AN ACT Relating to creating additional middle housing near transit and in areas traditionally dedicated to single-family detached housing; amending RCW 36.70A.030, 36.70A.190, and 36.70A.070; adding new sections to chapter 36.70A RCW; adding a new section to chapter 64.38 RCW; adding a new section to chapter 64.90 RCW; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature finds that every Washington resident should have access to safe, healthy, secure, and affordable housing; and, that it is the responsibility of the state and all cities and counties to plan for all current and future residents within their jurisdictions of all income levels, races, and ethnicities to have such housing. As our state population grows, the legislature recognizes the need for the state's housing supply to grow and adapt to meet the needs of all households, regardless of age, race, ethnicity, religion, sexual orientation, gender identity, country of origin, or income, including families with children, seniors, and people who have a disability.

The legislature finds that adding a built environment subelement to comprehensive plans is desirable as the legislature mandates increasing density for middle housing, particularly in larger cities,
pursuant to this act, in order to protect and improve the physical and mental health of communities with less access to open space and tree canopy, reduce health risks of extreme heat events related to climate change, or reduce disproportionately higher risks of exposure to air pollution or other environmental contaminants.

The legislature finds that it has duties under existing statutes, including chapter 36.70A RCW, to provide funding for all cities and counties to plan for new required elements of comprehensive plans including, but not limited to, planning for affordable housing and meeting the goals of the state in reducing our contribution to climate change. The legislature recognizes that it has been difficult to project what the costs may be of planning for new elements pursuant to this act. It is the intent of the legislature that the evaluation provided for in RCW 36.70A.190, and updates to it periodically thereafter, shall determine what constitutes adequate funding for planning for new elements of comprehensive plans and for the adoption of implementing ordinances and development regulations pursuant to chapter 36.70A RCW for future comprehensive plan updates.

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

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

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

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

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

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

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

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

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

(6) "Cottage housing" means four or more residential units on a lot with a common open space that is either:
   (a) Owned in common; or
   (b) Has units owned as condominium units with property owned in common and a minimum of 20 percent of the lot size as open space.

(7) "Courtyard apartments" means up to four attached dwelling units arranged on two or three sides of a central courtyard or lawn area.

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

(9) "Department" means the department of commerce.

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

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

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

"Extremely low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below thirty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

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

"Freight rail dependent uses" means buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of goods where the use is dependent on and makes use of an adjacent short line railroad. Such facilities are both urban and rural development for purposes of this chapter. "Freight rail dependent uses" does not include buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of coal, liquefied natural gas, or "crude oil" as defined in RCW 90.56.010.
"Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

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

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

"Major transit stop" means:

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

(b) Commuter rail stops;

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

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

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

(f) Washington state ferry terminals.

"Middle housing" means duplexes, triplexes, fourplexes, attached and detached accessory dwelling units, cottage housing, stacked flats, townhouses, and courtyard apartments.

"Minerals" include gravel, sand, and valuable metallic substances.

"Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below 120 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.
"Permanent supportive housing" is subsidized, leased housing with no limit on length of stay that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent supportive housing is paired with on-site or off-site voluntary services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident's health status, and connect the resident of the housing with community-based health care, treatment, or employment services. Permanent supportive housing is subject to all of the rights and responsibilities defined in chapter 59.18 RCW.

"Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

"Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

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

"Rural character" refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan:

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

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

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

(d) That are compatible with the use of the land by wildlife and for fish and wildlife habitat;
(e) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;
(f) That generally do not require the extension of urban governmental services; and
(g) That are consistent with the protection of natural surface water flows and groundwater and surface water recharge and discharge areas.

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

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

"Short line railroad" means those railroad lines designated class II or class III by the United States surface transportation board.

"Stacked flat" means dwelling units in a two or three story residential building on a residential zoned lot in which each floor may be separately rented or owned and is a discrete dwelling unit.

"Townhouses" means dwelling units constructed in a row of two or more attached units, where each dwelling unit is located on an individual lot or parcel and shares at least one common wall with an adjacent unit.

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

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

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

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

((31))  (37) "Wetland" or "wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands.
Sec. 3. RCW 36.70A.190 and 1991 sp.s. c 32 s 3 are each amended to read as follows:

(1) The department shall establish a program of technical and financial assistance and incentives to counties and cities to encourage and facilitate the adoption and implementation of comprehensive plans and development regulations throughout the state.

(2)(a) The department shall evaluate the costs for counties and cities to review and revise their comprehensive plans to assure compliance with this chapter. This evaluation must be completed by December 1, 2022, and updated every five years thereafter. The department shall provide a report of the evaluation to the legislature upon completion of the evaluation. The evaluation must include, at a minimum, the costs for each general jurisdiction size and type, and the costs to complete various types of planning requirements, including:

(i) Meeting the requirements of a new goal in RCW 36.70A.020;
(ii) Meeting the requirements of a new comprehensive plan element in RCW 36.70A.070;
(iii) Updating a critical areas ordinance;
(iv) Updating a shoreline master program;
(v) Making a minor update to a comprehensive plan element;
(vi) Making a complex update to a comprehensive plan element;
(vii) Updating a development regulation; and
(viii) Implementing a new development regulation.

(b) The department shall consult with the Washington state association of counties and the association of Washington cities as part of the process for performing and completing the evaluation.

(c) In order to ensure that jurisdictions receive adequate funding for their comprehensive plan updates, the department shall distribute funds in the form of grants.

(d) The department shall promote equitable and meaningful participation in development of comprehensive plans and development regulations and shall distribute grants to community-based organizations representing historically marginalized communities and populations, communities with a high proportion of limited English proficient speakers, and communities at elevated risk of displacement pursuant to RCW 36.70A.070(2) or experiencing disparately higher health risks due to environmental factors related to the built environment, subject to the availability of amounts appropriated by the legislature for this specific purpose.
(3)(a) The department shall develop a priority list and establish funding levels for planning and technical assistance grants both for counties and cities that plan under RCW 36.70A.040. Priority for assistance shall be based on a county's or city's population growth rates, commercial and industrial development rates, the existence and quality of a comprehensive plan and development regulations, and other relevant factors.

((3b)) (b) The department may also contract with a public or nonprofit agency with appropriate experience in providing technical assistance and training to assist local governments related to comprehensive planning and other obligations under this chapter.

(4) The department shall develop and administer a grant program to provide direct financial assistance to counties and cities for the preparation of comprehensive plans under this chapter. The department may establish provisions for county and city matching funds to conduct activities under this subsection. Grants may be expended for any purpose directly related to the preparation of a county or city comprehensive plan as the county or city and the department may agree, including, without limitation, the conducting of surveys, inventories and other data gathering and management activities, the retention of planning consultants, contracts with regional councils for planning and related services, and other related purposes.

((4b)) (5) The department shall establish a program of technical assistance:

(a) Utilizing department staff, the staff of other state agencies, and the technical resources of counties and cities to help in the development of comprehensive plans required under this chapter. The department shall make available planners and department regulations specialists to cities and counties to assist in the development of comprehensive plans and related development regulations;

(b) Additional technical assistance may include, but is not limited to, model land use ordinances and training programs and information for local and regional inventories; and

(c) Providing model ordinances to cities and counties to implement updates that are required under this chapter; and

(d) Adopting by rule procedural criteria to assist counties and cities in adopting comprehensive plans and development regulations that meet the goals and requirements of this chapter. These criteria...
shall reflect regional and local variations and the diversity that exists among different counties and cities that plan under this chapter.

(6) The department shall provide mediation services to resolve disputes between counties and cities regarding, among other things, coordination of regional issues and designation of urban growth areas.

(7) The department shall provide planning grants to enhance citizen participation under RCW 36.70A.140.

Sec. 4. RCW 36.70A.070 and 2021 c 254 s 2 are each amended to read as follows:

The comprehensive plan of a county or city that is required or chooses to plan under RCW 36.70A.040 shall consist of a map or maps, and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The plan shall be an internally consistent document and all elements shall be consistent with the future land use map. A comprehensive plan shall be adopted and amended with public participation as provided in RCW 36.70A.140.

Each comprehensive plan shall include a plan, scheme, or design for each of the following:

(1)(a) A land use element designating the proposed general distribution and general location and extent of the uses of land, where appropriate, for agriculture, timber production, housing, commerce, industry, recreation, open spaces, general aviation airports, public utilities, public facilities, and other land uses. The land use element shall include population densities, building intensities, and estimates of future population growth. The land use element shall provide for protection of the quality and quantity of groundwater used for public water supplies. Wherever possible, the land use element should consider utilizing urban planning approaches that promote physical activity. Where applicable, the land use element shall review drainage, flooding, and stormwater runoff in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound.

(b) The land use element shall include a subelement on the "built environment" to protect and improve the physical and mental health of residents within the portions of urban growth areas with higher densities. The subelement should include provisions improving...
determinants of health which are equitable with residents in other communities including, but not limited to, tree canopy or green open space to prevent extreme heat islands, reduction in air pollution and exposures to contaminants in homes as well as in the environment, solar energy and sunlight access. The department shall, in consultation with the department of health and the department of ecology, adopt guidance to promote these goals. The department's guidance shall also include provisions that provide for access to sunlight in residential and school spaces based on the health and learning benefits from natural lighting, and for meeting state and local goals for use of solar energy to meet climate change goals.

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

(a) Includes 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 the department of commerce, including:

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

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

(b) Includes a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including single-family residences, and within an urban growth area boundary, moderate density housing options including((3)), but not limited to, duplexes, triplexes, and townhomes;

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

(d) Makes adequate provisions for existing and projected needs of all economic segments of the community and increasing economic integration among all economic segments of the population in all areas of the jurisdiction, including:

(i) Incorporating consideration for low, very low, extremely low, and moderate-income households;
(ii) Documenting programs and actions needed to achieve housing availability including gaps in local funding, barriers such as development regulations, and other limitations;

(iii) Consideration of housing locations in relation to employment location and shopping for household essentials, including food and health products; and

(iv) Consideration of the role of accessory dwelling units in meeting housing needs;

(e) Makes adequate provisions for middle housing options as required in section 5 of this act;

(f) Identifies local policies and regulations that result in racially disparate impacts, displacement, and exclusion in housing, including:

(i) Zoning that may have a discriminatory effect;

(ii) Disinvestment; and

(iii) Infrastructure availability;

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

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

((h)) (i) Establishes a goal and plan to adopt development regulations, investments, incentives, or other programs which will achieve substantial measurable progress over a 20-year planning horizon toward increased economic and racial integration in all areas of the jurisdiction through programs encouraging, authorizing, directly investing in, or incentivizing new affordable housing options for all economic segments of the population including duplex, triplex, townhomes, accessory dwelling units, multifamily housing, subdivision of properties above minimum lot size, or with condominium common ownership;

 (j)(i) Establishes antidisplacement policies, with consideration given to the preservation of historical and cultural communities as well as investments in low, very low, extremely low, and moderate-income housing; equitable development initiatives; inclusionary zoning; community planning requirements; tenant protections; land disposition policies; and consideration of land that may be used for affordable housing. The county or city shall make a finding that
comprehensive plans and development regulations affirmatively prevent displacement of lower and moderate-income community members, including families, in communities of interest. Such communities shall be determined based on community input solicited through appropriate outreach, including public meetings, in order to ensure that there is no net displacement of lower and moderate-income residents or people from racial, ethnic, and religious communities which have been subject to discriminatory housing policies in the past.

(ii) Any city planning under RCW 36.70A.040 that has a population of 20,000 or more as of the effective date of this section, or any city that is determined by the office of financial management pursuant to RCW 43.62.030 to have a population of 20,000 or more at least one year prior to its next comprehensive plan update, shall adopt a subelement of their plan's housing element which shall ensure that the jurisdiction will adopt development regulations, fees, incentives, subsidies, or funded investment programs, including programs funded pursuant to interlocal agreements, that are found to reasonably meet the projected needs for new housing for all economic segments of the region and to prevent displacement of lower income residents and communities; and

(k) Allows subdivision of lots to increase the supply of housing affordable to lower and moderate-income residents. Options for subdivision include allowing lot sizes as follows:

(i) For cities with a population over 40,000, subdivision of lots to 3,200 square feet or 80 percent of the average lot on a block within an urban growth area is allowed;

(ii) For new development on lots under 3,200 square feet in an area, a special exception is required which includes public notice and an opportunity to appeal pursuant to this chapter and the land use petition act in chapter 36.70C RCW; and

(iii) For short subdivision of lots developed with more than one house, ownership of the houses may be divided using the unit lot subdivision process. A property containing a detached accessory dwelling unit may be segregated in ownership from the principal dwelling unit.

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

(3) A capital facilities plan element consisting of: (a) An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities; (b) a forecast of the future needs for such capital facilities; (c) the proposed locations and capacities of expanded or new capital facilities; (d) at least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes; and (e) a requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent. Park and recreation facilities shall be included in the capital facilities plan element. Any city that has identified a specific infrastructure deficiency and utilized the process under section 6 of this act shall include, as part of its capital facilities plan update, actions necessary to remedy that deficiency.

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

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

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

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

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

(i) Containing or otherwise controlling rural development;

(ii) Assuring visual compatibility of rural development with the surrounding rural area;

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

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

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

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

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

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

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

(C) Any development or redevelopment in terms of building size, scale, use, or intensity shall be consistent with the character of the existing areas. Development and redevelopment may include changes in use from vacant land or a previously existing use so long as the new use conforms to the requirements of this subsection (5);
(ii) The intensification of development on lots containing, or new development of, small-scale recreational or tourist uses, including commercial facilities to serve those recreational or tourist uses, that rely on a rural location and setting, but that do not include new residential development. A small-scale recreation or tourist use is not required to be principally designed to serve the existing and projected rural population. Public services and public facilities shall be limited to those necessary to serve the recreation or tourist use and shall be provided in a manner that does not permit low-density sprawl;

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

(iv) A county shall adopt measures to minimize and contain the existing areas or uses of more intensive rural development, as appropriate, authorized under this subsection. Lands included in such existing areas or uses shall not extend beyond the logical outer boundary of the existing area or use, thereby allowing a new pattern of low-density sprawl. Existing areas are those that are clearly identifiable and contained and where there is a logical boundary delineated predominately by the built environment, but that may also include undeveloped lands if limited as provided in this subsection. The county shall establish the logical outer boundary of an area of more intensive rural development. In establishing the logical outer boundary, the county shall address (A) the need to preserve the character of existing natural neighborhoods and communities, (B) physical boundaries, such as bodies of water, streets and highways,
and land forms and contours, (C) the prevention of abnormally irregular boundaries, and (D) the ability to provide public facilities and public services in a manner that does not permit low-density sprawl;

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

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

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

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

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

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

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

(i) Land use assumptions used in estimating travel;

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

(iii) Facilities and services needs, including:

(A) An inventory of air, water, and ground transportation facilities and services, including transit alignments and general aviation airport facilities, to define existing capital facilities and travel levels as a basis for future planning. This inventory must include state-owned transportation facilities within the city or county's jurisdictional boundaries;

(B) Level of service standards for all locally owned arterials and transit routes to serve as a gauge to judge performance of the system. These standards should be regionally coordinated;
(C) For state-owned transportation facilities, level of service standards for highways, as prescribed in chapters 47.06 and 47.80 RCW, to gauge the performance of the system. The purposes of reflecting level of service standards for state highways in the local comprehensive plan are to monitor the performance of the system, to evaluate improvement strategies, and to facilitate coordination between the county's or city's six-year street, road, or transit program and the office of financial management's ten-year investment program. The concurrency requirements of (b) of this subsection do not apply to transportation facilities and services of statewide significance except for counties consisting of islands whose only connection to the mainland are state highways or ferry routes. In these island counties, state highways and ferry route capacity must be a factor in meeting the concurrency requirements in (b) of this subsection;

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

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

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

(iv) Finance, including:

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

(B) A multiyear financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which shall serve as the basis for the six-year street, road, or transit program required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems. The multiyear financing plan should be coordinated with the ten-year investment program developed by the office of financial management as required by RCW 47.05.030;

(C) If probable funding falls short of meeting identified needs, a discussion of how additional funding will be raised, or how land use assumptions will be reassessed to ensure that level of service standards will be met;
(v) Intergovernmental coordination efforts, including an
assessment of the impacts of the transportation plan and land use
assumptions on the transportation systems of adjacent jurisdictions.
The comprehensive plan shall describe how the city or county will
ensure that the transit frequency that is relied on in the plan,
development regulations, and permitting decisions is going to be
continued undiminished, including any interlocal agreements with
transit providers that will be utilized. For any area where such
transit frequency is not reasonably assured, the level of required
density or mix of housing required by this section is not required to
be increased beyond what would be required if the transit was not
present;

(vi) Demand-management strategies;

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

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

(c) The transportation element described in this subsection (6),
the six-year plans required by RCW 35.77.010 for cities, RCW
36.81.121 for counties, and RCW 35.58.2795 for public transportation
systems, and the ten-year investment program required by RCW
47.05.030 for the state, must be consistent.
(7) An economic development element establishing local goals, policies, objectives, and provisions for economic growth and vitality and a high quality of life. A city that has chosen to be a residential community is exempt from the economic development element requirement of this subsection.

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

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

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

(1)(a) Any city planning under RCW 36.70A.040 that has a population of 20,000 or more as of the effective date of this section, or any city that is determined by the office of financial management pursuant to RCW 43.62.030 to have a population of 20,000 or more at least one year prior to its next comprehensive plan update, must authorize the development of all middle housing types on all lots exceeding 4,500 square feet zoned for detached single-family residential use and within one-half mile, based on walking distance, of a major transit stop. If a city adopts a maximum of four residential units per lot within one-half mile of a major transit stop, it may consider a detached accessory dwelling unit as one of the units.

(b) Cities subject to the requirements of (a) of this subsection must also allow development of duplexes and attached and detached accessory dwelling units on all other lots exceeding 4,500 square feet zoned for single-family residential use, and for the development of triplexes on corner lots exceeding 5,000 square feet. Cities may limit development on such lots to a total of two detached residential units.
units per lot inclusive of either duplexes or detached accessory
dwelling units on noncorner lots, and to a total of three detached
residential units or a triplex per lot on corner lots.

(2)(a) As an alternative to the requirements in subsection (1) of
this section, cities may alter local zoning to allow an average
minimum net density equivalent to 33 dwelling units per acre within
one-half mile of a major transit stop, based on walking distance.

(b) In determining net density for housing within one-half mile
of a major transit stop a city may exclude sensitive or critical
areas, dedicated open space, schools, bodies of water, or lands which
are not buildable to the level of density otherwise required.

(c) Any city choosing to adopt an average minimum density
pursuant to (a) of this subsection shall also adopt findings of fact
demonstrating that the actions taken to implement the average minimum
density will not result in racially disparate impacts, displacement,
or further exclusion in housing. The city shall transmit such
findings to the department.

(3) When providing for the required middle housing types as
required in subsection (1) of this section or for the minimum net
density as required in subsection (2) of this section, the city shall
ensure that multifamily housing within such areas includes sufficient
units to meet the projections of housing needed within the planning
horizon for families and households of various sizes and income
levels.

(4) Any city with a population of between 10,000 and 20,000 as of
the effective date of this section, or any city determined by the
office of financial management pursuant to RCW 43.62.030 to have a
population between 10,000 and 20,000 at least one year prior to its
next comprehensive plan update, must authorize the development of
duplexes on all lots exceeding 4,500 square feet which are zoned for
detached single-family residential use that do not have an accessory
dwelling unit on the lot.

(5)(a) Any city with a population over 100,000 may not require
the inclusion of off-street parking as a condition for the
construction of middle housing within one-half mile of a major
transit stop, unless the street on which the construction will occur
has no on-street parking.

(b) Any city with a population between 20,000 and 100,000 may not
require more than one off-street parking spot on a lot within one-
half mile of a major transit stop for every three bedrooms on the
lot, unless the street on which the lot is located has no on-street parking.

(6)(a) Outside of the limitations in this section, a city may apply all otherwise applicable regulations for the development of middle housing, including regulations for health, safety, or environment.

(b) Cities may adopt development and design standards related to the siting and design of middle housing. Such development and design standards may not discourage the development of middle housing through unreasonable costs, fees, delays, or other requirements or actions which individually or cumulatively make impracticable the permitting, siting, or construction of middle housing, provided that this subsection does not limit the amount of affordable housing that a city may require to be provided, either on-site or through an in-lieu payment, pursuant to a program enacted under RCW 36.70A.540. A city may not require zoning, development, siting, or design review standards for middle housing that are more restrictive than those required for detached single-family residences and the same development permit and environmental review processes that apply to detached single-family residences shall be applied to middle housing.

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

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

(1) Any city subject to the requirements under section 5 of this act may apply to the department for, and the department may certify, an extension of the implementation timelines.

(2) An extension certified under this section may be applied only to specific areas where a city has identified water, sewer, stormwater, or transportation services that are currently deficient, or are expected to be deficient within the next five years, and for which the local government has established a plan of actions that will remedy the deficiency in those services on a specific timeline. The department may certify additional extensions of a city's remediation timeline.

(3) For any subarea or community of interest within the jurisdiction for which the city or county finds that the increases in housing density required under section 5 of this act may create a significant risk of displacement of lower or moderate-income
residents, reducing racial and economic integration, or of not meeting goals to increase affordable housing near transit, the city or county may apply to the department for flexibility in implementation for a limited period of time not to exceed one year.

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

NEW SECTION. Sec. 7. A new section is added to chapter 64.38 RCW to read as follows:

Governing documents of associations within cities subject to the middle housing and density requirements of this act that are created after the effective date of this section may not prohibit the construction or development of the types of housing or density requirements that must be permitted by this act within such cities.

NEW SECTION. Sec. 8. A new section is added to chapter 64.90 RCW to read as follows:

Declarations and governing documents of a common interest community within cities subject to the middle housing and density requirements of this act that are created after the effective date of this section may not prohibit the construction or development of the types of housing or density requirements that must be permitted by this act within such cities.

NEW SECTION. Sec. 9. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2022, in the omnibus appropriations act, this act is null and void.

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