

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1110

Chapter 332, Laws of 2023

68th Legislature
2023 Regular Session

GROWTH MANAGEMENT ACT—MINIMUM DEVELOPMENT DENSITIES IN RESIDENTIAL
ZONES

EFFECTIVE DATE: July 23, 2023

Passed by the House April 18, 2023
Yeas 79 Nays 18

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate April 11, 2023
Yeas 35 Nays 14

DENNY HECK

President of the Senate

Approved May 8, 2023 1:11 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1110** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 10, 2023

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1110

AS AMENDED BY THE SENATE

Passed Legislature - 2023 Regular Session

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 a new section 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 crisis for its current population and
11 a lack of housing choices, and is not likely to meet the
12 affordability goals for future populations. In order to meet the goal
13 of 1,000,000 new homes by 2044, and enhanced quality of life and
14 environmental protection, innovative housing policies will need to be
15 adopted.

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

20 There is continued need for the development of housing at all
21 income levels, including middle housing that will provide a wider

1 variety of housing options and configurations to allow Washingtonians
2 to live near where they work.

3 Homes developed at higher densities are more affordable by design
4 for Washington residents both in their construction and reduced
5 household energy and transportation costs.

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

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

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

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

21 Unless the context clearly requires otherwise, the definitions in
22 this section apply throughout this chapter.

23 (1) "Administrative design review" means a development permit
24 process whereby an application is reviewed, approved, or denied by
25 the planning director or the planning director's designee based
26 solely on objective design and development standards without a public
27 predecision hearing, unless such review is otherwise required by
28 state or federal law, or the structure is a designated landmark or
29 historic district established under a local preservation ordinance. A
30 city may utilize public meetings, hearings, or voluntary review
31 boards to consider, recommend, or approve requests for variances from
32 locally established design review standards.

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

36 ((+2)) (3) "Affordable housing" means, unless the context
37 clearly indicates otherwise, residential housing whose monthly costs,
38 including utilities other than telephone, do not exceed thirty
39 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; or

31 (d) Stops on bus rapid transit routes.

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

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

39 (~~(18)~~) (23) "Moderate-income household" means a single person,
40 family, or unrelated persons living together whose adjusted income is

1 at or below 120 percent of the median household income adjusted for
2 household size, for the county where the household is located, as
3 reported by the United States department of housing and urban
4 development.

5 ~~((19))~~ (24) "Permanent supportive housing" is subsidized,
6 leased housing with no limit on length of stay that prioritizes
7 people who need comprehensive support services to retain tenancy and
8 utilizes admissions practices designed to use lower barriers to entry
9 than would be typical for other subsidized or unsubsidized rental
10 housing, especially related to rental history, criminal history, and
11 personal behaviors. Permanent supportive housing is paired with on-
12 site or off-site voluntary services designed to support a person
13 living with a complex and disabling behavioral health or physical
14 health condition who was experiencing homelessness or was at imminent
15 risk of homelessness prior to moving into housing to retain their
16 housing and be a successful tenant in a housing arrangement, improve
17 the resident's health status, and connect the resident of the housing
18 with community-based health care, treatment, or employment services.
19 Permanent supportive housing is subject to all of the rights and
20 responsibilities defined in chapter 59.18 RCW.

21 ~~((20))~~ (25) "Public facilities" include streets, roads,
22 highways, sidewalks, street and road lighting systems, traffic
23 signals, domestic water systems, storm and sanitary sewer systems,
24 parks and recreational facilities, and schools.

25 ~~((21))~~ (26) "Public services" include fire protection and
26 suppression, law enforcement, public health, education, recreation,
27 environmental protection, and other governmental services.

28 ~~((22))~~ (27) "Recreational land" means land so designated under
29 RCW 36.70A.1701 and that, immediately prior to this designation, was
30 designated as agricultural land of long-term commercial significance
31 under RCW 36.70A.170. Recreational land must have playing fields and
32 supporting facilities existing before July 1, 2004, for sports played
33 on grass playing fields.

34 ~~((23))~~ (28) "Rural character" refers to the patterns of land
35 use and development established by a county in the rural element of
36 its comprehensive plan:

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

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

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

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

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

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

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

12 ~~((24))~~ (29) "Rural development" refers to development outside
13 the urban growth area and outside agricultural, forest, and mineral
14 resource lands designated pursuant to RCW 36.70A.170. Rural
15 development can consist of a variety of uses and residential
16 densities, including clustered residential development, at levels
17 that are consistent with the preservation of rural character and the
18 requirements of the rural element. Rural development does not refer
19 to agriculture or forestry activities that may be conducted in rural
20 areas.

21 ~~((25))~~ (30) "Rural governmental services" or "rural services"
22 include those public services and public facilities historically and
23 typically delivered at an intensity usually found in rural areas, and
24 may include domestic water systems~~((7))~~ and fire and police
25 protection services~~((, transportation and public transit services,~~
26 ~~and other public utilities))~~ associated with rural development and
27 normally not associated with urban areas. Rural services do not
28 include storm or sanitary sewers, except as otherwise authorized by
29 RCW 36.70A.110(4).

30 ~~((26))~~ (31) "Short line railroad" means those railroad lines
31 designated class II or class III by the United States surface
32 transportation board.

33 ~~((27))~~ (32) "Single-family zones" means those zones where
34 single-family detached housing is the predominant land use.

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

38 (34) "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 (35) "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))~~ (36) "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))~~ (37) "Urban growth areas" means those areas designated
22 by a county pursuant to RCW 36.70A.110.

23 ~~((30))~~ (38) "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))~~ (39) "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 subsection (4) of this section, 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 based on office of financial management population estimates:

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

16 (ii) The development of at least four units per lot on all lots
17 zoned predominantly for residential use, unless zoning permitting
18 higher densities or intensities applies, within one-quarter mile
19 walking 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, unless zoning permitting
22 higher densities or intensities applies, if at least one unit is
23 affordable housing.

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

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

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

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

37 (c) For cities with a population of less than 25,000, that are
38 within a contiguous urban growth area with the largest city in a
39 county with a population of more than 275,000, based on office of

1 financial management population estimates the development of at least
2 two units per lot on all lots zoned predominantly for residential
3 use, unless zoning permitting higher densities or intensities
4 applies.

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

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

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

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

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

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

4 (i) Any areas within the city for which the department has
5 certified an extension of the implementation timelines under section
6 5 of this act due to the risk of displacement;

7 (ii) Any areas within the city for which the department has
8 certified an extension of the implementation timelines under section
9 7 of this act due to a lack of infrastructure capacity;

10 (iii) Any lots designated with critical areas or their buffers
11 that are exempt from the density requirements as provided in
12 subsection (8) of this section;

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

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

20 (c) Unless identified as at higher risk of displacement under RCW
21 36.70A.070(2)(g), the 25 percent of lots for which the requirements
22 of subsection (1) of this section are not implemented may not
23 include:

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

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

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

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

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

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

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

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

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

22 (e) Shall not require more than one off-street parking space per
23 unit as a condition of permitting development of middle housing on
24 lots smaller than 6,000 square feet before any zero lot line
25 subdivisions or lot splits;

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

30 (g) Are not required to achieve the per unit density under this
31 act on lots after subdivision below 1,000 square feet unless the city
32 chooses to enact smaller allowable lot 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 designated with critical areas designated under RCW
10 36.70A.170 or their buffers as required by RCW 36.70A.170;

11 (b) A watershed serving a reservoir for potable water if that
12 watershed is or was listed, as of the effective date of this section,
13 as impaired or threatened under section 303(d) of the federal clean
14 water act (33 U.S.C. Sec. 1313(d)); or

15 (c) Lots that have been designated urban separators by countywide
16 planning policies as of the effective date of this section.

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

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

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

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

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

32 (12) A city complying with this section and not granted a
33 timeline extension under section 7 of this act does not have to
34 update its capital facilities plan element required by RCW
35 36.70A.070(3) to accommodate the increased housing required by this
36 act until the first periodic comprehensive plan update required for
37 the city under RCW 36.70A.130(5) that occurs on or after June 30,
38 2034.

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

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

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

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

11 (b) In any city subject to section 3 of this act that has not
12 passed ordinances, regulations, or other official controls within the
13 time frames provided under section 3(11) of this act, the model
14 ordinance supersedes, preempts, and invalidates local development
15 regulations until the city takes all actions necessary to implement
16 section 3 of this act.

17 (3) (a) The department is directed to establish a process by which
18 cities implementing the requirements of section 3 of this act may
19 seek approval of alternative local action necessary to meet the
20 requirements of this act.

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

30 (i) Result in an overall increase in housing units allowed in
31 single-family zones that is at least 75 percent of the increase in
32 housing units allowed in single-family zones if the specific
33 provisions of this act were adopted;

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

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

38 (c) The department may also approve actions under this section
39 for cities that have, by January 1, 2023, adopted a comprehensive
40 plan or development regulations that have significantly reduced or

1 eliminated residentially zoned areas that are predominantly single
2 family. The department must find that a city's actions are
3 substantially similar to the requirements of this act if they have
4 adopted, or within one year of the effective date of this section
5 adopts, permanent development regulations that:

6 (i) Result in an overall increase in housing units allowed in
7 single-family zones that is at least 75 percent of the increase in
8 housing units allowed in single-family zones if the specific
9 provisions of this act were adopted;

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

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

14 (d) The department may determine that a comprehensive plan and
15 development regulations that do not meet these criteria are otherwise
16 substantially similar to the requirements of this act if the city can
17 clearly demonstrate that the regulations adopted will allow for a
18 greater increase in middle housing production within single family
19 zones than would be allowed through implementation of section 3 of
20 this act.

21 (e) Any local actions approved by the department pursuant to (a)
22 of this subsection to implement the requirements under section 3 of
23 this act are exempt from appeals under this chapter and chapter
24 43.21C RCW.

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

29 (4) The department may issue guidance for local jurisdictions to
30 ensure that the levels of middle housing zoning under this act can be
31 integrated with the methods used by cities to calculate zoning
32 densities and intensities in local zoning and development
33 regulations.

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

36 Any city choosing the alternative density requirements in section
37 3(4) of this act may apply to the department for, and the department
38 may certify, an extension for areas at risk of displacement as
39 determined by the antidisplacement analysis that a jurisdiction is

1 required to complete under RCW 36.70A.070(2). The city must create a
2 plan for implementing antidisplacement policies by their next
3 implementation progress report required by RCW 36.70A.130(9). The
4 department may certify one further extension based on evidence of
5 significant ongoing displacement risk in the impacted area.

6 **Sec. 6.** RCW 36.70A.280 and 2011 c 360 s 17 are each amended to
7 read as follows:

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

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

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

21 (c) That the approval of a work plan adopted under RCW
22 36.70A.735(1)(a) is not in compliance with the requirements of the
23 program established under RCW 36.70A.710;

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

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

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

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

38 (3) For purposes of this section "person" means any individual,
39 partnership, corporation, association, state agency, governmental

1 subdivision or unit thereof, or public or private organization or
2 entity of any character.

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

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

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

14 If adjusted by the board, a county growth management planning
15 population projection shall only be used for the planning purposes
16 set forth in this chapter and shall be known as the "board adjusted
17 population projection." None of these changes shall affect the
18 official state and county population forecasts prepared by the office
19 of financial management, which shall continue to be used for state
20 budget and planning purposes.

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

23 (1) Any city choosing the alternative density requirements in
24 section 3(4) of this act may apply to the department for, and the
25 department may certify, an extension of the implementation timelines
26 established under section 3(11) of this act.

27 (2) An extension certified under this section may be applied only
28 to specific areas where a city can demonstrate that water, sewer,
29 stormwater, transportation infrastructure, including facilities and
30 transit services, or fire protection services lack capacity to
31 accommodate the density required in section 3 of this act, and the
32 city has:

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

35 (b) Identified which special district is responsible for
36 providing the necessary infrastructure if the infrastructure is
37 provided by a special purpose district.

38 (3) If an extension of the implementation timelines is requested
39 due to lack of water supply from the city or the purveyors who serve

1 water within the city, the department's evaluation of the extension
2 must be based on the applicable water system plans in effect and
3 approved by the department of health. Water system plan updates
4 initiated after the effective date of this section must include
5 consideration of water supply requirements for middle housing types.

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

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

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

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

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

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

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

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

34 (9) If an area zoned predominantly for residential use is
35 currently served only by private wells, group B water systems or
36 group A water systems with less than 50 connections, or a city or
37 water providers within the city do not have an adequate water supply
38 or available connections to serve the zoning increase required under
39 section 3 of this act, the city may limit the areas subject to the
40 requirements under section 3 of this act to match current water

1 availability. Nothing in this act affects or modifies the
2 responsibilities of cities to plan for or provide urban governmental
3 services as defined in RCW 36.70A.030 or affordable housing as
4 required by RCW 36.70A.070.

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

8 (11) If an area zoned predominantly for residential use is
9 currently served only by on-site sewage systems, development may be
10 limited to two units per lot, until either the landowner or local
11 government provides sewer service or demonstrates a sewer system will
12 serve the development at the time of construction. Nothing in this
13 act affects or modifies the responsibilities of cities to plan for or
14 provide urban governmental services as defined in RCW 36.70A.030.

15 **Sec. 8.** RCW 43.21C.495 and 2022 c 246 s 3 are each amended to
16 read as follows:

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

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

31 **Sec. 9.** RCW 43.21C.450 and 2012 1st sp.s. c 1 s 307 are each
32 amended to read as follows:

33 The following nonproject actions are categorically exempt from
34 the requirements of this chapter:

35 (1) Amendments to development regulations that are required to
36 ensure consistency with an adopted comprehensive plan pursuant to RCW
37 36.70A.040, where the comprehensive plan was previously subjected to
38 environmental review pursuant to this chapter and the impacts

1 associated with the proposed regulation were specifically addressed
2 in the prior environmental review;

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

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

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

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

16 (c) Increased vegetation retention or decreased impervious
17 surface areas in critical areas;

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

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

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

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

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

27 NEW SECTION. Sec. 10. A new section is added to chapter 64.34
28 RCW to read as follows:

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

34 NEW SECTION. Sec. 11. A new section is added to chapter 64.32
35 RCW to read as follows:

36 A declaration created after the effective date of this section
37 and applicable to an association of apartment owners located within
38 an area of a city subject to the middle housing requirements in

1 section 3 of this act may not actively or effectively prohibit the
2 construction, development, or use of additional housing units as
3 required in section 3 of this act.

4 NEW SECTION. **Sec. 12.** A new section is added to chapter 64.38
5 RCW to read as follows:

6 Governing documents of associations within cities subject to the
7 middle housing requirements in section 3 of this act that are created
8 after the effective date of this section may not actively or
9 effectively prohibit the construction, development, or use of
10 additional housing units as required in section 3 of this act.

11 NEW SECTION. **Sec. 13.** A new section is added to chapter 64.90
12 RCW to read as follows:

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

19 NEW SECTION. **Sec. 14.** The department of commerce may establish
20 by rule any standards or procedures necessary to implement sections 2
21 through 7 of this act.

22 NEW SECTION. **Sec. 15.** If specific funding for the purposes of
23 this act, referencing this act by bill or chapter number, is not
24 provided by June 30, 2023, in the omnibus appropriations act, this
25 act is null and void.

Passed by the House April 18, 2023.
Passed by the Senate April 11, 2023.
Approved by the Governor May 8, 2023.
Filed in Office of Secretary of State May 10, 2023.

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