

E2SHB 1110 - S COMM AMD
By Committee on Housing

NOT CONSIDERED 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 shortage for its current population
5 and without significant action will not meet its goal of creating
6 1,000,000 homes by 2044.

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

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

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

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

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

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

30 In addition to addressing the housing shortage, allowing more
31 housing options in areas already served by urban infrastructure will
32 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 meeting or hearing, unless such review is otherwise required by state
12 or federal law, or the structure is a designated landmark or historic
13 district established under a local preservation ordinance.

14 (2) "Adopt a comprehensive land use plan" means to enact a new
15 comprehensive land use plan or to update an existing comprehensive
16 land use plan.

17 (~~(2)~~) (3) "Affordable housing" means, unless the context
18 clearly indicates otherwise, residential housing whose monthly costs,
19 including utilities other than telephone, do not exceed thirty
20 percent of the monthly income of a household whose income is:

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

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

29 (~~(3)~~) (4) "Agricultural land" means land primarily devoted to
30 the commercial production of horticultural, viticultural,
31 floricultural, dairy, apiary, vegetable, or animal products or of
32 berries, grain, hay, straw, turf, seed, Christmas trees not subject
33 to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish
34 in upland hatcheries, or livestock, and that has long-term commercial
35 significance for agricultural production.

36 (~~(4)~~) (5) "City" means any city or town, including a code city.

37 (~~(5)~~) (6) "Comprehensive land use plan," "comprehensive plan,"
38 or "plan" means a generalized coordinated land use policy statement

1 of the governing body of a county or city that is adopted pursuant to
2 this chapter.

3 ~~((+6))~~ (7) "Cottage housing" means residential units on a lot
4 with a common open space that either: (a) Is owned in common; or (b)
5 has units owned as condominium units with property owned in common
6 and a minimum of 20 percent of the lot size as open space.

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

9 (9) "Critical areas" include the following areas and ecosystems:

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

18 ~~((+7))~~ (10) "Department" means the department of commerce.

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

29 ~~((+9))~~ (12) "Emergency housing" means temporary indoor
30 accommodations for individuals or families who are homeless or at
31 imminent risk of becoming homeless that is intended to address the
32 basic health, food, clothing, and personal hygiene needs of
33 individuals or families. Emergency housing may or may not require
34 occupants to enter into a lease or an occupancy agreement.

35 ~~((+10))~~ (13) "Emergency shelter" means a facility that provides
36 a temporary shelter for individuals or families who are currently
37 homeless. Emergency shelter may not require occupants to enter into a
38 lease or an occupancy agreement. Emergency shelter facilities may
39 include day and warming centers that do not provide overnight
40 accommodations.

1 (~~(11)~~) (14) "Extremely low-income household" means a single
2 person, family, or unrelated persons living together whose adjusted
3 income is at or below thirty percent of the median household income
4 adjusted for household size, for the county where the household is
5 located, as reported by the United States department of housing and
6 urban development.

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

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

31 (~~(14)~~) (17) "Geologically hazardous areas" means areas that
32 because of their susceptibility to erosion, sliding, earthquake, or
33 other geological events, are not suited to the siting of commercial,
34 residential, or industrial development consistent with public health
35 or safety concerns.

36 (~~(15)~~) (18) "Long-term commercial significance" includes the
37 growing capacity, productivity, and soil composition of the land for
38 long-term commercial production, in consideration with the land's
39 proximity to population areas, and the possibility of more intense
40 uses of the land.

1 (~~(16)~~) (19) "Low-income household" means a single person,
2 family, or unrelated persons living together whose adjusted income is
3 at or below eighty percent of the median household income adjusted
4 for household size, for the county where the household is located, as
5 reported by the United States department of housing and urban
6 development.

7 (~~(17)~~) (20) "Major transit stop" means:

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

10 (b) Commuter rail stops;

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

13 (d) Stops on bus rapid transit routes.

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

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

21 (~~(18)~~) (23) "Moderate-income household" means a single person,
22 family, or unrelated persons living together whose adjusted income is
23 at or below 120 percent of the median household income adjusted for
24 household size, for the county where the household is located, as
25 reported by the United States department of housing and urban
26 development.

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

1 Permanent supportive housing is subject to all of the rights and
2 responsibilities defined in chapter 59.18 RCW.

3 ~~((20))~~ (25) "Public facilities" include streets, roads,
4 highways, sidewalks, street and road lighting systems, traffic
5 signals, domestic water systems, storm and sanitary sewer systems,
6 parks and recreational facilities, and schools.

7 ~~((21))~~ (26) "Public services" include fire protection and
8 suppression, law enforcement, public health, education, recreation,
9 environmental protection, and other governmental services.

10 ~~((22))~~ (27) "Recreational land" means land so designated under
11 RCW 36.70A.1701 and that, immediately prior to this designation, was
12 designated as agricultural land of long-term commercial significance
13 under RCW 36.70A.170. Recreational land must have playing fields and
14 supporting facilities existing before July 1, 2004, for sports played
15 on grass playing fields.

16 ~~((23))~~ (28) "Rural character" refers to the patterns of land
17 use and development established by a county in the rural element of
18 its comprehensive plan:

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

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

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

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

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

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

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

34 ~~((24))~~ (29) "Rural development" refers to development outside
35 the urban growth area and outside agricultural, forest, and mineral
36 resource lands designated pursuant to RCW 36.70A.170. Rural
37 development can consist of a variety of uses and residential
38 densities, including clustered residential development, at levels
39 that are consistent with the preservation of rural character and the
40 requirements of the rural element. Rural development does not refer

1 to agriculture or forestry activities that may be conducted in rural
2 areas.

3 ~~((25))~~ (30) "Rural governmental services" or "rural services"
4 include those public services and public facilities historically and
5 typically delivered at an intensity usually found in rural areas, and
6 may include domestic water systems(~~(7)~~) and fire and police
7 protection services(~~(, transportation and public transit services,~~
8 ~~and other public utilities)~~) associated with rural development and
9 normally not associated with urban areas. Rural services do not
10 include storm or sanitary sewers, except as otherwise authorized by
11 RCW 36.70A.110(4).

12 ~~((26))~~ (31) "Short line railroad" means those railroad lines
13 designated class II or class III by the United States surface
14 transportation board.

15 ~~((27))~~ (32) "Stacked flat" means dwelling units in a
16 residential building of no more than three stories on a residential
17 zoned lot in which each floor may be separately rented or owned.

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

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

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

1 (~~(29)~~) (36) "Urban growth areas" means those areas designated
2 by a county pursuant to RCW 36.70A.110.

3 (~~(30)~~) (37) "Very low-income household" means a single person,
4 family, or unrelated persons living together whose adjusted income is
5 at or below fifty percent of the median household income adjusted for
6 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 (~~(31)~~) (38) "Wetland" or "wetlands" means areas that are
10 inundated or saturated by surface water or groundwater at a frequency
11 and duration sufficient to support, and that under normal
12 circumstances do support, a prevalence of vegetation typically
13 adapted for life in saturated soil conditions. Wetlands generally
14 include swamps, marshes, bogs, and similar areas. Wetlands do not
15 include those artificial wetlands intentionally created from
16 nonwetland sites, including, but not limited to, irrigation and
17 drainage ditches, grass-lined swales, canals, detention facilities,
18 wastewater treatment facilities, farm ponds, and landscape amenities,
19 or those wetlands created after July 1, 1990, that were
20 unintentionally created as a result of the construction of a road,
21 street, or highway. Wetlands may include those artificial wetlands
22 intentionally created from nonwetland areas created to mitigate
23 conversion of wetlands.

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

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

31 (a) For cities with a population of at least 25,000 but less than
32 75,000, that are not within a contiguous urban growth area with the
33 largest city in a county with a population of more than 275,000,
34 based on office of financial management population estimates:

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

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

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

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

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

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

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

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

30 (b) The units dedicated as affordable must be provided in a range
31 of sizes comparable to other units in the development. To the extent
32 practicable, the number of bedrooms in affordable units must be in
33 the same proportion as the number of bedrooms in units within the
34 entire development. The affordable units must generally be
35 distributed throughout the development and have substantially the
36 same functionality as the other units in the development.

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

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

7 (4) A city must allow at least six of the nine types of middle
8 housing to achieve the unit density required in subsection (1) of
9 this section. A city may allow accessory dwelling units to achieve
10 the unit density required in subsection (1) of this section. A city
11 must also allow zero lot line short subdivision where the number of
12 lots created is equal to the unit density required in subsection (1)
13 of this section.

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

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

17 (b) May only apply administrative design review for middle
18 housing;

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

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

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

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

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

1 (h) May impose a limit of two units on a residential lot of 2,000
2 square feet or less created through a lot split pursuant to RCW
3 36.70A.--- (section 2, chapter . . . (ESHB 1245), Laws of 2023).

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

6 (a) If a local government submits to the department an empirical
7 study prepared by a credentialed transportation or land use planning
8 expert that clearly demonstrates, and the department finds and
9 certifies, that the application of the parking limitations of
10 subsection (5)(e) through (g) of this section for middle housing will
11 be significantly less safe for vehicle drivers or passengers,
12 pedestrians, or bicyclists than if the jurisdiction's parking
13 requirements were applied to the same location for the same number of
14 detached houses. The department must develop guidance to assist
15 cities on items to include in the study; or

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

19 (7) The provisions of this section do not apply to lots
20 designated with critical areas or their buffers as designated in RCW
21 36.70A.060, or to a watershed serving a reservoir for potable water
22 if that watershed is or was listed, as of the effective date of this
23 section, as impaired or threatened under section 303(d) of the
24 federal clean water act (33 U.S.C. Sec. 1313(d)).

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

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

30 (10) A city must comply with the requirements of this section or
31 section 4 of this act on the latter of:

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

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

37 (11) A city complying with this section and not granted a
38 timeline extension under section 10 of this act does not have to
39 update its capital facilities plan element required by RCW
40 36.70A.070(3) to accommodate the increased housing required by this

1 act until the first periodic comprehensive plan update required for
2 the city under RCW 36.70A.130(5) that occurs on or after June 30,
3 2034.

4 (12) Any city that adopts development regulations consistent with
5 the requirements of this section shall be considered in compliance
6 with RCW 36.70A.070(2)(f) until June 30, 2032, and shall have until
7 the first periodic comprehensive plan update required for the city
8 under RCW 36.70A.130(5) that occurs on or after June 30, 2034, to
9 comply with RCW 36.70A.070(2)(f).

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

12 (1) As an alternative to the density requirements in section 3(1)
13 of this act, a city may implement the density requirements in section
14 3(1) of this act for at least 75 percent of lots in the city that are
15 primarily dedicated to single-family detached housing units.

16 (2) The 25 percent of lots for which the requirements of section
17 3(1) of this act are not implemented must include:

18 (a) Any areas within the city for which the department has
19 certified an extension of the implementation timelines under section
20 8 of this act due to the risk of displacement;

21 (b) Any areas within the city for which the department has
22 certified an extension of the implementation timelines under section
23 10 of this act due to a lack of infrastructure capacity;

24 (c) Any lots designated with critical areas or their buffers that
25 are exempt from the density requirements as provided in section 3(7)
26 of this act;

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

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

33 (3) Unless identified as at higher risk of displacement under RCW
34 36.70A.070(2)(g), the 25 percent of lots for which the requirements
35 of section 3(1) of this act are not implemented may not include:

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

38 (b) Any areas within one-half mile walking distance of a major
39 transit stop; or

1 (c) Any areas historically covered by a covenant or deed
2 restriction excluding racial minorities from owning property or
3 living in the area, as known to the city at the time of each
4 comprehensive plan update.

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

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

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

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

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

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

22 Population associated with permits for middle housing units are
23 exempt from the threshold of an office of financial management
24 population projection to a county or a county population allocation
25 to a city.

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

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

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

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

36 (b) In any city subject to section 3 of this act that has not
37 passed ordinances, regulations, or other official controls within the

1 time frames provided under section 3(10) of this act, the model
2 ordinance supersedes, preempts, and invalidates local development
3 regulations until the city takes all actions necessary to implement
4 section 3, 4, or 5 of this act.

5 (3) (a) The department is directed to establish a process by which
6 cities implementing the requirements of section 3 of this act may
7 seek approval of alternative local action necessary to meet the
8 requirements of this act.

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

18 (i) Result in an overall increase in housing units allowed in
19 single-family zones that is at least 75 percent of the increase in
20 housing units allowed in single-family zones if the specific
21 provisions of this act were adopted;

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

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

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

33 (d) Any local actions approved by the department pursuant to (a)
34 of this subsection to implement the requirements under section 3 of
35 this act are exempt from appeals under this chapter and chapter
36 43.21C RCW.

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

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

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

6 Any city choosing the alternative density requirements in section
7 4 of this act may apply to the department for, and the department may
8 certify, an extension for areas at risk of displacement as determined
9 by the antidisplacement analysis that a jurisdiction is required to
10 complete under RCW 36.70A.070(2). The city must create a plan for
11 implementing antidisplacement policies by their next implementation
12 progress report required by RCW 36.70A.130(9).

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

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

17 (a) That, except as provided otherwise by this subsection, a
18 state agency, county, or city planning under this chapter is not in
19 compliance with the requirements of this chapter, chapter 90.58 RCW
20 as it relates to the adoption of shoreline master programs or
21 amendments thereto, or chapter 43.21C RCW as it relates to plans,
22 development regulations, or amendments, adopted under RCW 36.70A.040
23 or chapter 90.58 RCW. Nothing in this subsection authorizes the board
24 to hear petitions alleging noncompliance with RCW 36.70A.5801;

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

28 (c) That the approval of a work plan adopted under RCW
29 36.70A.735(1)(a) is not in compliance with the requirements of the
30 program established under RCW 36.70A.710;

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

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

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

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

7 (3) For purposes of this section "person" means any individual,
8 partnership, corporation, association, state agency, governmental
9 subdivision or unit thereof, or public or private organization or
10 entity of any character.

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

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

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

22 If adjusted by the board, a county growth management planning
23 population projection shall only be used for the planning purposes
24 set forth in this chapter and shall be known as the "board adjusted
25 population projection." None of these changes shall affect the
26 official state and county population forecasts prepared by the office
27 of financial management, which shall continue to be used for state
28 budget and planning purposes.

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

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

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

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

3 (b) Identified which special district is responsible for
4 providing the necessary infrastructure if the infrastructure is
5 provided by a special purpose district.

6 (3) If an extension of the implementation timelines is requested
7 due to lack of water supply from the city or the purveyors who serve
8 water within the city, the department's evaluation of the extension
9 must be based on the applicable water system plans in effect and
10 approved by the department of health.

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

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

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

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

18 (5) A city that has received an extension under this section may
19 reapply for any needed extension with its next periodic comprehensive
20 plan update under RCW 36.70A.130 or its implementation progress
21 report to the department under RCW 36.70A.130(9). The application for
22 an additional extension must include a list of infrastructure
23 improvements necessary to meet the capacity required in section 3 of
24 this act. Such additional extension must only be to address
25 infrastructure deficiency that a city is not reasonably able to
26 address within the first extension.

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

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

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

39 (9) If a city or its water providers do not have an adequate
40 water supply to serve the housing required under section 3 or 4 of

1 this act, the city may limit the areas subject to the requirements
2 under section 3 or 4 of this act to match the increased housing
3 capacity with the water supply. The city shall document and the
4 department of ecology must certify the water supply capacity and the
5 water demand reduced by the areas not subject to the requirements
6 under section 3 or 4 of this act in the record of the regulations
7 adopted to implement this act.

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

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

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

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

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

29 The following nonproject actions are categorically exempt from
30 the requirements of this chapter:

31 (1) Amendments to development regulations that are required to
32 ensure consistency with an adopted comprehensive plan pursuant to RCW
33 36.70A.040, where the comprehensive plan was previously subjected to
34 environmental review pursuant to this chapter and the impacts
35 associated with the proposed regulation were specifically addressed
36 in the prior environmental review;

37 (2) Amendments to development regulations that are required to
38 ensure consistency with a shoreline master program approved pursuant

1 to RCW 90.58.090, where the shoreline master program was previously
2 subjected to environmental review pursuant to this chapter and the
3 impacts associated with the proposed regulation were specifically
4 addressed in the prior environmental review;

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

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

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

12 (c) Increased vegetation retention or decreased impervious
13 surface areas in critical areas;

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

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

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

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

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

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

25 A city that adopts development regulations that are consistent
26 with and implement this act and RCW 35A.21.430 or 35.21.683 shall be
27 deemed in compliance with the requirements of RCW 36.70A.070(2)(d)
28 until June 30, 2032, and has until the first periodic comprehensive
29 plan update required for the city under RCW 36.70A.130(5) that occurs
30 on or after June 30, 2034, to comply with RCW 36.70A.070(2)(d).

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

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

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

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

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

11 Governing documents of associations within cities subject to the
12 middle housing requirements in section 3 of this act that are created
13 after the effective date of this section may not actively or
14 effectively prohibit the construction, development, or use of
15 additional housing units as required in section 3 of this act.

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

18 Declarations and governing documents of a common interest
19 community within cities subject to the middle housing requirements in
20 section 3 of this act that are created after the effective date of
21 this section may not actively or effectively prohibit the
22 construction, development, or use of additional housing units as
23 required in section 3 of this act.

24 NEW SECTION. **Sec. 18.** The department of commerce may establish
25 by rule any standards or procedures necessary to implement sections 2
26 through 10, and 13 of this act.

27 NEW SECTION. **Sec. 19.** If specific funding for the purposes of
28 this act, referencing this act by bill or chapter number, is not
29 provided by June 30, 2023, in the omnibus appropriations act, this
30 act is null and void."

E2SHB 1110 - S COMM AMD
By Committee on Housing

NOT CONSIDERED 04/11/2023

1 On page 1, line 3 of the title, after "housing;" strike the
2 remainder of the title and insert "amending RCW 36.70A.030,
3 36.70A.280, 43.21C.495, and 43.21C.450; adding new sections to
4 chapter 36.70A RCW; adding a new section to chapter 64.34 RCW; adding
5 a new section to chapter 64.32 RCW; adding a new section to chapter
6 64.38 RCW; adding a new section to chapter 64.90 RCW; and creating
7 new sections."

EFFECT: (1) Makes technical corrections.

(2) Provides that cities may allow accessory dwelling units to achieve the unit density required.

(3) Clarifies that cities may only apply administrative design review for middle housing.

(4) Clarifies that cities considered in compliance with requirements to make adequate provisions for existing and projected needs of all economic segments of the community and identify and implement policies and regulations to address and begin to undo racially disparate impacts, displacement, and exclusion in housing caused by local policies, plans, and actions until June 30, 2032, by meeting the density requirements have until the first periodic comprehensive plan update required on or after June 30, 2034, to comply with those requirements.

(5) 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).

(6) 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.

(7) Allows 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, to authorize the development of at least six units per lot within one-quarter, rather than one-half, mile walking distance of a major transit stop.

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

(9) Allows a city to limit the areas subject to the requirements to match the increased housing capacity with the water supply. The city must document and the Department of Ecology must certify the water supply capacity and the water demand reduced by the areas not subject to the requirements.

(10) Requires the department of 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.

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

--- END ---