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**SENATE BILL 5190**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senators Trudeau, Lovelett, Braun, Frame, Hasegawa, Hunt, Kuderer, Liiias, Nguyen, Nobles, Pedersen, Shewmake, and C. Wilson

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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, and  
4 43.21C.495; adding new sections to chapter 36.70A RCW; adding a new  
5 section to chapter 64.34 RCW; adding a new section to chapter 64.32  
6 RCW; adding a new section to chapter 64.38 RCW; adding a new section  
7 to chapter 64.90 RCW; and creating a new section.

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 review process" 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 that involve no  
29 personal or subjective judgment.

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

33 ((+2)) (3) "Affordable housing" means, unless the context  
34 clearly indicates otherwise, residential housing whose monthly costs,  
35 including utilities other than telephone, do not exceed thirty  
36 percent of the monthly income of a household whose income is:

37 (a) For rental housing, sixty percent of the median household  
38 income adjusted for household size, for the county where the

1 household is located, as reported by the United States department of  
2 housing and urban development; or

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

7 (~~(3)~~) (4) "Agricultural land" means land primarily devoted to  
8 the commercial production of horticultural, viticultural,  
9 floricultural, dairy, apiary, vegetable, or animal products or of  
10 berries, grain, hay, straw, turf, seed, Christmas trees not subject  
11 to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish  
12 in upland hatcheries, or livestock, and that has long-term commercial  
13 significance for agricultural production.

14 (~~(4)~~) (5) "City" means any city or town, including a code city.

15 (~~(5)~~) (6) "Comprehensive land use plan," "comprehensive plan,"  
16 or "plan" means a generalized coordinated land use policy statement  
17 of the governing body of a county or city that is adopted pursuant to  
18 this chapter.

19 (~~(6)~~) (7) "Cottage housing" means detached dwelling units  
20 arranged on two or more sides of a landscaped central area.

21 (8) "Courtyard apartments" means attached dwelling units arranged  
22 on two or more sides of a landscaped central courtyard.

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

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

32 (~~(7)~~) (10) "Department" means the department of commerce.

33 (~~(8)~~) (11) "Development regulations" or "regulation" means the  
34 controls placed on development or land use activities by a county or  
35 city, including, but not limited to, zoning ordinances, critical  
36 areas ordinances, shoreline master programs, official controls,  
37 planned unit development ordinances, subdivision ordinances, and  
38 binding site plan ordinances together with any amendments thereto. A  
39 development regulation does not include a decision to approve a  
40 project permit application, as defined in RCW 36.70B.020, even though

1 the decision may be expressed in a resolution or ordinance of the  
2 legislative body of the county or city.

3 ~~((9))~~ (12) "Emergency housing" means temporary indoor  
4 accommodations for individuals or families who are homeless or at  
5 imminent risk of becoming homeless that is intended to address the  
6 basic health, food, clothing, and personal hygiene needs of  
7 individuals or families. Emergency housing may or may not require  
8 occupants to enter into a lease or an occupancy agreement.

9 ~~((10))~~ (13) "Emergency shelter" means a facility that provides  
10 a temporary shelter for individuals or families who are currently  
11 homeless. Emergency shelter may not require occupants to enter into a  
12 lease or an occupancy agreement. Emergency shelter facilities may  
13 include day and warming centers that do not provide overnight  
14 accommodations.

15 ~~((11))~~ (14) "Extremely low-income household" means a single  
16 person, family, or unrelated persons living together whose adjusted  
17 income is at or below thirty percent of the median household income  
18 adjusted for household size, for the county where the household is  
19 located, as reported by the United States department of housing and  
20 urban development.

21 ~~((12))~~ (15) "Forestland" means land primarily devoted to  
22 growing trees for long-term commercial timber production on land that  
23 can be economically and practically managed for such production,  
24 including Christmas trees subject to the excise tax imposed under RCW  
25 84.33.100 through 84.33.140, and that has long-term commercial  
26 significance. In determining whether forestland is primarily devoted  
27 to growing trees for long-term commercial timber production on land  
28 that can be economically and practically managed for such production,  
29 the following factors shall be considered: (a) The proximity of the  
30 land to urban, suburban, and rural settlements; (b) surrounding  
31 parcel size and the compatibility and intensity of adjacent and  
32 nearby land uses; (c) long-term local economic conditions that affect  
33 the ability to manage for timber production; and (d) the availability  
34 of public facilities and services conducive to conversion of  
35 forestland to other uses.

36 ~~((13))~~ (16) "Freight rail dependent uses" means buildings and  
37 other infrastructure that are used in the fabrication, processing,  
38 storage, and transport of goods where the use is dependent on and  
39 makes use of an adjacent short line railroad. Such facilities are  
40 both urban and rural development for purposes of this chapter.

1 "Freight rail dependent uses" does not include buildings and other  
2 infrastructure that are used in the fabrication, processing, storage,  
3 and transport of coal, liquefied natural gas, or "crude oil" as  
4 defined in RCW 90.56.010.

5 ~~((14))~~ (17) "Geologically hazardous areas" means areas that  
6 because of their susceptibility to erosion, sliding, earthquake, or  
7 other geological events, are not suited to the siting of commercial,  
8 residential, or industrial development consistent with public health  
9 or safety concerns.

10 ~~((15))~~ (18) "Long-term commercial significance" includes the  
11 growing capacity, productivity, and soil composition of the land for  
12 long-term commercial production, in consideration with the land's  
13 proximity to population areas, and the possibility of more intense  
14 uses of the land.

15 ~~((16))~~ (19) "Low-income household" means a single person,  
16 family, or unrelated persons living together whose adjusted income is  
17 at or below eighty percent of the median household income adjusted  
18 for household size, for the county where the household is located, as  
19 reported by the United States department of housing and urban  
20 development.

21 ~~((17))~~ (20) (a) "Major transit stop," except as provided in (b)  
22 of this subsection, means:

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

25 (ii) Commuter rail stops;

26 (iii) Stops on rail or fixed guideway systems, including  
27 transitways;

28 (iv) Stops on bus rapid transit routes;

29 (v) A stop for a bus or other transit mode providing a minimum of  
30 seven days per week of actual fixed route service at intervals of:

31 (A) Fifteen minutes or fewer on nonholiday weekdays between 9:00  
32 a.m. and 5:00 p.m.;

33 (B) Thirty minutes or fewer on nonholiday weekdays between 6:00  
34 a.m. and 9:00 a.m. and between 5:00 p.m. and 10:00 p.m.; and

35 (C) Thirty minutes or fewer on weekend days between 9:00 a.m. and  
36 5:00 p.m.; or

37 (vi) Washington state ferry terminals.

38 (b) Alternatively, a definition of "major transit stop" adopted  
39 before the effective date of this section by a regional agency  
40 planning under the multicounty planning policies authority pursuant

1 to RCW 36.70A.210(7) shall apply to counties and cities which are  
2 subject to those multicounty planning policies.

3 (21) "Middle housing" means buildings that are compatible in  
4 scale, form, and character with single-family houses and contain two  
5 or more attached, stacked, or clustered homes including duplexes,  
6 triplexes, fourplexes, fiveplexes, sixplexes, townhouses, courtyard  
7 apartments, and cottage housing.

8 (22) "Minerals" include gravel, sand, and valuable metallic  
9 substances.

10 ~~((18))~~ (23) "Moderate-income household" means a single person,  
11 family, or unrelated persons living together whose adjusted income is  
12 at or below 120 percent of the median household income adjusted for  
13 household size, for the county where the household is located, as  
14 reported by the United States department of housing and urban  
15 development.

16 ~~((19))~~ (24) "Permanent supportive housing" is subsidized,  
17 leased housing with no limit on length of stay that prioritizes  
18 people who need comprehensive support services to retain tenancy and  
19 utilizes admissions practices designed to use lower barriers to entry  
20 than would be typical for other subsidized or unsubsidized rental  
21 housing, especially related to rental history, criminal history, and  
22 personal behaviors. Permanent supportive housing is paired with on-  
23 site or off-site voluntary services designed to support a person  
24 living with a complex and disabling behavioral health or physical  
25 health condition who was experiencing homelessness or was at imminent  
26 risk of homelessness prior to moving into housing to retain their  
27 housing and be a successful tenant in a housing arrangement, improve  
28 the resident's health status, and connect the resident of the housing  
29 with community-based health care, treatment, or employment services.  
30 Permanent supportive housing is subject to all of the rights and  
31 responsibilities defined in chapter 59.18 RCW.

32 ~~((20))~~ (25) "Public facilities" include streets, roads,  
33 highways, sidewalks, street and road lighting systems, traffic  
34 signals, domestic water systems, storm and sanitary sewer systems,  
35 parks and recreational facilities, and schools.

36 ~~((21))~~ (26) "Public services" include fire protection and  
37 suppression, law enforcement, public health, education, recreation,  
38 environmental protection, and other governmental services.

39 ~~((22))~~ (27) "Recreational land" means land so designated under  
40 RCW 36.70A.1701 and that, immediately prior to this designation, was

1 designated as agricultural land of long-term commercial significance  
2 under RCW 36.70A.170. Recreational land must have playing fields and  
3 supporting facilities existing before July 1, 2004, for sports played  
4 on grass playing fields.

5 ~~((23))~~ (28) "Rural character" refers to the patterns of land  
6 use and development established by a county in the rural element of  
7 its comprehensive plan:

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

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

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

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

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

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

20 (g) That are consistent with the protection of natural surface  
21 water flows and groundwater and surface water recharge and discharge  
22 areas.

23 ~~((24))~~ (29) "Rural development" refers to development outside  
24 the urban growth area and outside agricultural, forest, and mineral  
25 resource lands designated pursuant to RCW 36.70A.170. Rural  
26 development can consist of a variety of uses and residential  
27 densities, including clustered residential development, at levels  
28 that are consistent with the preservation of rural character and the  
29 requirements of the rural element. Rural development does not refer  
30 to agriculture or forestry activities that may be conducted in rural  
31 areas.

32 ~~((25))~~ (30) "Rural governmental services" or "rural services"  
33 include those public services and public facilities historically and  
34 typically delivered at an intensity usually found in rural areas, and  
35 may include domestic water systems~~((7))~~ and fire and police  
36 protection services~~((, transportation and public transit services,~~  
37 ~~and other public utilities))~~ associated with rural development and  
38 normally not associated with urban areas. Rural services do not  
39 include storm or sanitary sewers, except as otherwise authorized by  
40 RCW 36.70A.110(4).

1        ~~((26))~~ (31) "Short line railroad" means those railroad lines  
2 designated class II or class III by the United States surface  
3 transportation board.

4        ~~((27))~~ (32) "Townhouses" means dwelling units constructed in a  
5 row of two or more attached units where each dwelling unit shares at  
6 least one common wall with an adjacent unit and is accessed by a  
7 separate outdoor entrance.

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

15        ~~((28))~~ (34) "Urban growth" refers to growth that makes  
16 intensive use of land for the location of buildings, structures, and  
17 impermeable surfaces to such a degree as to be incompatible with the  
18 primary use of land for the production of food, other agricultural  
19 products, or fiber, or the extraction of mineral resources, rural  
20 uses, rural development, and natural resource lands designated  
21 pursuant to RCW 36.70A.170. A pattern of more intensive rural  
22 development, as provided in RCW 36.70A.070(5)(d), is not urban  
23 growth. When allowed to spread over wide areas, urban growth  
24 typically requires urban governmental services. "Characterized by  
25 urban growth" refers to land having urban growth located on it, or to  
26 land located in relationship to an area with urban growth on it as to  
27 be appropriate for urban growth.

28        ~~((29))~~ (35) "Urban growth areas" means those areas designated  
29 by a county pursuant to RCW 36.70A.110.

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

36        ~~((31))~~ (37) "Wetland" or "wetlands" means areas that are  
37 inundated or saturated by surface water or groundwater at a frequency  
38 and duration sufficient to support, and that under normal  
39 circumstances do support, a prevalence of vegetation typically  
40 adapted for life in saturated soil conditions. Wetlands generally



1 include swamps, marshes, bogs, and similar areas. Wetlands do not  
2 include those artificial wetlands intentionally created from  
3 nonwetland sites, including, but not limited to, irrigation and  
4 drainage ditches, grass-lined swales, canals, detention facilities,  
5 wastewater treatment facilities, farm ponds, and landscape amenities,  
6 or those wetlands created after July 1, 1990, that were  
7 unintentionally created as a result of the construction of a road,  
8 street, or highway. Wetlands may include those artificial wetlands  
9 intentionally created from nonwetland areas created to mitigate  
10 conversion of wetlands.

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

13 (1) Any city with a population of 6,000 or more, or any city that  
14 is within a contiguous urban growth area with a city with a  
15 population above 200,000 based on office of financial management  
16 population estimates, as of the effective date of this section, that  
17 is required or chooses to plan under RCW 36.70A.040 must provide by  
18 ordinance and incorporate into its development regulations, zoning  
19 regulations, and other official controls, authorization for the  
20 following:

21 (a) The development of at least four units per lot on all lots  
22 zoned for residential use;

23 (b) The development of six units per lot in all residential zones  
24 if two of the six units are affordable; and

25 (c) The development of at least six units per lot in all  
26 residential zones within one-half mile of a major transit stop.

27 (2) To qualify for the additional units allowed under subsection  
28 (1)(b) of this section, the applicant must commit to renting two of  
29 the six units at rents that are affordable to low-income households  
30 for a term of at least 50 years, and the property must satisfy that  
31 commitment and all required affordability and income eligibility  
32 conditions adopted by the local government under this chapter. A city  
33 must require the applicant to record a covenant or deed restriction  
34 that ensures the continuing rental of units subject to these  
35 affordability requirements consistent with the conditions in chapter  
36 84.14 RCW for a period of no less than 50 years. The covenant or deed  
37 restriction must also address criteria and policies to maintain  
38 public benefit if the property is converted to a use other than which  
39 continues to provide for permanently affordable low-income housing.

1 (3) Any city subject to the requirements under subsection (1) of  
2 this section that has not adopted local antidisplacement measures as  
3 a portion of the city's mandatory housing element under RCW  
4 36.70A.070(2) must, within nine months of the effective date of this  
5 section, perform the actions specified in RCW 36.70A.070(2) (e), (f),  
6 (g), and (h) for areas within one-half mile of a major transit stop.

7 (4) Any city subject to the requirements of this section:

8 (a) May only adopt objective development and design standards on  
9 the development of middle housing. Objective development and design  
10 standards do not require or allow personal or subjective judgment by  
11 a permit administrator. Objective development and design standards  
12 may not discourage the development of middle housing through  
13 unreasonable costs, fees, delays, or other requirements or actions  
14 which individually, or cumulatively, make impracticable the  
15 permitting, siting, or construction of all allowed middle housing  
16 types or the ownership of a middle housing unit;

17 (b) Except as provided in (a) of this subsection, shall not  
18 require through development regulations any standards for middle  
19 housing that are more restrictive than those required for detached  
20 single-family residences;

21 (c) Shall apply to middle housing the same development permit and  
22 environmental review processes that apply to detached single-family  
23 residences;

24 (d) Shall apply to middle housing the same critical areas  
25 regulations that apply to detached single-family residences;

26 (e) Shall not require off-street parking as a condition of  
27 permitting development of middle housing within one-half mile of a  
28 major transit stop;

29 (f) Shall not require more than one off-street parking space per  
30 lot as a condition of permitting development of middle housing on  
31 lots smaller than 6,000 square feet; and

32 (g) Shall not require more than two off-street parking spaces per  
33 lot as a condition of permitting development of middle housing on  
34 lots greater than 6,000 square feet.

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

37 (6) The requirements of this section apply and take effect on the  
38 latter of:

39 (a) Twenty-four months following the effective date of this  
40 section for cities with a population of 10,000 or more; or

1 (b) Twelve months after a determination by the office of  
2 financial management that a city has reached a population threshold  
3 established under this section.

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

6 (1)(a) The department is directed to provide technical assistance  
7 to cities as they implement the requirements under section 3 of this  
8 act.

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

11 (2)(a) The department shall publish model middle housing  
12 ordinances no later than 18 months following the effective date of  
13 this section.

14 (b) In any city subject to section 3 of this act that has not  
15 passed ordinances, regulations, or other official controls within the  
16 time frames provided under section 3(6) of this act, the model  
17 ordinance supersedes, preempts, and invalidates local development  
18 regulations until the city takes all actions necessary to implement  
19 section 3 of this act.

20 (3)(a) The department is directed to establish a process by which  
21 cities implementing the requirements of section 3 of this act may  
22 seek approval of necessary local actions.

23 (b) The department may approve actions under this section for  
24 cities that have, by the effective date of this section, adopted  
25 permanent development regulations that are substantially similar to  
26 the requirements of this act.

27 (c) Any local actions approved by the department pursuant to (a)  
28 of this subsection to implement the requirements under section 3 of  
29 this act are exempt from appeals under this chapter and chapter  
30 43.21C RCW.

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

35 **Sec. 5.** RCW 36.70A.280 and 2011 c 360 s 17 are each amended to  
36 read as follows:

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

1 (a) That, except as provided otherwise by this subsection, a  
2 state agency, county, or city planning under this chapter is not in  
3 compliance with the requirements of this chapter, chapter 90.58 RCW  
4 as it relates to the adoption of shoreline master programs or  
5 amendments thereto, or chapter 43.21C RCW as it relates to plans,  
6 development regulations, or amendments, adopted under RCW 36.70A.040  
7 or chapter 90.58 RCW. Nothing in this subsection authorizes the board  
8 to hear petitions alleging noncompliance with RCW 36.70A.5801;

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

12 (c) That the approval of a work plan adopted under RCW  
13 36.70A.735(1)(a) is not in compliance with the requirements of the  
14 program established under RCW 36.70A.710;

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

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

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

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

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

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

36 (5) When considering a possible adjustment to a growth management  
37 planning population projection prepared by the office of financial  
38 management, the board shall consider the implications of any such  
39 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. 6.** A new section is added to chapter 36.70A  
12 RCW to read as follows:

13 (1) Any city subject to the requirements under section 3 of this  
14 act may apply to the department for, and the department may certify,  
15 an extension of the implementation timelines established under  
16 section 3(6) 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, or  
19 stormwater services are currently deficient, or are expected to be  
20 deficient within the next five years, and for which the local  
21 government has established a plan of action that will remedy the  
22 deficiency in those services on a specific timeline. The department  
23 may certify no more than one additional extension of a city's  
24 remediation timeline.

25 (3) An application for an implementation timeline extension by a  
26 city must be filed with the department no later than 24 months  
27 following the effective date of this section.

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

30 **Sec. 7.** RCW 43.21C.495 and 2022 c 246 s 3 are each amended to  
31 read as follows:

32 (1) Adoption of ordinances, development regulations and  
33 amendments to such regulations, and other nonproject actions taken by  
34 a city to implement: The actions specified in section 2, chapter 246,  
35 Laws of 2022 unless the adoption of such ordinances, development  
36 regulations and amendments to such regulations, or other nonproject  
37 actions has a probable significant adverse impact on fish habitat;  
38 and the increased residential building capacity actions identified in

1 RCW 36.70A.600(1), with the exception of the action specified in RCW  
2 36.70A.600(1)(f), are not subject to administrative or judicial  
3 appeals under this chapter.

4 (2) Amendments to development regulations and other nonproject  
5 actions taken by a city to implement the requirements under section 3  
6 of this act pursuant to section 4(3)(b) of this act are not subject  
7 to administrative or judicial appeals under this chapter.

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

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

14 NEW SECTION. **Sec. 9.** A new section is added to chapter 64.34  
15 RCW to read as follows:

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

21 NEW SECTION. **Sec. 10.** A new section is added to chapter 64.32  
22 RCW to read as follows:

23 A declaration created after the effective date of this section  
24 and applicable to an association of apartment owners located within  
25 an area of a city subject to the middle housing requirements in  
26 section 3 of this act 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. 11.** A new section is added to chapter 64.38  
30 RCW to read as follows:

31 Governing documents of associations within cities subject to the  
32 middle housing requirements in section 3 of this act that are created  
33 after the effective date of this section may not actively or  
34 effectively prohibit the construction, development, or use of  
35 additional housing units as required in section 3 of this act.

1        NEW SECTION.    **Sec. 12.**    A new section is added to chapter 64.90  
2    RCW to read as follows:  
3        Declarations and governing documents of a common interest  
4    community within cities subject to the middle housing requirements in  
5    section 3 of this act that are created after the effective date of  
6    this section may not actively or effectively prohibit the  
7    construction, development, or use of additional housing units as  
8    required in section 3 of this act.

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