

# HOUSE BILL REPORT

## HB 1110

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**As Reported by House Committee On:**  
Housing

**Title:** An act relating to creating more homes for Washington by increasing middle housing in areas traditionally dedicated to single-family detached housing.

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

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

**Brief History:**

**Committee Activity:**

Housing: 1/17/23, 2/7/23 [DPS].

**Brief Summary of Substitute Bill**

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

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### HOUSE COMMITTEE ON HOUSING

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Peterson, Chair; Alvarado, Vice Chair; Leavitt, Vice Chair; Barkis, Bateman, Chopp, Low, Reed and Taylor.

**Minority Report:** Without recommendation. Signed by 3 members: Representatives

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

Klicker, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Hutchins.

**Staff:** Serena Dolly (786-7150).

## **Background:**

### Growth Management Act.

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

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

### Comprehensive Plans.

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

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

### Mandatory Housing Element.

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

- an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth, as projected by the Department of Commerce (Commerce), including:
  - units for moderate-, low-, very low-, and extremely low-income households;  
and
  - emergency housing, emergency shelters, and permanent supportive housing;

- a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing;
- identification of sufficient capacity of land for various housing including government-assisted housing, housing for all levels of income, manufactured housing, and permanent supporting housing, and within a UGA, consideration of duplexes, triplexes, and townhomes;
- adequate provisions for existing and projected needs of all economic segments of the community, including:
  - incorporating housing for households of all income levels;
  - documenting programs and actions needed to achieve housing availability;
  - consideration of housing locations in relation to employment locations; and
  - consideration of the role of accessory dwelling units (ADUs) in meeting housing needs;
- identification of local policies and regulations that result in racially disparate impacts, displacement, and exclusion of housing;
- identification and implementation of policies and regulations to address and begin to undo racially disparate impacts, displacement, and exclusion of housing;
- identification of neighborhoods that may be at higher risk of displacement from market forces; and
- establishment of antidisplacement policies.

#### Planning Actions to Increase Residential Building Capacity.

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

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

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

### Technical Assistance and Funding.

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

### Homeowners' Associations and Common Interest Communities.

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

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

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

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### **Summary of Substitute Bill:**

#### Density Requirements.

Fully planning cities meeting population criteria must authorize the development of a minimum number of units on all lots zoned predominantly for residential use. A fully planning city with a population of at least 25,000, but less than 75,000, must allow:

- at least two units per lot;
- at least four units per lot within .5 miles walking distance of a major transit stop or community amenity; and
- at least four units per lot if at least one unit is affordable housing.

A fully planning city with a population of at least 75,000, and any city within a contiguous UGA with a city with a population above 200,000, must allow:

- at least four units per lot;
- at least six units per lot within .5 miles walking distance of a major transit stop or

- community amenity; and
- at least six units per lot if at least two units are affordable housing.

Cities must allow any combination of middle housing types to be allowed to achieve the required unity density.

To qualify as affordable housing, the unit must be maintained as affordable for at least 50 years and record a covenant or deed restriction that ensures continued affordability. The square footage of the units dedicated as affordable must be equal to the average square footage of the market-rate units on the same lot.

A major transit stop includes:

- a stop on a high-capacity transportation system;
- commuter rail stops;
- stops on rail or fixed guideway systems; and
- stops on bus rapid transit routes.

A community amenity is defined as a public, common, or private school or a designated entrance or pedestrian access point to a park operated by the state or a local government for the use of the general public.

#### Antidisplacement Measures.

A city may apply to Commerce for an extension for areas at risk of displacement as determined by the antidisplacement analysis that a jurisdiction is required to complete under the mandatory housing element of the comprehensive plan. The city must create a plan for implementing antidisplacement policies by their next five-year implementation progress report.

#### Middle Housing Requirements.

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

- must adopt objective development and design standards on the development of middle housing that do not allow personal or subjective judgment and do not discourage the development of middle housing through unreasonable costs, fees, delays, or other requirements or actions which individually or cumulatively make impracticable the permitting, siting, or construction of all allowed middle housing types or the ownership of a middle housing unit;
- may not require standards for middle housing that are more restrictive than those required for detached single-family residences;
- must apply to middle housing the same development permit and environmental

- review processes that apply to detached single-family residences;
- must apply to middle housing the same critical areas regulations that apply to detached single-family residences;
- may not require off-street parking as a condition of permitting development of middle housing within .5 miles of a major transit stop;
- may not require more than one off-street parking space per unit as a condition of permitting development of middle housing on lots smaller than 6,000 square feet; and
- may not require more than two off-street parking spaces per unit as a condition of permitting development of middle housing on lots greater than 6,000 square feet.

The density and middle housing requirements take effect the latter of six months after a city's next required comprehensive plan update or 12 months after OFM determines a city has reached a population threshold under this section.

The limits on off-street parking requirements do not apply if a city or county makes a determination, supported by empirical evidence and best practices in a study that is prepared by a credentialed transportation or land use planning expert, that the lack of minimum parking requirements in a defined area would make on-street parking infeasible or unsafe for the authorized units. Commerce must develop guidance to assist cities on items to include in the parking study.

#### Technical Assistance.

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

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

#### Alternative Local Action.

Commerce may approve actions for cities that have, by the effective date of this bill, adopted a comprehensive plan and development regulations that are substantially similar to the requirements of this bill. In determining whether an alternative local action is substantially similar, Commerce must view favorably plans and regulations that authorize an overall increase in density throughout the city, in units allowed per single-family lot, that is at least 75 percent of the overall single-family density throughout the city, in units allowed per lot, if the specific provisions of the bill were adopted.

#### Extensions.

Cities may apply for extensions of the timelines established. Extensions may only be applied to specific areas where a city can demonstrate that water, sewer, or stormwater services lack capacity to accommodate the increased density, and the city has:

- included an improvement within its capital facilities plan to increase capacity; or
- identified which special district is responsible for providing the necessary infrastructure, if the infrastructure is provided by a special purpose district.

A granted extension remains in effect until one of the following occurs:

- the infrastructure is improved to accommodate the capacity;
- the city completes its next periodic comprehensive plan update; or
- the city submits its next five-year implementation progress report for their comprehensive plan.

A city may apply for an additional extension with its next periodic comprehensive plan update or five-year implementation progress report. The extension application must include a list of infrastructure improvements necessary to meet the required capacity. Commerce must provide the Legislature with a list of those projects identified in a city's capital facilities plan that were the basis for the extension. A city with an extension for a specific area must allow the required density of development if the developer commits to providing the necessary infrastructure.

#### Homeowners' Associations and Common Interest Communities.

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

#### **Substitute Bill Compared to Original Bill:**

The substitute bill modifies the minimum density requirements and population thresholds as follows:

- Cities with a population of at least 25,000 but less than 75,000 must authorize, on all lots zoned predominantly for residential use, the development of:
  - at least two units per lot;
  - at least four units per lot within .5 miles walking distance of a major transit stop or community amenity; and
  - at least four units per lot if at least one unit is affordable.
- Cities with a population of at least 75,000, and any city within a contiguous UGA with a city with a population above 200,000, must authorize, on all lots zoned predominantly for residential use, the development of:
  - at least four units per lot;
  - at least six units per lot within .5 miles walking distance of a major transit stop or community amenity; and
  - at least six units per lot if at least two units are affordable.



The substitute bill removes Washington State ferry terminals and a stop for a bus with minimum service requirements from the definition of major transit stop. The substitute bill also adds the term community amenity, which is defined as a public, common, or private school or a designated entrance or pedestrian access point to a park operated by the state or a local government for the use of the general public.

The substitute bill requires any combination of middle housing types to be allowed to achieve the required unit density and requires the square footage of units dedicated as affordable to be equal to the average square footage of the market-rate units on the same lot.

The substitute bill modifies the maximum parking that may be required for middle housing to one or two off-street parking spaces per unit, instead of per lot, and provides an exemption from the parking provisions if the city or county makes a determination, supported by empirical evidence and best practices in a study that is prepared by a credentialed transportation or land use planning expert, that the lack of minimum parking requirements in a defined area would make on-street parking infeasible or unsafe for the authorized units. The substitute bill also requires Commerce to develop guidance to assist cities on items to include in the parking study.

The substitute bill changes the deadline by which cities currently meeting the population thresholds must comply with the minimum density requirements to six months after a city's next required comprehensive plan update, instead of 24 months after the effective date of this bill.

The substitute bill exempts population associated with permits for middle housing units from the threshold of an OFM population projection to a county or a county population allocation to a city.

The substitute bill requires Commerce to publish model middle housing ordinances no later than six months after the effective date of this bill, instead of 18 months after the effective date of this bill.

The substitute bill specifies the criteria by which Commerce may approve alternative local actions to determine compliance with minimum density requirements, including viewing favorably plans and regulations that authorize an overall increase in density throughout the city, in units allowed per single-family lot, that is at least 75 percent of the overall single-family density throughout the city that is required under this bill.

The substitute bill allows cities to apply to Commerce for an extension in implementing the bill's requirements in areas at risk of displacement and removes provisions related to the antidisplacement measures in the mandatory housing element.

The substitute bill modifies requirements for cities to receive an initial and subsequent



extension for water, sewer, or stormwater deficiencies, including requiring a city to include any needed improvements in its capital facilities plan to increase capacity or identify which special district is responsible for providing needed infrastructure. The substitute bill also requires Commerce to provide the Legislature with a list of those projects identified in a city's capital facilities plan that were the basis for the extension under this section.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) The housing shortage is creating a housing crisis. The state needs 1 million new homes in the next 20 years, half of which need to be affordable at 30 to 50 percent of area median income. Working families are being priced out of the housing market, and the housing shortage is disproportionately impacting people of color. Homeownership for first time homebuyers is only affordable in three counties. Students also need walkable housing and communities. This bill will help us bring homeless people inside. There is no single solution to the housing shortage, but it has to get easier to build new housing. Builders are ready to build. Eliminating volunteer design review boards will help reduce the time it takes to get a permit. This policy is the fastest and most scalable way to increase housing production. Many people are better served by housing that is not single-family, but one study found that middle housing is prohibited on 75 percent of city land. Some cities have already implemented middle housing provisions, but every jurisdiction needs to do its part to tackle the housing shortage. It is less costly for cities to accommodate growth in a smaller, dense area. Even with growth management, cities are continuing to grow onto some of the state's best farmland. Middle housing reduces vehicle miles travelled and emissions.

(Opposed) None.

(Other) Cities are ready to support a bill with minimum density requirements and believe density requirements should be centered on certain amenities, such as transit, parks, and schools. The uniform application of requirements does not recognize the uniqueness of each city. The parking requirements will create many issues. Even in Seattle, 81 percent of households have cars. Some cities are trying to eliminate the number of cars on the road but are not well-served by transit agencies. More people would just create more traffic. The bill needs some technical changes. Using the same environmental permitting process as single-family housing will put cities out of compliance with shoreline permitting and environmental regulations. Applying middle housing provisions to common interest

communities is unconstitutional, and they do not have the infrastructure to accommodate middle housing.

**Persons Testifying:** (In support) Representative Jessica Bateman, prime sponsor; Adán Mendoza-Sandoval, Associated Students of Central Washington University; Dani Madrone, American Farmland Trust; Alex Hur, Master Builders Association of King and Snohomish Counties; Jacob Vigdor; Brent Ludeman, Building Industry Association of Washington; Dave Andersen and Joe Tovar, Washington Department of Commerce; Michele Thomas, Washington Low Income Housing Alliance; Hugo Garcia; Mike Ennis, Association of Washington Business; Bryce Yadon, Futurewise; Leah Missik, Climate Solutions; Jesse Piedfort, Sierra Club; Girmay Zahilay; Zack Zappone, City of Spokane; Rachel Smith, Seattle Metropolitan Chamber of Commerce; Andrea Reay, Tacoma-Pierce County Unity Chamber; Bill Clarke, Washington Realtors; Sophia Bowton-Meade; and Kerri Woehler, Washington State Department of Transportation.

(Other) Carl Schroeder, Association of Washington Cities; Arne Woodard, City of Spokane Valley; Jason Sullivan, City of Bonney Lake; and Dean Martin, Washington State Chapter of Community Association Institute.

**Persons Signed In To Testify But Not Testifying:** More than 20 persons signed in. Please see committee staff for information.

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**SUBSTITUTE HOUSE BILL 1110**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** House Housing (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 02/13/23.

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

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

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

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

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

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

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

~~((5))~~ (6) "Community amenity" means:

(a) A public school as defined in RCW 28A.150.010, a common school as defined in RCW 28A.150.020, or a private school approved under RCW 28A.195.010; or

(b) A designated entrance or pedestrian access point to a park operated by the state or a local government for the use of the general public.

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

~~((6))~~ (8) "Cottage housing" means detached dwelling units arranged on two or more sides of a landscaped central area.

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

(10) "Critical areas" include the following areas and ecosystems:

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

1       (~~((7))~~) (11) "Department" means the department of commerce.

2       (~~((8))~~) (12) "Development regulations" or "regulation" means the  
3 controls placed on development or land use activities by a county or  
4 city, including, but not limited to, zoning ordinances, critical  
5 areas ordinances, shoreline master programs, official controls,  
6 planned unit development ordinances, subdivision ordinances, and  
7 binding site plan ordinances together with any amendments thereto. A  
8 development regulation does not include a decision to approve a  
9 project permit application, as defined in RCW 36.70B.020, even though  
10 the decision may be expressed in a resolution or ordinance of the  
11 legislative body of the county or city.

12       (~~((9))~~) (13) "Emergency housing" means temporary indoor  
13 accommodations for individuals or families who are homeless or at  
14 imminent risk of becoming homeless that is intended to address the  
15 basic health, food, clothing, and personal hygiene needs of  
16 individuals or families. Emergency housing may or may not require  
17 occupants to enter into a lease or an occupancy agreement.

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

24       (~~((11))~~) (15) "Extremely low-income household" means a single  
25 person, family, or unrelated persons living together whose adjusted  
26 income is at or below thirty percent of the median household income  
27 adjusted for household size, for the county where the household is  
28 located, as reported by the United States department of housing and  
29 urban development.

30       (~~((12))~~) (16) "Forestland" means land primarily devoted to  
31 growing trees for long-term commercial timber production on land that  
32 can be economically and practically managed for such production,  
33 including Christmas trees subject to the excise tax imposed under RCW  
34 84.33.100 through 84.33.140, and that has long-term commercial  
35 significance. In determining whether forestland is primarily devoted  
36 to growing trees for long-term commercial timber production on land  
37 that can be economically and practically managed for such production,  
38 the following factors shall be considered: (a) The proximity of the  
39 land to urban, suburban, and rural settlements; (b) surrounding  
40 parcel size and the compatibility and intensity of adjacent and

1 nearby land uses; (c) long-term local economic conditions that affect  
2 the ability to manage for timber production; and (d) the availability  
3 of public facilities and services conducive to conversion of  
4 forestland to other uses.

5 ~~((13))~~ (17) "Freight rail dependent uses" means buildings and  
6 other infrastructure that are used in the fabrication, processing,  
7 storage, and transport of goods where the use is dependent on and  
8 makes use of an adjacent short line railroad. Such facilities are  
9 both urban and rural development for purposes of this chapter.  
10 "Freight rail dependent uses" does not include buildings and other  
11 infrastructure that are used in the fabrication, processing, storage,  
12 and transport of coal, liquefied natural gas, or "crude oil" as  
13 defined in RCW 90.56.010.

14 ~~((14))~~ (18) "Geologically hazardous areas" means areas that  
15 because of their susceptibility to erosion, sliding, earthquake, or  
16 other geological events, are not suited to the siting of commercial,  
17 residential, or industrial development consistent with public health  
18 or safety concerns.

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

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

30 ~~((17))~~ (21)(a) "Major transit stop," except as provided in (b)  
31 of this subsection, means:

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

34 (ii) Commuter rail stops;

35 (iii) Stops on rail or fixed guideway systems, including  
36 transitways; or

37 (iv) Stops on bus rapid transit routes.

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

10 ~~((18))~~ (24) "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))~~ (25) "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))~~ (26) "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))~~ (27) "Public services" include fire protection and  
37 suppression, law enforcement, public health, education, recreation,  
38 environmental protection, and other governmental services.

39 ~~((22))~~ (28) "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+))~~ (29) "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+))~~ (30) "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+))~~ (31) "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+))~~ (32) "Short line railroad" means those railroad lines  
2 designated class II or class III by the United States surface  
3 transportation board.

4       ~~((+27+))~~ (33) "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       (34) "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+))~~ (35) "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+))~~ (36) "Urban growth areas" means those areas designated  
29 by a county pursuant to RCW 36.70A.110.

30       ~~((+30+))~~ (37) "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+))~~ (38) "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 that is required or chooses to plan under RCW  
14 36.70A.040 must provide by ordinance and incorporate into its  
15 development regulations, zoning regulations, and other official  
16 controls, authorization for the following:

17 (a) For cities with a population of at least 25,000 but less than  
18 75,000 based on office of financial management population estimates:

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

21 (ii) The development of at least four units per lot on all lots  
22 zoned predominantly for residential use within one-half mile walking  
23 distance of a major transit stop or community amenity; and

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

27 (b) For cities with a population of at least 75,000, or any city  
28 within a contiguous urban growth area with a city with a population  
29 above 200,000, based on office of financial management population  
30 estimates:

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

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

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

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

17      (3) Any combination of middle housing types must be allowed to  
18      achieve the unit density required in subsection (1) of this section.

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

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

22          (b) May only apply administrative design review;

23          (c) Except as provided in (a) of this subsection, shall not  
24          require through development regulations any standards for middle  
25          housing that are more restrictive than those required for detached  
26          single-family residences;

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

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

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

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

4 (5) The provisions of subsection (4)(e) through (g) of this  
5 section do not apply if the city or county makes a determination,  
6 supported by empirical evidence and best practices in a study that is  
7 prepared by a credentialed transportation or land use planning  
8 expert, that the lack of minimum parking requirements in a defined  
9 area would make on-street parking infeasible or unsafe for the  
10 authorized units. The department must develop guidance to assist  
11 cities on items to include in the study.

12 (6) The provisions of this section do not apply to lots  
13 designated with critical areas or their buffers as designated in RCW  
14 36.70A.060.

15 (7) Nothing in this section prohibits a city from permitting  
16 detached single-family residences.

17 (8) A city must comply with the requirements of this section on  
18 the latter of:

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

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

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

26 Population associated with permits for middle housing units are  
27 exempt from the threshold of an office of financial management  
28 population projection to a county or a county population allocation  
29 to a city.

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

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

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

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

4 (b) In any city subject to section 3 of this act that has not  
5 passed ordinances, regulations, or other official controls within the  
6 time frames provided under section 3(8) of this act, the model  
7 ordinance supersedes, preempts, and invalidates local development  
8 regulations until the city takes all actions necessary to implement  
9 section 3 of this act.

10 (3)(a) The department is directed to establish a process by which  
11 cities implementing the requirements of section 3 of this act may  
12 seek approval of alternative local action necessary to meet the  
13 requirements of this act.

14 (b) The department may approve actions for cities that have, by  
15 the effective date of this section, adopted a comprehensive plan and  
16 development regulations that are substantially similar to the  
17 requirements of this act. In determining whether a city's adopted  
18 comprehensive plan and permanent development regulations are  
19 substantially similar, the department must view favorably plans and  
20 regulations that authorize an overall increase in density throughout  
21 the city in units allowed per single-family lot that is at least 75  
22 percent of the overall single-family density throughout the city in  
23 units allowed per lot, if the specific provisions of this act were  
24 adopted.

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

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

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

35 Any city subject to the requirements of section 3 of this act may  
36 apply to the department for, and the department may certify, an  
37 extension for areas at risk of displacement as determined by the  
38 antidisplacement analysis that a jurisdiction is required to complete  
39 under RCW 36.70A.070(2). The city must create a plan for implementing



antidisplacement policies by their next implementation progress report required by RCW 36.70A.130(9).

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

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

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

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

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

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

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

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

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

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

(4) To establish participation standing under subsection (2)(b) of this section, a person must show that his or her participation

1 before the county or city was reasonably related to the person's  
2 issue as presented to the board.

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

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

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

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

19 (1) Any city subject to the requirements under section 3 of this  
20 act may apply to the department for, and the department may certify,  
21 an extension of the implementation timelines established under  
22 section 3(8) of this act.

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

27 (a) Included an improvement within its capital facilities plan to  
28 increase capacity; or

29 (b) Identified which special district is responsible for  
30 providing the necessary infrastructure, if the infrastructure is  
31 provided by a special purpose district.

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

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

35 (b) The city completes its next periodic comprehensive plan  
36 update under RCW 36.70A.130; or

37 (c) The city submits its implementation progress report to the  
38 department as required under RCW 36.70A.130(9).

1 (4) A city that has received an extension under this section may  
2 reapply for any needed extension with its next periodic comprehensive  
3 plan update under RCW 36.70A.130 or its implementation progress  
4 report to the department under RCW 36.70A.130(9). The application for  
5 an additional extension must include a list of infrastructure  
6 improvements necessary to meet the capacity required in section 3 of  
7 this act.

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

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

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

20 **Sec. 9.** RCW 43.21C.495 and 2022 c 246 s 3 are each amended to  
21 read as follows:

22 (1) Adoption of ordinances, development regulations and  
23 amendments to such regulations, and other nonproject actions taken by  
24 a city to implement: The actions specified in section 2, chapter 246,  
25 Laws of 2022 unless the adoption of such ordinances, development  
26 regulations and amendments to such regulations, or other nonproject  
27 actions has a probable significant adverse impact on fish habitat;  
28 and the increased residential building capacity actions identified in  
29 RCW 36.70A.600(1), with the exception of the action specified in RCW  
30 36.70A.600(1)(f), are not subject to administrative or judicial  
31 appeals under this chapter.

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

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

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

5 NEW SECTION. **Sec. 11.** A new section is added to chapter 64.34  
6 RCW to read as follows:

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

12 NEW SECTION. **Sec. 12.** A new section is added to chapter 64.32  
13 RCW to read as follows:

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

20 NEW SECTION. **Sec. 13.** A new section is added to chapter 64.38  
21 RCW to read as follows:

22 Governing documents of associations within cities subject to the  
23 middle housing requirements in section 3 of this act that are created  
24 after the effective date of this section may not actively or  
25 effectively prohibit the construction, development, or use of  
26 additional housing units as required in section 3 of this act.

27 NEW SECTION. **Sec. 14.** A new section is added to chapter 64.90  
28 RCW to read as follows:

29 Declarations and governing documents of a common interest  
30 community within cities subject to the middle housing requirements in  
31 section 3 of this act that are created after the effective date of  
32 this section may not actively or effectively prohibit the  
33 construction, development, or use of additional housing units as  
34 required in section 3 of this act.

--- END ---

# HOUSE BILL REPORT

## HB 1245

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**As Reported by House Committee On:**  
Housing

**Title:** An act relating to increasing housing options through lot splitting.

**Brief Description:** Increasing housing options through lot splitting.

**Sponsors:** Representatives Barkis, Robertson, Wylie, Fitzgibbon, Peterson, Walsh, Chambers, Kloba, Gregerson, Graham, Waters, Reed, Walen, Christian, Riccelli, Macri, Bateman and Doglio.

**Brief History:**

**Committee Activity:**

Housing: 1/26/23, 2/2/23 [DPS].

**Brief Summary of Substitute Bill**

- Requires cities to allow the splitting of a single residential lot if specific conditions are met.
- Prohibits cities from imposing certain regulations on a residential lot that is the result of a lot split.

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### HOUSE COMMITTEE ON HOUSING

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Peterson, Chair; Alvarado, Vice Chair; Leavitt, Vice Chair; Klicker, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Barkis, Bateman, Chopp, Entenman, Hutchins, Low, Reed and Taylor.

**Staff:** Serena Dolly (786-7150).

**Background:**

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

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

Counties that fully plan under the GMA must designate urban growth areas (UGAs), within which urban growth must be encouraged and outside of which growth may occur only if it is not urban in nature. Each city in a county must be included in a UGA. Planning jurisdictions must include within their UGAs sufficient areas and densities to accommodate projected urban growth for the succeeding 20-year period.

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

Each comprehensive plan must include a plan, scheme, or design for certain mandatory elements, including a housing element. The housing element must ensure the vitality and character of established residential neighborhoods.

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### **Summary of Substitute Bill:**

By July 1, 2024, cities planning under the GMA may not prohibit, within a residential zone that allows for the development of detached single-family residences, the splitting of a single residential lot into two residential lots if:

- the resulting lots are at least 1,500 square feet;
- the resulting lots are at least 40 percent of the size of the original lot;
- the original lot was not created by splitting a single residential lot authorized by this act;
- the lot split would not require demolition or alteration of any housing that is rent restricted, rent subsidized, or that has been occupied by a tenant paying market-rate rent within the preceding 12 months;
- minimum review standards for subdivisions are met; and
- any construction on the resulting lots is subject to all existing state and local laws except for those outlined in this act.

A fully planning city also may not impose regulations on a residential lot that is the result of splitting a single lot that:

- requires more than one off-street parking space per lot;
- requires more than 20 feet of frontage width per lot;

- requires easement widths of more than four feet for access to rear lots, unless site-specific conditions, such as access to utilities, require wider easements ;
- imposes permitting requirements, design standards, or impact fees on construction on a lot resulting from a lot split that are greater than those imposed on new residential construction generally within the same zone; or
- imposes requirements for dedications of rights-of-way or for the construction of off-site improvements, unless site specific conditions require otherwise .

Any conflicting provisions in local development regulations after July 1, 2024, are superseded, preempted, and invalidated.

### **Substitute Bill Compared to Original Bill:**

The original bill prohibited a city from requiring easement widths of more than four feet for access to rear lots. The substitute bill clarifies that cities may require wider easements if required by site-specific conditions, such as access to utilities.

The original bill also prohibited a city from imposing requirements for dedications of rights-of-way or for the construction of off-site improvements. The substitute bill allows exceptions for site-specific conditions.

The original bill specified any construction on lots resulting from a split was subject to all existing state and local laws regarding stormwater runoff, critical areas, shorelines, and conservation areas. The substitute bill removes references to specific types of laws and specifies that the construction is subject to all existing state and local laws, except for the provisions outlined in this act.

The substitute bill requires all lots resulting from a split to meet existing minimum review standards for subdivisions.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

### **Staff Summary of Public Testimony:**

(In support) In this housing crisis, we need lots of options. New homes are unaffordable to families buying their first homes. Large lot sizes encourage builders to focus on larger houses. Lot splitting can be a major source of housing supply. Splitting residential lots allows for the creation of more homes, smaller homes, less expensive homes, and



intergenerational homes. While it is sometimes possible to split a lot now, this bill removes some of the processes and prohibitions.

(Opposed) None.

(Other) This is a comprehensive change to local land use regulations, and it is not feasible for all jurisdictions to make the changes in the time frame provided.

**Persons Testifying:** (In support) Representative Andrew Barkis, prime sponsor; Sol Villarreal; and Josie Cummings, Building Industry Association of Washington.

(Other) Salim Furth, The Mercatus Center at George Mason University; and Luke Esser, City of Mercer Island.

**Persons Signed In To Testify But Not Testifying:** Dan Bertolet, Sightline Institute; Ryan Donohue, Habitat for Humanity Seattle-King and Kittitas Counties; Bryan Kirschner; and Cathy MacCaul, American Association of Retired Persons Washington State.

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**SUBSTITUTE HOUSE BILL 1245**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** House Housing (originally sponsored by Representatives Barkis, Robertson, Wylie, Fitzgibbon, Peterson, Walsh, Chambers, Kloba, Gregerson, Graham, Waters, Reed, Walen, Christian, Riccelli, Macri, Bateman, and Doglio)

READ FIRST TIME 02/06/23.

1       AN ACT Relating to increasing housing options through lot  
2     splitting; adding a new section to chapter 36.70A RCW; and creating a  
3     new section.

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

5       NEW SECTION.     **Sec. 1.**   The legislature finds that allowing an  
6     existing residential lot to be split into two lots can offer many  
7     advantages to both the existing homeowner and to prospective  
8     homebuyers. Lot splitting can provide current owners the opportunity  
9     to maintain homeownership in changing life circumstances, while also  
10    providing new homebuyers with a more affordable ownership  
11    opportunity. Additionally, lot splitting will provide additional  
12    opportunities for sales to affordable housing providers or  
13    homeownership facilitators that may be exempt from state real estate  
14    excise tax under chapter 82.45 RCW. Therefore, it is the intent of  
15    the legislature to ease restrictions on, and expand opportunities  
16    for, lot splitting in cities planning under chapter 36.70A RCW, the  
17    growth management act.

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

1 (1)(a) Cities planning under this chapter must adopt or amend by  
2 ordinance, and incorporate into their development regulations, zoning  
3 regulations, and other official controls the requirements of  
4 subsection (2) of this section by July 1, 2024, to apply within the  
5 city's urban growth area.

6 (b) Beginning July 1, 2024, the requirements of subsection (2) of  
7 this section apply and take effect in any city that has not adopted  
8 or amended ordinances, regulations, or other official controls as  
9 required under this section and supersede, preempt, and invalidate  
10 any conflicting local development regulations.

11 (2) Through ordinances, development regulations, zoning  
12 regulations, and other official controls as required under subsection  
13 (1) of this section, cities may not:

14 (a) Prohibit, within a residential zone that allows for the  
15 development of detached single-family residences, the splitting of a  
16 single residential lot into two residential lots if the following  
17 conditions are met:

18 (i) The resulting lots are at least 1,500 square feet;

19 (ii) The resulting lots are at least 40 percent of the size of  
20 the original lot;

21 (iii) The resulting lots are consistent with the minimum review  
22 standards under chapter 58.17 RCW;

23 (iv) The original lot was not created through the splitting of a  
24 single residential lot authorized by this section; and

25 (v) The lot split would not require demolition or alteration of  
26 any housing that is rent restricted, rent subsidized, or that has  
27 been occupied by a tenant paying market-rate rent within the  
28 preceding 12 months;

29 (b) Impose regulations on a residential lot that is the result of  
30 a lot split that:

31 (i) Require more than one off-street parking space per lot;

32 (ii) Require more than 20 feet of frontage width per lot;

33 (iii) Require easement widths of more than four feet for access  
34 to rear lots unless site-specific conditions, such as access to  
35 utilities, require wider easements;

36 (iv) Impose permitting requirements, design standards, or impacts  
37 fees on construction on a lot resulting from a lot split that are  
38 greater than those imposed on new residential construction generally  
39 within the same zone; or

1       (v) Impose requirements for dedications of rights-of-way or for  
2 the construction of off-site improvements unless site-specific  
3 conditions require otherwise.

4       (3) Any construction on the resulting lots is subject to all  
5 existing state and local laws except for the provisions specified in  
6 subsection (2) of this section.

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