

---

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1110

---

State of Washington

68th Legislature

2023 Regular Session

**By** House Appropriations (originally sponsored by 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)

READ FIRST TIME 02/24/23.

1 AN ACT Relating to creating more homes for Washington by  
2 increasing middle housing in areas traditionally dedicated to single-  
3 family detached housing; amending RCW 36.70A.030, 36.70A.280,  
4 43.21C.495, and 43.21C.450; adding new sections to chapter 36.70A  
5 RCW; adding a new section to chapter 64.34 RCW; adding a new section  
6 to chapter 64.32 RCW; adding a new section to chapter 64.38 RCW;  
7 adding new sections to chapter 64.90 RCW; and creating new sections.

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

9 NEW SECTION. **Sec. 1.** The legislature finds that Washington is  
10 facing an unprecedented housing shortage for its current population  
11 and without significant action will not meet its goal of creating  
12 1,000,000 homes by 2044.

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

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

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

4 Homes developed at higher densities and gentle density housing  
5 types are more affordable by design for Washington residents both in  
6 their construction and reduced household energy and transportation  
7 costs.

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

12 The state has made historic investments in subsidized affordable  
13 housing through the housing trust fund, yet even with these historic  
14 investments, the magnitude of the housing shortage requires both  
15 public and private investment.

16 In addition to addressing the housing shortage, allowing more  
17 housing options in areas already served by urban infrastructure will  
18 reduce the pressure to develop natural and working lands, support key  
19 strategies for climate change, food security, and Puget Sound  
20 recovery, and save taxpayers and ratepayers money.

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

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

25 (1) "Administrative design review" means a development permit  
26 process whereby an application is reviewed, approved, or denied by  
27 the planning director or the planning director's designee based  
28 solely on objective design and development standards without a public  
29 meeting or hearing, unless such review is otherwise required by state  
30 or federal law, or the structure is a designated landmark or historic  
31 district established under a local preservation ordinance.

32 (2) "Adopt a comprehensive land use plan" means to enact a new  
33 comprehensive land use plan or to update an existing comprehensive  
34 land use plan.

35 ((+2)) (3) "Affordable housing" means, unless the context  
36 clearly indicates otherwise, residential housing whose monthly costs,  
37 including utilities other than telephone, do not exceed thirty  
38 percent of the monthly income of a household whose income is:

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

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

9 ~~((3))~~ (4) "Agricultural land" means land primarily devoted to  
10 the commercial production of horticultural, viticultural,  
11 floricultural, dairy, apiary, vegetable, or animal products or of  
12 berries, grain, hay, straw, turf, seed, Christmas trees not subject  
13 to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish  
14 in upland hatcheries, or livestock, and that has long-term commercial  
15 significance for agricultural production.

16 ~~((4))~~ (5) "City" means any city or town, including a code city.

17 ~~((5))~~ (6) "Comprehensive land use plan," "comprehensive plan,"  
18 or "plan" means a generalized coordinated land use policy statement  
19 of the governing body of a county or city that is adopted pursuant to  
20 this chapter.

21 ~~((6))~~ (7) "Cottage housing" means residential units on a lot  
22 with a common open space that either: (a) Is owned in common; or (b)  
23 has units owned as condominium units with property owned in common  
24 and a minimum of 20 percent of the lot size as open space.

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

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

36 ~~((7))~~ (10) "Department" means the department of commerce.

37 ~~((8))~~ (11) "Development regulations" or "regulation" means the  
38 controls placed on development or land use activities by a county or  
39 city, including, but not limited to, zoning ordinances, critical  
40 areas ordinances, shoreline master programs, official controls,

1 planned unit development ordinances, subdivision ordinances, and  
2 binding site plan ordinances together with any amendments thereto. A  
3 development regulation does not include a decision to approve a  
4 project permit application, as defined in RCW 36.70B.020, even though  
5 the decision may be expressed in a resolution or ordinance of the  
6 legislative body of the county or city.

7 ~~((9))~~ (12) "Emergency housing" means temporary indoor  
8 accommodations for individuals or families who are homeless or at  
9 imminent risk of becoming homeless that is intended to address the  
10 basic health, food, clothing, and personal hygiene needs of  
11 individuals or families. Emergency housing may or may not require  
12 occupants to enter into a lease or an occupancy agreement.

13 ~~((10))~~ (13) "Emergency shelter" means a facility that provides  
14 a temporary shelter for individuals or families who are currently  
15 homeless. Emergency shelter may not require occupants to enter into a  
16 lease or an occupancy agreement. Emergency shelter facilities may  
17 include day and warming centers that do not provide overnight  
18 accommodations.

19 ~~((11))~~ (14) "Extremely low-income household" means a single  
20 person, family, or unrelated persons living together whose adjusted  
21 income is at or below thirty percent of the median household income  
22 adjusted for household size, for the county where the household is  
23 located, as reported by the United States department of housing and  
24 urban development.

25 ~~((12))~~ (15) "Forestland" means land primarily devoted to  
26 growing trees for long-term commercial timber production on land that  
27 can be economically and practically managed for such production,  
28 including Christmas trees subject to the excise tax imposed under RCW  
29 84.33.100 through 84.33.140, and that has long-term commercial  
30 significance. In determining whether forestland is primarily devoted  
31 to growing trees for long-term commercial timber production on land  
32 that can be economically and practically managed for such production,  
33 the following factors shall be considered: (a) The proximity of the  
34 land to urban, suburban, and rural settlements; (b) surrounding  
35 parcel size and the compatibility and intensity of adjacent and  
36 nearby land uses; (c) long-term local economic conditions that affect  
37 the ability to manage for timber production; and (d) the availability  
38 of public facilities and services conducive to conversion of  
39 forestland to other uses.

1       (~~(13)~~) (16) "Freight rail dependent uses" means buildings and  
2 other infrastructure that are used in the fabrication, processing,  
3 storage, and transport of goods where the use is dependent on and  
4 makes use of an adjacent short line railroad. Such facilities are  
5 both urban and rural development for purposes of this chapter.  
6 "Freight rail dependent uses" does not include buildings and other  
7 infrastructure that are used in the fabrication, processing, storage,  
8 and transport of coal, liquefied natural gas, or "crude oil" as  
9 defined in RCW 90.56.010.

10       (~~(14)~~) (17) "Geologically hazardous areas" means areas that  
11 because of their susceptibility to erosion, sliding, earthquake, or  
12 other geological events, are not suited to the siting of commercial,  
13 residential, or industrial development consistent with public health  
14 or safety concerns.

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

20       (~~(16)~~) (19) "Low-income household" means a single person,  
21 family, or unrelated persons living together whose adjusted income is  
22 at or below eighty percent of the median household income adjusted  
23 for household size, for the county where the household is located, as  
24 reported by the United States department of housing and urban  
25 development.

26       (~~(17)~~) (20) "Major transit stop" means:

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

29       (b) Commuter rail stops;

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

32       (d) Stops on bus rapid transit routes.

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

38       (22) "Minerals" include gravel, sand, and valuable metallic  
39 substances.

1        ~~((18))~~ (23) "Moderate-income household" means a single person,  
2 family, or unrelated persons living together whose adjusted income is  
3 at or below 120 percent of the median household income adjusted for  
4 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        ~~((19))~~ (24) "Permanent supportive housing" is subsidized,  
8 leased housing with no limit on length of stay that prioritizes  
9 people who need comprehensive support services to retain tenancy and  
10 utilizes admissions practices designed to use lower barriers to entry  
11 than would be typical for other subsidized or unsubsidized rental  
12 housing, especially related to rental history, criminal history, and  
13 personal behaviors. Permanent supportive housing is paired with on-  
14 site or off-site voluntary services designed to support a person  
15 living with a complex and disabling behavioral health or physical  
16 health condition who was experiencing homelessness or was at imminent  
17 risk of homelessness prior to moving into housing to retain their  
18 housing and be a successful tenant in a housing arrangement, improve  
19 the resident's health status, and connect the resident of the housing  
20 with community-based health care, treatment, or employment services.  
21 Permanent supportive housing is subject to all of the rights and  
22 responsibilities defined in chapter 59.18 RCW.

23        ~~((20))~~ (25) "Public facilities" include streets, roads,  
24 highways, sidewalks, street and road lighting systems, traffic  
25 signals, domestic water systems, storm and sanitary sewer systems,  
26 parks and recreational facilities, and schools.

27        ~~((21))~~ (26) "Public services" include fire protection and  
28 suppression, law enforcement, public health, education, recreation,  
29 environmental protection, and other governmental services.

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

36        ~~((23))~~ (28) "Rural character" refers to the patterns of land  
37 use and development established by a county in the rural element of  
38 its comprehensive plan:

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

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

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

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

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

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

11 (g) That are consistent with the protection of natural surface  
12 water flows and groundwater and surface water recharge and discharge  
13 areas.

14 ~~((24))~~ (29) "Rural development" refers to development outside  
15 the urban growth area and outside agricultural, forest, and mineral  
16 resource lands designated pursuant to RCW 36.70A.170. Rural  
17 development can consist of a variety of uses and residential  
18 densities, including clustered residential development, at levels  
19 that are consistent with the preservation of rural character and the  
20 requirements of the rural element. Rural development does not refer  
21 to agriculture or forestry activities that may be conducted in rural  
22 areas.

23 ~~((25))~~ (30) "Rural governmental services" or "rural services"  
24 include those public services and public facilities historically and  
25 typically delivered at an intensity usually found in rural areas, and  
26 may include domestic water systems~~((7))~~ and fire and police  
27 protection services~~((, transportation and public transit services,~~  
28 ~~and other public utilities))~~ associated with rural development and  
29 normally not associated with urban areas. Rural services do not  
30 include storm or sanitary sewers, except as otherwise authorized by  
31 RCW 36.70A.110(4).

32 ~~((26))~~ (31) "Short line railroad" means those railroad lines  
33 designated class II or class III by the United States surface  
34 transportation board.

35 ~~((27))~~ (32) "Stacked flat" means dwelling units in a  
36 residential building of no more than three stories on a residential  
37 zoned lot in which each floor may be separately rented or owned.

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

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

8        ~~((28))~~ (35) "Urban growth" refers to growth that makes  
9 intensive use of land for the location of buildings, structures, and  
10 impermeable surfaces to such a degree as to be incompatible with the  
11 primary use of land for the production of food, other agricultural  
12 products, or fiber, or the extraction of mineral resources, rural  
13 uses, rural development, and natural resource lands designated  
14 pursuant to RCW 36.70A.170. A pattern of more intensive rural  
15 development, as provided in RCW 36.70A.070(5)(d), is not urban  
16 growth. When allowed to spread over wide areas, urban growth  
17 typically requires urban governmental services. "Characterized by  
18 urban growth" refers to land having urban growth located on it, or to  
19 land located in relationship to an area with urban growth on it as to  
20 be appropriate for urban growth.

21        ~~((29))~~ (36) "Urban growth areas" means those areas designated  
22 by a county pursuant to RCW 36.70A.110.

23        ~~((30))~~ (37) "Very low-income household" means a single person,  
24 family, or unrelated persons living together whose adjusted income is  
25 at or below fifty percent of the median household income adjusted for  
26 household size, for the county where the household is located, as  
27 reported by the United States department of housing and urban  
28 development.

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



1 street, or highway. Wetlands may include those artificial wetlands  
2 intentionally created from nonwetland areas created to mitigate  
3 conversion of wetlands.

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

6 (1) Except as provided in section 4, 5, or 6 of this act, any  
7 city that is required or chooses to plan under RCW 36.70A.040 must  
8 provide by ordinance and incorporate into its development  
9 regulations, zoning regulations, and other official controls,  
10 authorization for the following:

11 (a) For cities with a population of at least 25,000 but less than  
12 75,000, that are not within a contiguous urban growth area with the  
13 largest city in a county with a population of more than 275,000,  
14 based on office of financial management population estimates:

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

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

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

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

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

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

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

35 (2)(a) To qualify for the additional units allowed under  
36 subsection (1) of this section, the applicant must commit to renting  
37 or selling the required number of units as affordable housing. The  
38 units must be maintained as affordable for a term of at least 50  
39 years, and the property must satisfy that commitment and all required

1 affordability and income eligibility conditions adopted by the local  
2 government under this chapter. A city must require the applicant to  
3 record a covenant or deed restriction that ensures the continuing  
4 rental of units subject to these affordability requirements  
5 consistent with the conditions in chapter 84.14 RCW for a period of  
6 no less than 50 years. The covenant or deed restriction must also  
7 address criteria and policies to maintain public benefit if the  
8 property is converted to a use other than which continues to provide  
9 for permanently affordable housing.

10 (b) The units dedicated as affordable must be provided in a range  
11 of sizes comparable to other units in the development. To the extent  
12 practicable, the number of bedrooms in affordable units must be in  
13 the same proportion as the number of bedrooms in units within the  
14 entire development. The affordable units must generally be  
15 distributed throughout the development and have substantially the  
16 same functionality as the other units in the development.

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

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

26 (4) A city must allow at least six of the nine types of middle  
27 housing to achieve the unit density required in subsection (1) of  
28 this section. A city must also allow zero lot line short subdivision  
29 where the number of lots created is equal to the unit density  
30 required in subsection (1) of this section.

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

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

34 (b) May only apply administrative design review;

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

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

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

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

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

16 (h) May impose a limit of two units on a residential lot of 2,000  
17 square feet or less created through a lot split pursuant to RCW  
18 36.70A.--- (section 2, chapter . . . (ESSB 1245), Laws of 2023).

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

21 (a) If a local government submits to the department an empirical  
22 study prepared by a credentialed transportation or land use planning  
23 expert that clearly demonstrates, and the department finds and  
24 certifies, that the application of the parking limitations of  
25 subsection (5)(e) through (g) of this section for middle housing will  
26 be significantly less safe for vehicle drivers or passengers,  
27 pedestrians, or bicyclists than if the jurisdiction's parking  
28 requirements were applied to the same location for the same number of  
29 detached houses. The department must develop guidance to assist  
30 cities on items to include in the study; or

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

34 (7) The provisions of this section do not apply to lots  
35 designated with critical areas or their buffers as designated in RCW  
36 36.70A.060, or to a watershed serving a reservoir for potable water  
37 if that watershed is or was listed, as of the effective date of this  
38 section, as impaired or threatened under section 303(d) of the  
39 federal clean water act (33 U.S.C. Sec. 1313(d)).

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

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

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

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

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

13 (11) Except for specific areas granted an implementation timeline  
14 extension under section 10 of this act and for a city implementing  
15 the alternative density requirements under section 5 of this act, the  
16 capital facilities plan element required by RCW 36.70A.070(3) is not  
17 required to be updated to accommodate the increased housing and  
18 population capacity required by this act until the periodic  
19 comprehensive plan update required for the city under RCW  
20 36.70A.130(5) that occurs on or after June 30, 2034.

21 (12) Any city that adopts development regulations consistent with  
22 the requirements of section 3 of this act shall be considered in  
23 compliance with RCW 36.70A.070(2)(f) until June 30, 2032.

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

26 (1) As an alternative to the density requirements in section 3(1)  
27 of this act, a city may implement the density requirements in section  
28 3(1) of this act for at least 75 percent of lots in the city that are  
29 primarily dedicated to single-family detached housing units.

30 (2) The 25 percent of lots for which the requirements of section  
31 3(1) of this act are not implemented must include:

32 (a) Any areas within the city for which the department has  
33 certified an extension of the implementation timelines under section  
34 8 of this act due to the risk of displacement;

35 (b) Any areas within the city for which the department has  
36 certified an extension of the implementation timelines under section  
37 10 of this act due to a lack of infrastructure capacity;

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

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

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

10 (3) Unless identified as at higher risk of displacement under RCW  
11 36.70A.070(g), the 25 percent of lots for which the requirements of  
12 section 3(1) of this act are not implemented may not include:

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

15 (b) Any areas within one-half mile walking distance of a major  
16 transit stop or community amenity;

17 (c) Any areas historically covered by a covenant or deed  
18 restriction excluding racial minorities from owning property or  
19 living in the area, as known to the city at the time of each  
20 comprehensive plan update; or

21 (d) Any areas within one-half mile walking distance of a  
22 building, shopping center, or business area containing at least  
23 100,000 square feet of retail space.

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

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

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

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

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

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

3        Population associated with permits for middle housing units are  
4    exempt from the threshold of an office of financial management  
5    population projection to a county or a county population allocation  
6    to a city.

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

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

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

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

17        (b) In any city subject to section 3 of this act that has not  
18   passed ordinances, regulations, or other official controls within the  
19   time frames provided under section 3(10) of this act, the model  
20   ordinance supersedes, preempts, and invalidates local development  
21   regulations until the city takes all actions necessary to implement  
22   section 3, 4, or 5 of this act.

23        (3)(a) The department is directed to establish a process by which  
24   cities implementing the requirements of section 3 of this act may  
25   seek approval of alternative local action necessary to meet the  
26   requirements of this act.

27        (b) The department may approve actions under this section for  
28   cities that have, by January 1, 2023, adopted a comprehensive plan  
29   that is substantially similar to the requirements of this act and,  
30   within one year of the effective date of this section, adopts  
31   permanent development regulations that are substantially similar to  
32   the requirements of this act. In determining whether a city's adopted  
33   comprehensive plan and permanent development regulations are  
34   substantially similar, the department must find as substantially  
35   similar plans and regulations that:

36        (i) Result in an overall increase in housing units allowed in  
37   single-family zones that is at least 75 percent of the increase in  
38   housing units allowed in single-family zones if the specific  
39   provisions of this act were adopted;

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

3 (iii) Allow for additional density near major transit stops and  
4 community amenities, and for projects that incorporate dedicated  
5 affordable housing.

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

13 (d) Any local actions approved by the department pursuant to (a)  
14 of this subsection to implement the requirements under section 3 of  
15 this act are exempt from appeals under this chapter and chapter  
16 43.21C RCW.

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

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

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

26 Any city choosing the alternative density requirements in section  
27 4 of this act may apply to the department for, and the department may  
28 certify, an extension for areas at risk of displacement as determined  
29 by the antidisplacement analysis that a jurisdiction is required to  
30 complete under RCW 36.70A.070(2). The city must create a plan for  
31 implementing antidisplacement policies by their next implementation  
32 progress report required by RCW 36.70A.130(9).

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

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

37 (a) That, except as provided otherwise by this subsection, a  
38 state agency, county, or city planning under this chapter is not in

1 compliance with the requirements of this chapter, chapter 90.58 RCW  
2 as it relates to the adoption of shoreline master programs or  
3 amendments thereto, or chapter 43.21C RCW as it relates to plans,  
4 development regulations, or amendments, adopted under RCW 36.70A.040  
5 or chapter 90.58 RCW. Nothing in this subsection authorizes the board  
6 to hear petitions alleging noncompliance with RCW 36.70A.5801;

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

10 (c) That the approval of a work plan adopted under RCW  
11 36.70A.735(1)(a) is not in compliance with the requirements of the  
12 program established under RCW 36.70A.710;

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

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

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

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

27 (3) For purposes of this section "person" means any individual,  
28 partnership, corporation, association, state agency, governmental  
29 subdivision or unit thereof, or public or private organization or  
30 entity of any character.

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

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



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

4 If adjusted by the board, a county growth management planning  
5 population projection shall only be used for the planning purposes  
6 set forth in this chapter and shall be known as the "board adjusted  
7 population projection." None of these changes shall affect the  
8 official state and county population forecasts prepared by the office  
9 of financial management, which shall continue to be used for state  
10 budget and planning purposes.

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

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

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

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

23 (b) Identified which special district is responsible for  
24 providing the necessary infrastructure if the infrastructure is  
25 provided by a special purpose district.

26 (3) An extension granted under this section remains in effect  
27 until the earliest of:

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

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

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

33 (4) A city that has received an extension under this section may  
34 reapply for any needed extension with its next periodic comprehensive  
35 plan update under RCW 36.70A.130 or its implementation progress  
36 report to the department under RCW 36.70A.130(9). The application for  
37 an additional extension must include a list of infrastructure  
38 improvements necessary to meet the capacity required in section 3 of  
39 this act. Such additional extension must only be to address

1 infrastructure deficiency that a city is not reasonably able to  
2 address within the first extension.

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

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

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

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

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

20 (1) Adoption of ordinances, development regulations and  
21 amendments to such regulations, and other nonproject actions taken by  
22 a city to implement: The actions specified in section 2, chapter 246,  
23 Laws of 2022 unless the adoption of such ordinances, development  
24 regulations and amendments to such regulations, or other nonproject  
25 actions has a probable significant adverse impact on fish habitat;  
26 and the increased residential building capacity actions identified in  
27 RCW 36.70A.600(1), with the exception of the action specified in RCW  
28 36.70A.600(1)(f), are not subject to administrative or judicial  
29 appeals under this chapter.

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

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

36 The following nonproject actions are categorically exempt from  
37 the requirements of this chapter:

1 (1) Amendments to development regulations that are required to  
2 ensure consistency with an adopted comprehensive plan pursuant to RCW  
3 36.70A.040, where the comprehensive plan was previously subjected to  
4 environmental review pursuant to this chapter and the impacts  
5 associated with the proposed regulation were specifically addressed  
6 in the prior environmental review;

7 (2) Amendments to development regulations that are required to  
8 ensure consistency with a shoreline master program approved pursuant  
9 to RCW 90.58.090, where the shoreline master program was previously  
10 subjected to environmental review pursuant to this chapter and the  
11 impacts associated with the proposed regulation were specifically  
12 addressed in the prior environmental review;

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

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

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

20 (c) Increased vegetation retention or decreased impervious  
21 surface areas in critical areas;

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

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

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

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

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

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

33 A city that adopts development regulations that are consistent  
34 with and implement this act and RCW 35A.21.430 or 35.21.683 shall be  
35 deemed in compliance with the requirements of RCW 36.70A.070(2)(d)  
36 until June 30, 2032.

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

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

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

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

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

16 Governing documents of associations within cities subject to the  
17 middle housing requirements in section 3 of this act that are created  
18 after the effective date of this section may not actively or  
19 effectively prohibit the construction, development, or use of  
20 additional housing units as required in section 3 of this act.

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

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

29 NEW SECTION. **Sec. 18.** A new section is added to chapter 64.90  
30 RCW to read as follows:

31 The department of commerce may establish by rule any standards or  
32 procedures necessary to implement this act.

33 NEW SECTION. **Sec. 19.** If specific funding for the purposes of  
34 this act, referencing this act by bill or chapter number, is not

1 provided by June 30, 2023, in the omnibus appropriations act, this  
2 act is null and void.

--- **END** ---