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ENGROSSED SUBSTITUTE HOUSE BILL 2321

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State of Washington

68th Legislature

2024 Regular Session

**By** House Housing (originally sponsored by Representatives Bateman, Barkis, Duerr, Reed, and Pollet)

READ FIRST TIME 01/26/24.

1 AN ACT Relating to modifying middle housing requirements and the  
2 definitions of transit stop; amending RCW 36.70A.635; and reenacting  
3 and amending RCW 36.70A.030.

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

5 **Sec. 1.** RCW 36.70A.030 and 2023 c 332 s 2 and 2023 c 228 s 14  
6 are each reenacted and amended to read as follows:

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

9 (1) "Active transportation" means forms of pedestrian mobility  
10 including walking or running, the use of a mobility assistive device  
11 such as a wheelchair, bicycling and cycling irrespective of the  
12 number of wheels, and the use of small personal devices such as foot  
13 scooters or skateboards. Active transportation includes both  
14 traditional and electric assist bicycles and other devices. Planning  
15 for active transportation must consider and address accommodation  
16 pursuant to the Americans with disabilities act and the distinct  
17 needs of each form of active transportation.

18 (2) "Active transportation facilities" means facilities provided  
19 for the safety and mobility of active transportation users including,  
20 but not limited to, trails, as defined in RCW 47.30.005, sidewalks,

1 bike lanes, shared-use paths, and other facilities in the public  
2 right-of-way.

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

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

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

20 (a) For rental housing, 60 percent of the median household income  
21 adjusted for household size, for the county where the household is  
22 located, as reported by the United States department of housing and  
23 urban development; or

24 (b) For owner-occupied housing, 80 percent of the median  
25 household income adjusted for household size, for the county where  
26 the household is located, as reported by the United States department  
27 of housing and urban development.

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

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

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

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

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

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

16 (12) "Department" means the department of commerce.

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

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

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

39 (16) "Environmental justice" means the fair treatment and  
40 meaningful involvement of all people regardless of race, color,

1 national origin, or income with respect to development,  
2 implementation, and enforcement of environmental laws, regulations,  
3 and policies. Environmental justice includes addressing  
4 disproportionate environmental and health impacts in all laws, rules,  
5 and policies with environmental impacts by prioritizing vulnerable  
6 populations and overburdened communities and the equitable  
7 distribution of resources and benefits.

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

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

29 (19) "Freight rail dependent uses" means buildings and other  
30 infrastructure that are used in the fabrication, processing, storage,  
31 and transport of goods where the use is dependent on and makes use of  
32 an adjacent short line railroad. Such facilities are both urban and  
33 rural development for purposes of this chapter. "Freight rail  
34 dependent uses" does not include buildings and other infrastructure  
35 that are used in the fabrication, processing, storage, and transport  
36 of coal, liquefied natural gas, or "crude oil" as defined in RCW  
37 90.56.010.

38 (20) "Geologically hazardous areas" means areas that because of  
39 their susceptibility to erosion, sliding, earthquake, or other  
40 geological events, are not suited to the siting of commercial,

1 residential, or industrial development consistent with public health  
2 or safety concerns.

3 (21) "Green infrastructure" means a wide array of natural assets  
4 and built structures within an urban growth area boundary, including  
5 parks and other areas with protected tree canopy, and management  
6 practices at multiple scales that manage wet weather and that  
7 maintain and restore natural hydrology by storing, infiltrating,  
8 evapotranspiring, and harvesting and using stormwater.

9 (22) "Green space" means an area of land, vegetated by natural  
10 features such as grass, trees, or shrubs, within an urban context and  
11 less than one acre in size that creates public value through one or  
12 more of the following attributes:

- 13 (a) Is accessible to the public;
- 14 (b) Promotes physical and mental health of residents;
- 15 (c) Provides relief from the urban heat island effects;
- 16 (d) Promotes recreational and aesthetic values;
- 17 (e) Protects streams or water supply; or
- 18 (f) Preserves visual quality along highway, road, or street  
19 corridors.

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

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

31 (25) "Major transit stop" means:

- 32 (a) A stop on a high capacity transportation system funded or  
33 expanded under the provisions of chapter 81.104 RCW;
- 34 (b) Commuter rail stops;
- 35 (c) Stops on rail or fixed guideway systems; or
- 36 (d) Stops on bus rapid transit routes, including those stops that  
37 are under construction.

38 (26) "Middle housing" means buildings that are compatible in  
39 scale, form, and character with single-family houses and contain two  
40 or more attached, stacked, or clustered homes including duplexes,

1 triplexes, fourplexes, fiveplexes, sixplexes, townhouses, stacked  
2 flats, courtyard apartments, and cottage housing.

3 (27) "Minerals" include gravel, sand, and valuable metallic  
4 substances.

5 (28) "Moderate-income household" means a single person, family,  
6 or unrelated persons living together whose adjusted income is at or  
7 below 120 percent of the median household income adjusted for  
8 household size, for the county where the household is located, as  
9 reported by the United States department of housing and urban  
10 development.

11 (29) "Overburdened community" means a geographic area where  
12 vulnerable populations face combined, multiple environmental harms  
13 and health impacts, and includes, but is not limited to, highly  
14 impacted communities as defined in RCW 19.405.020.

15 (30) "Per capita vehicle miles traveled" means the number of  
16 miles traveled using cars and light trucks in a calendar year divided  
17 by the number of residents in Washington. The calculation of this  
18 value excludes vehicle miles driven conveying freight.

19 (31) "Permanent supportive housing" is subsidized, leased housing  
20 with no limit on length of stay that prioritizes people who need  
21 comprehensive support services to retain tenancy and utilizes  
22 admissions practices designed to use lower barriers to entry than  
23 would be typical for other subsidized or unsubsidized rental housing,  
24 especially related to rental history, criminal history, and personal  
25 behaviors. Permanent supportive housing is paired with on-site or  
26 off-site voluntary services designed to support a person living with  
27 a complex and disabling behavioral health or physical health  
28 condition who was experiencing homelessness or was at imminent risk  
29 of homelessness prior to moving into housing to retain their housing  
30 and be a successful tenant in a housing arrangement, improve the  
31 resident's health status, and connect the resident of the housing  
32 with community-based health care, treatment, or employment services.  
33 Permanent supportive housing is subject to all of the rights and  
34 responsibilities defined in chapter 59.18 RCW.

35 (32) "Public facilities" include streets, roads, highways,  
36 sidewalks, street and road lighting systems, traffic signals,  
37 domestic water systems, storm and sanitary sewer systems, parks and  
38 recreational facilities, and schools.

1 (33) "Public services" include fire protection and suppression,  
2 law enforcement, public health, education, recreation, environmental  
3 protection, and other governmental services.

4 (34) "Recreational land" means land so designated under RCW  
5 36.70A.1701 and that, immediately prior to this designation, was  
6 designated as agricultural land of long-term commercial significance  
7 under RCW 36.70A.170. Recreational land must have playing fields and  
8 supporting facilities existing before July 1, 2004, for sports played  
9 on grass playing fields.

10 (35) "Rural character" refers to the patterns of land use and  
11 development established by a county in the rural element of its  
12 comprehensive plan:

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

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

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

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

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

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

25 (g) That are consistent with the protection of natural surface  
26 water flows and groundwater and surface water recharge and discharge  
27 areas.

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

36 (37) "Rural governmental services" or "rural services" include  
37 those public services and public facilities historically and  
38 typically delivered at an intensity usually found in rural areas, and  
39 may include domestic water systems and fire and police protection  
40 services associated with rural development and normally not

1 associated with urban areas. Rural services do not include storm or  
2 sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

3 (38) "Short line railroad" means those railroad lines designated  
4 class II or class III by the United States surface transportation  
5 board.

6 (39) "Single-family zones" means those zones where single-family  
7 detached housing is the predominant land use.

8 (40) "Stacked flat" means dwelling units in a residential  
9 building of no more than three stories on a residential zoned lot in  
10 which each floor may be separately rented or owned.

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

14 (42) "Transportation system" means all infrastructure and  
15 services for all forms of transportation within a geographical area,  
16 irrespective of the responsible jurisdiction or transportation  
17 provider.

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

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

38 (45) "Urban growth areas" means those areas designated by a  
39 county pursuant to RCW 36.70A.110.



1 (46) "Very low-income household" means a single person, family,  
2 or unrelated persons living together whose adjusted income is at or  
3 below fifty 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 (47) (a) "Vulnerable populations" means population groups that are  
8 more likely to be at higher risk for poor health outcomes in response  
9 to environmental harms, due to: (i) Adverse socioeconomic factors,  
10 such as unemployment, high housing and transportation costs relative  
11 to income, limited access to nutritious food and adequate health  
12 care, linguistic isolation, and other factors that negatively affect  
13 health outcomes and increase vulnerability to the effects of  
14 environmental harms; and (ii) sensitivity factors, such as low birth  
15 weight and higher rates of hospitalization.

16 (b) "Vulnerable populations" includes, but is not limited to:

17 (i) Racial or ethnic minorities;

18 (ii) Low-income populations; and

19 (iii) Populations disproportionately impacted by environmental  
20 harms.

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

36 (49) "Wildland urban interface" means the geographical area where  
37 structures and other human development meets or intermingles with  
38 wildland vegetative fuels.

1       **Sec. 2.** RCW 36.70A.635 and 2023 c 332 s 3 are each amended to  
2 read as follows:

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

8       (a) For cities with a population of at least 25,000 but less than  
9 75,000 based on office of financial management population estimates:

10       (i) The development of at least two units per lot on all lots  
11 zoned predominantly for residential use, unless zoning permitting  
12 higher densities or intensities applies;

13       (ii) The development of at least four units per lot on all lots  
14 zoned predominantly for residential use, unless zoning permitting  
15 higher densities or intensities applies, within one-quarter mile  
16 walking distance of a major transit stop; and

17       (iii) The development of at least four units per lot on all lots  
18 zoned predominantly for residential use, unless zoning permitting  
19 higher densities or intensities applies, if at least one unit is  
20 affordable housing.

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

23       (i) The development of at least four units per lot on all lots  
24 zoned predominantly for residential use, unless zoning permitting  
25 higher densities or intensities applies;

26       (ii) The development of at least six units per lot on all lots  
27 zoned predominantly for residential use, unless zoning permitting  
28 higher densities or intensities applies, within one-quarter mile  
29 walking distance of a major transit stop; and

30       (iii) The development of at least six units per lot on all lots  
31 zoned predominantly for residential use, unless zoning permitting  
32 higher densities or intensities applies, if at least two units are  
33 affordable housing.

34       (c) For cities with a population of less than 25,000, that are  
35 within a contiguous urban growth area with the largest city in a  
36 county with a population of more than 275,000, based on office of  
37 financial management population estimates the development of at least  
38 two units per lot on all lots zoned predominantly for residential  
39 use, unless zoning permitting higher densities or intensities  
40 applies.

1           (2)(a) To qualify for the additional units allowed under  
2 subsection (1) of this section, the applicant must commit to renting  
3 or selling the required number of units as affordable housing. The  
4 units must be maintained as affordable for a term of at least 50  
5 years, and the property must satisfy that commitment and all required  
6 affordability and income eligibility conditions adopted by the local  
7 government under this chapter. A city must require the applicant to  
8 record a covenant or deed restriction that ensures the continuing  
9 rental of units subject to these affordability requirements  
10 consistent with the conditions in chapter 84.14 RCW for a period of  
11 no less than 50 years. The covenant or deed restriction must also  
12 address criteria and policies to maintain public benefit if the  
13 property is converted to a use other than which continues to provide  
14 for permanently affordable housing.

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

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

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

31           (4)(a) As an alternative to the density requirements in  
32 subsection (1) of this section, a city may implement the density  
33 requirements in subsection (1) of this section for at least 75  
34 percent of lots in the city that are primarily dedicated to single-  
35 family detached housing units.

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

1 (i) Any areas within the city for which the department has  
2 certified an extension of the implementation timelines under RCW  
3 36.70A.637 due to the risk of displacement;

4 (ii) Any areas within the city for which the department has  
5 certified an extension of the implementation timelines under RCW  
6 36.70A.638 due to a lack of infrastructure capacity;

7 (iii) Any lots, parcels, and tracts designated with critical  
8 areas or their buffers that are exempt from the density requirements  
9 as provided in subsection (8) of this section;

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

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

17 (c) Unless identified as at higher risk of displacement under RCW  
18 36.70A.070(2)(g), the 25 percent of lots for which the requirements  
19 of subsection (1) of this section are not implemented may not  
20 include:

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

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

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

29 (5) A city subject to the requirements of subsection (1)(a) or  
30 (b) of this section must allow at least six of the nine types of  
31 middle housing to achieve the unit density required in subsection (1)  
32 of this section. A city may allow accessory dwelling units to achieve  
33 the unit density required in subsection (1) of this section. Cities  
34 are not required to allow accessory dwelling units or middle housing  
35 types beyond the density requirements in subsection (1) of this  
36 section. A city must also allow zero lot line short subdivision where  
37 the number of lots created is equal to the unit density required in  
38 subsection (1) of this section.

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

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

3 (b) Except as provided in (a) of this subsection, shall not  
4 require through development regulations any standards for middle  
5 housing that are more restrictive than those required for detached  
6 single-family residences, but may apply any objective development  
7 regulations that are required for detached single-family residences,  
8 including, but not limited to, set-back, lot coverage, stormwater,  
9 clearing, and tree canopy and retention requirements (~~to ensure~~  
10 ~~compliance with existing ordinances intended to protect critical~~  
11 ~~areas and public health and safety~~);

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

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

21 (e) Shall not require more than one off-street parking space per  
22 unit as a condition of permitting development of middle housing on  
23 lots (~~smaller than~~) no greater than 6,000 square feet before any  
24 zero lot line subdivisions or lot splits;

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

29 (g) Are not required to achieve the per unit density under  
30 chapter 332, Laws of 2023 on lots after subdivision below 1,000  
31 square feet unless the city chooses to enact smaller allowable lot  
32 sizes.

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

35 (a) If a local government submits to the department an empirical  
36 study prepared by a credentialed transportation or land use planning  
37 expert that clearly demonstrates, and the department finds and  
38 certifies, that the application of the parking limitations of  
39 subsection (6)(d) through (f) of this section for middle housing will  
40 be significantly less safe for vehicle drivers or passengers,

1 pedestrians, or bicyclists than if the jurisdiction's parking  
2 requirements were applied to the same location for the same number of  
3 detached houses. The department must develop guidance to assist  
4 cities on items to include in the study; or

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

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

9 (a) ~~((Lots))~~ Portions of a lot, parcel, or tract designated with  
10 critical areas designated under RCW 36.70A.170 or their buffers as  
11 required by RCW 36.70A.170, except for critical aquifer recharge  
12 areas where a single-family detached house is an allowed use provided  
13 that any requirements to maintain aquifer recharge are met;

14 (b) A watershed serving a reservoir for potable water if that  
15 watershed is or was listed, as of July 23, 2023, as impaired or  
16 threatened under section 303(d) of the federal clean water act (33  
17 U.S.C. Sec. 1313(d)); ~~((or))~~

18 (c) Lots that have been designated urban separators by countywide  
19 planning policies as of July 23, 2023; or

20 (d) A lot that was created through the splitting of a single  
21 residential lot.

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

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

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

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

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

37 (12) A city complying with this section and not granted a  
38 timeline extension under RCW 36.70A.638 does not have to update its  
39 capital facilities plan element required by RCW 36.70A.070(3) to  
40 accommodate the increased housing required by chapter 332, Laws of

1 2023 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 (13) Until June 30, 2026, for cities subject to a growth target  
5 adopted under RCW 36.70A.210 that limit the maximum residential  
6 capacity of the jurisdiction, any additional residential capacity  
7 required by this section for lots, parcels, and tracts with critical  
8 areas or critical area buffers outside of critical areas or their  
9 buffers may not be considered an inconsistency with the countywide  
10 planning policies, multicounty planning policies, or growth targets  
11 adopted under RCW 36.70A.210.

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