
Housing Committee

HB 1110

Brief Description: Increasing middle housing in areas traditionally dedicated to single-family detached housing.

Sponsors: Representatives Bateman, Barkis, Reed, Taylor, Riccelli, Berry, Fitzgibbon, Peterson, Duerr, Lekanoff, Alvarado, Street, Ryu, Ramel, Cortes, Doglio, Macri, Mena, Gregerson, Thai, Bergquist, Farivar, Wylie, Stonier, Pollet, Santos, Fosse and Ormsby.

Brief Summary of Bill

- Requires certain cities planning under the Growth Management Act to authorize minimum development densities in residential zones.
- Establishes requirements for middle housing development regulations.
- Requires the Department of Commerce to provide technical assistance to cities in implementing the requirements and to develop model missing housing ordinances.

Hearing Date: 1/17/23

Staff: Serena Dolly (786-7150).

Background:

Growth Management Act.

The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. The GMA establishes land use designation and environmental protection requirements for all Washington counties and cities. The GMA also establishes a significantly wider array of planning duties for 28 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA. These

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jurisdictions are sometimes said to be "fully planning" under the GMA.

Counties that fully plan under the GMA are required to designate urban growth areas (UGAs) within their boundaries sufficient to accommodate a planned 20-year population projection range provided by the Office of Financial Management. Each city located within a planning county must be included within a UGA. Urban growth must be encouraged within the UGAs, and only growth that is not urban in nature can occur outside of the UGAs. Each UGA must permit urban densities and include greenbelt and open space areas.

Comprehensive Plans.

The GMA directs fully planning jurisdictions to adopt internally consistent comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans are implemented through locally adopted development regulations, and both the plans and the local regulations are subject to review and revision requirements prescribed in the GMA. In developing their comprehensive plans, counties and cities must consider various goals set forth in statute.

The GMA also establishes 14 goals in a non-prioritized list to guide the development of comprehensive plans and development regulations of counties and cities that plan under the GMA. Examples include urban growth, housing, and economic development goals.

Mandatory Housing Element.

Comprehensive plans must include a housing element that ensures the vitality and character of established residential neighborhoods. The housing element must include the following:

- an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth, as projected by the Department of Commerce (Department), including:
 - units for moderate-, low-, very low-, and extremely low-income households; and
 - emergency housing, emergency shelters, and permanent supportive housing;
- a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing;
- identification of sufficient capacity of land for various housing including government-assisted housing, housing for all levels of income, manufactured housing, and permanent supporting housing, and within an urban growth area, consideration of duplexes, triplexes, and townhomes;
- adequate provisions for existing and projected needs of all economic segments of the community, including:
 - incorporating housing for households of all income levels;
 - documenting programs and actions needed to achieve housing availability;
 - consideration of housing locations in relation to employment locations; and
 - consideration of the role of accessory dwelling units (ADUs) in meeting housing needs;

- identification of local policies and regulations that result in racially disparate impacts, displacement, and exclusion of housing;
- identification and implementation of policies and regulations to address and begin to undo racially disparate impacts, displacement, and exclusion of housing;
- identification of neighborhoods that may be at higher risk of displacement from market forces; and
- establishment of antidisplacement policies.

Planning Actions to Increase Residential Building Capacity.

Fully planning cities are encouraged to take an array of specified planning actions to increase residential building capacity. Specified planning actions include, for example:

- authorizing middle housing types on parcels in one or more zoning districts that permit single-family residences unless unfeasible to do so;
- authorizing cluster zoning or lot size averaging in all zoning districts that permit single-family residences;
- adopting increases in categorical exemptions to the State Environmental Policy Act (SEPA) for residential or mixed-use development;
- adopting a form-based code in one or more zoning districts that permit residential uses;
- authorizing a duplex on each corner lot within all zoning districts that permit single-family residences;
- authorizing accessory-dwelling units in one or more zoning districts in which they are currently prohibited;
- adopting ordinances authorizing administrative review of preliminary plats; and
- allowing off-street parking to compensate for lack of on-street parking when private roads are utilized or a parking demand study shows that less parking is required.

In general, ordinances and other nonproject actions taken to implement these specified planning actions, if adopted by April 1, 2023, are not subject to administrative or judicial appeal under SEPA or legal challenge under the GMA.

Technical Assistance and Funding.

The Department is required to assist cities and counties, both with funding and with technical assistance, in the adoption of comprehensive plans. The Department's assistance program must include a priority list for funding and technical assistance based on a county's or city's growth rate, commercial and industrial development rate, and the existence and quality of a comprehensive plan, among other factors. The Department is also required to administer a grant program to provide direct financial assistance to local governments for the preparation of comprehensive plans. Other technical assistance required to be provided by the Department includes utilizing the Department's staff and the staff of other agencies to assist in the development of comprehensive plans, including the provision of model land use ordinances, the adoption of procedural criteria, and regional education and training programs.

Homeowners' Associations and Common Interest Communities.

A homeowners' association (HOA) is a legal entity made up of members who are owners of residential real property located within the association's jurisdiction and who are required to pay dues for the upkeep of the association and common areas. An association can also adopt rules and regulate or limit the use of property by its members.

A common interest community (CIC) is similar to an HOA and is made up of member-owners who are obligated to pay for the taxes, maintenance, or other costs of common areas. Like an HOA, a CIC can also regulate or limit the use of property by its members, including by adopting rules to establish and enforce construction and design criteria as well as aesthetic standards. A CIC may generally only be terminated by the agreement of at least 80 percent of the members.

A restrictive covenant, or a restrictive deed, is a restriction or limitation of the use of the property that runs with the land.

Summary of Bill:

Density Requirements.

A fully-planning city with a population of at least 6,000, or a city located within a contiguous urban growth area with a city with a population above 200,000, must authorize the development of:

- at least four units per lot on all lots zoned for residential use;
- six units per lot in all residential zones if at least two of the units are affordable; and
- six units per lot in all residential zones within one half-mile of a major transit stop.

To qualify as affordable housing, the applicant must commit to renting the unit at a rent that is affordable to low-income households for at least 50 years and record a covenant or deed restriction that ensures continued affordability.

A major transit stop includes:

- a stop on a high-capacity transportation system;
- commuter rail stops;
- stops on rail or fixed guideway systems;
- stops on bus rapid transit routes;
- stops for a bus or other transit mode meeting minimum frequency requirements; or
- Washington ferry terminals.

Antidisplacement Measures.

Cities subject to the density requirements that have not adopted local antidisplacement measures as a portion of the city's comprehensive plan housing element must, within nine months of the act's effective date:

- identify local policies and regulations that result in racially disparate impacts, displacement, and exclusion in housing;
- 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;
- identify areas that may be at higher risk of displacement from market forces that occur with changes to zoning development regulations and capital investments; and
- establish 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.

Middle Housing Requirements.

Cities subject to the density requirements are directed to include specific provisions related to middle housing in their development regulations. Middle housing is defined as buildings that are compatible in scale, form, and character with single-family homes and contain two or more attached, stacked, or clustered homes including duplexes, triplexes, fourplexes, fiveplexes, sixplexes, townhouses, courtyard apartments, and cottage housing. Any city subject to the middle housing requirements:

- must adopt objective development and design standards on the development of middle housing that do not allow personal or subjective judgment and do 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 all allowed middle housing types or the ownership of a middle housing unit;
- may not require standards for middle housing that are more restrictive than those required for detached single-family residences;
- must apply to middle housing the same development permit and environmental review processes that apply to detached single-family residences;
- must apply to middle housing the same critical areas regulations that apply to detached single-family residences;
- may not require off-street parking as a condition of permitting development of middle housing within one-half mile of a major transit stop;
- may not require more than one off-street parking space per lot as a condition of permitting development of middle housing on lots smaller than 6,000 square feet; and
- may not require more than two off-street parking spaces per lot as a condition of permitting development of middle housing on lots greater than 6,000 square feet.

The density and middle housing requirements take effect the latter of 24 months after the effective date of the act for cities with at least 10,000 population or 12 months after the Office of Financial Management determines a city has reached a population threshold under this section.

Technical Assistance.

Commerce must provide technical assistance prioritized based on need to cities in implementing middle housing and average minimum density requirements. Commerce must develop and publish model middle housing ordinances within 18 months after the act takes effect. The model ordinances supersede, preempt, and invalidate local development regulations that fail to allow middle housing within the time frames provided. Commerce must establish a process for cities to seek approval of required local actions, and any local actions approved by Commerce are exempt from appeals under the GMA and SEPA.

A city that adopts the density and missing middle regulations is deemed to be in compliance with the mandatory GMA element of making adequate provisions for existing and projected needs of all economic segments of the community until June 30, 2032.

Extensions.

Cities may apply for extensions of the timelines established. Extensions may only be applied to specific areas where a city has identified water, sewer, stormwater, or transportation services that are deficient or will become deficient within five years and for which the city has established a plan of action to remedy such services on a specific timeline.

Homeowners' Associations and Common Interest Communities.

Governing documents of HOAs and the governing documents and declarations of CICs within cities subject to the middle housing and density requirements that are created after the act takes effect may not prohibit the construction or development of the types of housing or density requirements that must be permitted within such cities.

Appropriation: None.

Fiscal Note: Requested on January 14, 2023.

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