically provided in cities, specifically including
27 storm and sanitary sewer systems, domestic water systems, street
28 cleaning services, fire and police protection services, public
29 transit services, and other public utilities associated with urban
30 areas and normally not associated with rural areas.

31 ~~((28))~~ (36) "Urban growth" refers to growth that makes
32 intensive use of land for the location of buildings, structures, and
33 impermeable surfaces to such a degree as to be incompatible with the
34 primary use of land for the production of food, other agricultural
35 products, or fiber, or the extraction of mineral resources, rural
36 uses, rural development, and natural resource lands designated
37 pursuant to RCW 36.70A.170. A pattern of more intensive rural
38 development, as provided in RCW 36.70A.070(5)(d), is not urban
39 growth. When allowed to spread over wide areas, urban growth
40 typically requires urban governmental services. "Characterized by

1 urban growth" refers to land having urban growth located on it, or to
2 land located in relationship to an area with urban growth on it as to
3 be appropriate for urban growth.

4 ~~((29))~~ (37) "Urban growth areas" means those areas designated
5 by a county pursuant to RCW 36.70A.110.

6 ~~((30))~~ (38) "Very low-income household" means a single person,
7 family, or unrelated persons living together whose adjusted income is
8 at or below fifty percent of the median household income adjusted for
9 household size, for the county where the household is located, as
10 reported by the United States department of housing and urban
11 development.

12 ~~((31))~~ (39) "Wetland" or "wetlands" means areas that are
13 inundated or saturated by surface water or groundwater at a frequency
14 and duration sufficient to support, and that under normal
15 circumstances do support, a prevalence of vegetation typically
16 adapted for life in saturated soil conditions. Wetlands generally
17 include swamps, marshes, bogs, and similar areas. Wetlands do not
18 include those artificial wetlands intentionally created from
19 nonwetland sites, including, but not limited to, irrigation and
20 drainage ditches, grass-lined swales, canals, detention facilities,
21 wastewater treatment facilities, farm ponds, and landscape amenities,
22 or those wetlands created after July 1, 1990, that were
23 unintentionally created as a result of the construction of a road,
24 street, or highway. Wetlands may include those artificial wetlands
25 intentionally created from nonwetland areas created to mitigate
26 conversion of wetlands.

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

29 (1) Except as provided in subsection (4) of this section, any
30 city that is required or chooses to plan under RCW 36.70A.040 must
31 provide by ordinance and incorporate into its development
32 regulations, zoning regulations, and other official controls,
33 authorization for the following:

34 (a) For cities with a population of at least 25,000 but less than
35 75,000 based on office of financial management population estimates:

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

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

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

7 (b) For cities with a population of at least 75,000 based on
8 office of financial management population estimates:

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

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

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

17 (c) For cities with a population of less than 25,000, that are
18 within a contiguous urban growth area with the largest city in a
19 county with a population of more than 275,000, based on office of
20 financial management population estimates the development of at least
21 two units per lot on all lots zoned predominantly for residential
22 use.

23 (2)(a) To qualify for the additional units allowed under
24 subsection (1) of this section, the applicant must commit to renting
25 or selling the required number of units as affordable housing. The
26 units must be maintained as affordable for a term of at least 50
27 years, and the property must satisfy that commitment and all required
28 affordability and income eligibility conditions adopted by the local
29 government under this chapter. A city must require the applicant to
30 record a covenant or deed restriction that ensures the continuing
31 rental of units subject to these affordability requirements
32 consistent with the conditions in chapter 84.14 RCW for a period of
33 no less than 50 years. The covenant or deed restriction must also
34 address criteria and policies to maintain public benefit if the
35 property is converted to a use other than which continues to provide
36 for permanently affordable housing.

37 (b) The units dedicated as affordable must be provided in a range
38 of sizes comparable to other units in the development. To the extent
39 practicable, the number of bedrooms in affordable units must be in
40 the same proportion as the number of bedrooms in units within the

1 entire development. The affordable units must generally be
2 distributed throughout the development and have substantially the
3 same functionality as the other units in the development.

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

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

13 (4) (a) As an alternative to the density requirements in
14 subsection (1) of this section, a city may implement the density
15 requirements in subsection (1) of this section for at least 75
16 percent of lots in the city that are primarily dedicated to single-
17 family detached housing units.

18 (b) The 25 percent of lots for which the requirements of
19 subsection (1) of this section are not implemented must include but
20 are not limited to:

21 (i) Any areas within the city for which the department has
22 certified an extension of the implementation timelines under section
23 5 of this act due to the risk of displacement;

24 (ii) Any areas within the city for which the department has
25 certified an extension of the implementation timelines under section
26 7 of this act due to a lack of infrastructure capacity;

27 (iii) Any lots designated with critical areas or their buffers
28 that are exempt from the density requirements as provided in
29 subsection (8) of this section;

30 (iv) Any portion of a city within a one-mile radius of a
31 commercial airport with at least 9,000,000 annual enplanements that
32 is exempt from the parking requirements under subsection (7)(b) of
33 this section; and

34 (v) Any areas subject to sea level rise, increased flooding,
35 susceptible to wildfires, or geological hazards over the next 100
36 years.

37 (c) Unless identified as at higher risk of displacement under RCW
38 36.70A.070(2)(g), the 25 percent of lots for which the requirements
39 of subsection (1) of this section are not implemented may not
40 include:

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

3 (ii) Any areas within one-half mile walking distance of a major
4 transit stop; or

5 (iii) Any areas historically covered by a covenant or deed
6 restriction excluding racial minorities from owning property or
7 living in the area, as known to the city at the time of each
8 comprehensive plan update.

9 (5) A city must allow at least six of the nine types of middle
10 housing to achieve the unit density required in subsection (1) of
11 this section. A city may allow accessory dwelling units to achieve
12 the unit density required in subsection (1) of this section. Cities
13 are not required to allow accessory dwelling units or middle housing
14 types beyond the density requirements in subsection (1) of this
15 section. A city must also allow zero lot line short subdivision where
16 the number of lots created is equal to the unit density required in
17 subsection (1) of this section.

18 (6) Any city subject to the requirements of this section:

19 (a) If applying design review for middle housing, only
20 administrative design review shall be required;

21 (b) Except as provided in (a) of this subsection, shall not
22 require through development regulations any standards for middle
23 housing that are more restrictive than those required for detached
24 single-family residences, but may apply any objective development
25 regulations that are required for detached single-family residences,
26 including, but not limited to, set-back, lot coverage, stormwater,
27 clearing, and tree canopy and retention requirements to ensure
28 compliance with existing ordinances intended to protect critical
29 areas and public health and safety;

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

36 (d) Shall not require off-street parking as a condition of
37 permitting development of middle housing within one-half mile walking
38 distance of a major transit stop;

39 (e) Shall not require more than one off-street parking space per
40 unit as a condition of permitting development of middle housing on

1 lots smaller than 6,000 square feet before any zero lot line
2 subdivisions or lot splits;

3 (f) Shall not require more than two off-street parking spaces per
4 unit as a condition of permitting development of middle housing on
5 lots greater than 6,000 square feet before any zero lot line
6 subdivisions or lot splits; and

7 (g) Are not required to achieve the per unit density under this
8 act on lots after subdivision below 1,000 square feet unless the city
9 chooses to enact smaller allowable lot sizes.

10 (7) The provisions of subsection (6)(d) through (f) of this
11 section do not apply:

12 (a) If a local government submits to the department an empirical
13 study prepared by a credentialed transportation or land use planning
14 expert that clearly demonstrates, and the department finds and
15 certifies, that the application of the parking limitations of
16 subsection (6)(d) through (f) of this section for middle housing will
17 be significantly less safe for vehicle drivers or passengers,
18 pedestrians, or bicyclists than if the jurisdiction's parking
19 requirements were applied to the same location for the same number of
20 detached houses. The department must develop guidance to assist
21 cities on items to include in the study; or

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

25 (8) The provisions of this section do not apply to:

26 (a) Lots designated with critical areas designated under RCW
27 36.70A.170 or their buffers as required by RCW 36.70A.170;

28 (b) A watershed serving a reservoir for potable water if that
29 watershed is or was listed, as of the effective date of this section,
30 as impaired or threatened under section 303(d) of the federal clean
31 water act (33 U.S.C. Sec. 1313(d)); or

32 (c) Lots that have been designated urban separators by countywide
33 planning policies as of the effective date of this section.

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

36 (10) Nothing in this section requires a city to issue a building
37 permit if other federal, state, and local requirements for a building
38 permit are not met.

39 (11) A city must comply with the requirements of this section on
40 the latter of:

1 (a) Six months after its next periodic comprehensive plan update
2 required under RCW 36.70A.130 if the city meets the population
3 threshold based on the 2020 office of financial management population
4 data; or

5 (b) 12 months after their next implementation progress report
6 required under RCW 36.70A.130 after a determination by the office of
7 financial management that the city has reached a population threshold
8 established under this section.

9 (12) A city complying with this section and not granted a
10 timeline extension under section 7 of this act does not have to
11 update its capital facilities plan element required by RCW
12 36.70A.070(3) to accommodate the increased housing required by this
13 act until the first periodic comprehensive plan update required for
14 the city under RCW 36.70A.130(5) that occurs on or after June 30,
15 2034.

16 (13) Any city that adopts development regulations consistent with
17 the requirements of this section shall be considered in compliance
18 with RCW 36.70A.070(2)(f) until June 30, 2032, and shall have until
19 the first periodic comprehensive plan update required for the city
20 under RCW 36.70A.130(5) that occurs on or after June 30, 2034, to
21 comply with RCW 36.70A.070(2)(f).

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

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

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

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

32 (b) In any city subject to section 3 of this act that has not
33 passed ordinances, regulations, or other official controls within the
34 time frames provided under section 3(11) of this act, the model
35 ordinance supersedes, preempts, and invalidates local development
36 regulations until the city takes all actions necessary to implement
37 section 3 of this act.

38 (3)(a) The department is directed to establish a process by which
39 cities implementing the requirements of section 3 of this act may

1 seek approval of alternative local action necessary to meet the
2 requirements of this act.

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

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

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

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

20 (c) The department may also approve actions under this section
21 for cities that have, by January 1, 2023, adopted a comprehensive
22 plan or development regulations that have significantly reduced or
23 eliminated residentially zoned areas that are predominantly single
24 family. The department must find that a city's actions are
25 substantially similar to the requirements of this act if they have
26 adopted, or within one year of the effective date of this section
27 adopts, permanent development regulations that:

28 (i) Result in an overall increase in housing units allowed in
29 single-family zones that is at least 75 percent of the increase in
30 housing units allowed in single-family zones if the specific
31 provisions of this act were adopted;

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

34 (iii) Allow for additional density near major transit stops, and
35 for projects that incorporate dedicated affordable housing.

36 (d) The department may determine that a comprehensive plan and
37 development regulations that do not meet these criteria are otherwise
38 substantially similar to the requirements of this act if the city can
39 clearly demonstrate that the regulations adopted will allow for a
40 greater increase in middle housing production within single family

1 zones than would be allowed through implementation of section 3 of
2 this act.

3 (e) Any local actions approved by the department pursuant to (a)
4 of this subsection to implement the requirements under section 3 of
5 this act are exempt from appeals under this chapter and chapter
6 43.21C RCW.

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

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

13 Any city choosing the alternative density requirements in section
14 3(4) of this act may apply to the department for, and the department
15 may certify, an extension for areas at risk of displacement as
16 determined by the antidisplacement analysis that a jurisdiction is
17 required to complete under RCW 36.70A.070(2). The city must create a
18 plan for implementing antidisplacement policies by their next
19 implementation progress report required by RCW 36.70A.130(9). The
20 department may certify one further extension based on evidence of
21 significant ongoing displacement risk in the impacted area.

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

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

26 (a) That, except as provided otherwise by this subsection, a
27 state agency, county, or city planning under this chapter is not in
28 compliance with the requirements of this chapter, chapter 90.58 RCW
29 as it relates to the adoption of shoreline master programs or
30 amendments thereto, or chapter 43.21C RCW as it relates to plans,
31 development regulations, or amendments, adopted under RCW 36.70A.040
32 or chapter 90.58 RCW. Nothing in this subsection authorizes the board
33 to hear petitions alleging noncompliance with RCW 36.70A.5801;

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

1 (c) That the approval of a work plan adopted under RCW
2 36.70A.735(1)(a) is not in compliance with the requirements of the
3 program established under RCW 36.70A.710;

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

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

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

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

18 (3) For purposes of this section "person" means any individual,
19 partnership, corporation, association, state agency, governmental
20 subdivision or unit thereof, or public or private organization or
21 entity of any character.

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

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

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

33 If adjusted by the board, a county growth management planning
34 population projection shall only be used for the planning purposes
35 set forth in this chapter and shall be known as the "board adjusted
36 population projection." None of these changes shall affect the
37 official state and county population forecasts prepared by the office
38 of financial management, which shall continue to be used for state
39 budget and planning purposes.

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

3 (1) Any city choosing the alternative density requirements in
4 section 3(4) of this act may apply to the department for, and the
5 department may certify, an extension of the implementation timelines
6 established under section 3(11) of this act.

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

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

13 (b) Identified which special district is responsible for
14 providing the necessary infrastructure if the infrastructure is
15 provided by a special purpose district.

16 (3) If an extension of the implementation timelines is requested
17 due to lack of water supply from the city or the purveyors who serve
18 water within the city, the department's evaluation of the extension
19 must be based on the applicable water system plans in effect and
20 approved by the department of health. Water system plan updates
21 initiated after the effective date of this section must include
22 consideration of water supply requirements for middle housing types.

23 (4) An extension granted under this section remains in effect
24 until the earliest of:

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

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

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

30 (5) A city that has received an extension under this section may
31 reapply for any needed extension with its next periodic comprehensive
32 plan update under RCW 36.70A.130 or its implementation progress
33 report to the department under RCW 36.70A.130(9). The application for
34 an additional extension must include a list of infrastructure
35 improvements necessary to meet the capacity required in section 3 of
36 this act. Such additional extension must only be to address
37 infrastructure deficiency that a city is not reasonably able to
38 address within the first extension.

39 (6) The department may establish by rule any standards or
40 procedures necessary to implement this section.

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

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

11 (9) If an area zoned predominantly for residential use is
12 currently served only by private wells, group B water systems or
13 group A water systems with less than 50 connections, or a city or
14 water providers within the city do not have an adequate water supply
15 or available connections to serve the zoning increase required under
16 section 3 of this act, the city may limit the areas subject to the
17 requirements under section 3 of this act to match current water
18 availability. Nothing in this act affects or modifies the
19 responsibilities of cities to plan for or provide urban governmental
20 services as defined in RCW 36.70A.030 or affordable housing as
21 required by RCW 36.70A.070.

22 (10) No city shall approve a building permit for housing under
23 section 3 of this act without compliance with the adequate water
24 supply requirements of RCW 19.27.097.

25 (11) If an area zoned predominantly for residential use is
26 currently served only by on-site sewage systems, development may be
27 limited to two units per lot, until either the landowner or local
28 government provides sewer service or demonstrates a sewer system will
29 serve the development at the time of construction. Nothing in this
30 act affects or modifies the responsibilities of cities to plan for or
31 provide urban governmental services as defined in RCW 36.70A.030.

32 **Sec. 8.** RCW 43.21C.495 and 2022 c 246 s 3 are each amended to
33 read as follows:

34 (1) Adoption of ordinances, development regulations and
35 amendments to such regulations, and other nonproject actions taken by
36 a city to implement: The actions specified in section 2, chapter 246,
37 Laws of 2022 unless the adoption of such ordinances, development
38 regulations and amendments to such regulations, or other nonproject
39 actions has a probable significant adverse impact on fish habitat;

1 and the increased residential building capacity actions identified in
2 RCW 36.70A.600(1), with the exception of the action specified in RCW
3 36.70A.600(1)(f), are not subject to administrative or judicial
4 appeals under this chapter.

5 (2) Amendments to development regulations and other nonproject
6 actions taken by a city to implement the requirements under section 3
7 of this act pursuant to section 4(3)(b) of this act are not subject
8 to administrative or judicial appeals under this chapter.

9 **Sec. 9.** RCW 43.21C.450 and 2012 1st sp.s. c 1 s 307 are each
10 amended to read as follows:

11 The following nonproject actions are categorically exempt from
12 the requirements of this chapter:

13 (1) Amendments to development regulations that are required to
14 ensure consistency with an adopted comprehensive plan pursuant to RCW
15 36.70A.040, where the comprehensive plan was previously subjected to
16 environmental review pursuant to this chapter and the impacts
17 associated with the proposed regulation were specifically addressed
18 in the prior environmental review;

19 (2) Amendments to development regulations that are required to
20 ensure consistency with a shoreline master program approved pursuant
21 to RCW 90.58.090, where the shoreline master program was previously
22 subjected to environmental review pursuant to this chapter and the
23 impacts associated with the proposed regulation were specifically
24 addressed in the prior environmental review;

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

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

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

32 (c) Increased vegetation retention or decreased impervious
33 surface areas in critical areas;

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

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

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

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

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

4 NEW SECTION. **Sec. 10.** A new section is added to chapter 64.34
5 RCW to read as follows:

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

11 NEW SECTION. **Sec. 11.** A new section is added to chapter 64.32
12 RCW to read as follows:

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

19 NEW SECTION. **Sec. 12.** A new section is added to chapter 64.38
20 RCW to read as follows:

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

26 NEW SECTION. **Sec. 13.** A new section is added to chapter 64.90
27 RCW to read as follows:

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

1 NEW SECTION. **Sec. 14.** The department of commerce may establish
2 by rule any standards or procedures necessary to implement sections 2
3 through 7 of this act.

4 NEW SECTION. **Sec. 15.** If specific funding for the purposes of
5 this act, referencing this act by bill or chapter number, is not
6 provided by June 30, 2023, in the omnibus appropriations act, this
7 act is null and void."

E2SHB 1110 - S COMM AMD
By Committee on Ways & Means

ADOPTED AS AMENDED 04/11/2023

8 On page 1, line 3 of the title, after "housing;" strike the
9 remainder of the title and insert "amending RCW 36.70A.030,
10 36.70A.280, 43.21C.495, and 43.21C.450; adding new sections to
11 chapter 36.70A RCW; adding a new section to chapter 64.34 RCW; adding
12 a new section to chapter 64.32 RCW; adding a new section to chapter
13 64.38 RCW; adding a new section to chapter 64.90 RCW; and creating
14 new sections."

EFFECT: (1) Makes technical corrections.

(2) Updates the intent section.

(3) Requires cities meeting the population threshold based on the 2020 Office of Financial Management (OFM) population data to comply with the provisions of the bill six months after their next periodic comprehensive plan update. Cities not meeting the threshold based on the 2020 OFM data must comply with the provisions of the bill 12 months after their next implementation progress report after a determination by OFM that the city has reached a population threshold.

(4) Makes changes to the definition for administrative design review and major transit stop.

(5) Requires any city with a population of at least 25,000 but less than 75,000, within a contiguous urban growth area with the largest city in a county with a population of more than 275,000 to comply with the same density requirements as cities with a population of at least 25,000 but less than 75,000, instead of imposing the same density requirements as cities with a population of at least 75,000.

(6) Updates the density requirements for a city with a population of at least 25,000 but less than 75,000 to require the development of at least four units per lot on all lots predominantly for residential use within one-quarter mile, rather than one-half mile walking distance of a major transit stop.

(7) Requires any city with less than 25,000, within a contiguous urban growth area with the largest city in a county with a population of more than 275,000 to authorize development of at least two units per lot on all lots zoned predominately for residential use.

(8) Removes the alternative density option for cities with a population of less than 75,000 within a contiguous urban growth area with the largest city in a county with a population of more than 275,000.

(9) Provides that provisions required for the 25 percent of lots for which density requirements are not implemented under the alternative density option are not limited to those specified in the bill and adds any area susceptible to wildfires to those provisions.

(10) Provides that cities may allow accessory dwelling units to achieve the unit density required but that cities are not required to allow ADUs or middle housing types beyond density requirements.

(11) Clarifies that if a city is applying design review for middle housing, only administrative design review shall be required.

(12) Removes language authorizing cities to impose a limit of two units on a residential lot of 2,000 square feet or less created through a lot split pursuant to RCW 36.70A.--- (section 2, chapter . . . (ESHB 1245), Laws of 2023).

(13) Clarifies that the lot size tied to off-street parking provisions is before any zero lot line subdivisions or lot splits.

(14) Provides that cities are not required to achieve the per unit density under this act on lots after subdivision below 1,000 square feet.

(15) Exempts lots that have been designated as urban separators by countywide planning policies as of the effective date of this act from the density requirements.

(16) Clarifies that cities considered in compliance with requirements to 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.

(17) Removes community amenity from the list of requirements for the alternative density requirement and review of substantially similar plans and regulations conducted by Department of Commerce (Commerce).

(18) 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.

(19) Removes language exempting population associated with permits for middle housing units from the threshold of an Office of Financial Management population projection to a county or a county population allocation to a city.

(20) Clarifies that Commerce may approve actions by cities that have adopted permanent development regulations that are substantially similar to the requirements.

(21) Adds ability for Commerce to approve comprehensive plan or development regulations that significantly reduce or eliminate residentially zoned areas that are predominately single family. A city's actions are substantially similar to the requirements if permanent development regulations adopted, or adopted within one year of the effective date: Result in an overall increase in housing allowed in single-family zones that is at least 75% of the increase in housing units allowed; allow for middle housing throughout the city; and allow for density near major transit stops and for projects that incorporate dedicated affordable housing.

(22) Authorizes Commerce to certify an additional extension for an area at risk of displacement as determined by an antidisplacement

analysis based on evidence of significant ongoing displacement risk in the impacted area.

(23) Requires the Commerce evaluation of the extension of the implementation timelines 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.

(24) Requires water system plan updates initiated after the effective date of the act to include consideration of water supply requirements for middle housing types.

(25) Allows a city to limit the areas subject to the requirements to match current water availability if an area zoned predominately for residential use is currently served by only private wells, Group B water systems or Group A water systems with less than 50 connections.

(26) Allows development to be limited to two units per lot until either the landowner or local government provides sewer services if an area is currently served only by on-site sewage systems or demonstrates a sewer system will serve the development at the time of construction.

(27) Removes language that deems a city in compliance with making adequate provisions for existing and projected needs of all economic segments of the community until July 1, 2032, if they adopt development regulations that are consistent with implementing the act.

(28) Clarifies that commerce rule-making authority applies to the provisions relating to the density and missing middle provisions of the bill.

(29) Allows cities to apply objective development regulations that are required for detached single-family residences, including but not limited to set-back, lot coverage, stormwater, clearing, and tree canopy and retention requirements to ensure compliance with existing ordinances intended to protect critical areas and public health and safety.

--- END ---