

**Proposed Substitute House Bill 1782
H-2474.1/22**

By Representative Pollet

**Relating to Creating Additional Middle Housing Near Transit in Areas Traditionally Dedicated to
Single-Family Detached Housing**

Brief Summary of the original version of HB 1782:

- Requires cities planning under the Growth Management Act to authorize middle housing types or average minimum densities near transit based on the population of the city.
- Requires the Department of Commerce to provide technical assistance to cities authorizing middle housing types or average minimum densities and to develop model middle housing ordinances.

The proposed substitute makes the following changes to the underlying bill:

- Adds and amends definitions.
- Adds additional requirements to the technical assistance that must be provided by the Department of Commerce.
- Allows the Department of Commerce to contract with a public or nonprofit agency to provide technical assistance and establish funding levels for grants.
- Requires the Department of Commerce to make planners and department regulations specialists available to assist in the development of comprehensive plans and development regulations.
- Requires the land use element of the comprehensive plan to include a built environment sub-element.
- Adds additional requirements for jurisdictions planning under the Growth Management Act related to increased economic and racial integration and antidisplacement measures.
- Requires jurisdictions to allow subdivision of lots within their comprehensive plans to increase the supply of affordable housing to lower- and middle-income residents.
- Requires cities that have identified infrastructure deficiencies to include actions necessary to remedy the deficiency as part of the capital facilities element of the comprehensive plan.
- Changes the population thresholds for middle housing and minimum density requirements.
- Requires cities planning under the Growth Management Act with a population of at least 20,000 to:
 - authorize the development of all middle housing types on certain lots within one half mile of a major transit stop;
 - authorize duplexes and attached and detached accessory dwelling units on all lots of a certain size zoned for detached single-family residential use, with triplexes authorized on corner lots of a certain size; or
 - allow specific minimum net densities as an alternative to requiring certain middle housing types.

- Requires cities with a population between 10,000 and 20,000 to authorize the development of duplexes on all lots of a certain size zoned for detached single-family residential use that do not have an accessory dwelling unit on the lot.
- Removes provisions relating to specific implementation timelines, exempting certain actions from appeals, and preemption of local controls related to middle housing.
- Requires comprehensive plans to describe how jurisdictions will rely on transit frequency for planning in the comprehensive plan, development regulations, and permitting decisions, and that transit frequency will be continued undiminished.
- Specifies various additional requirements and limitations related to middle housing.
- Allows cities subject to the middle housing requirements to apply to the Department of Commerce for an extension of implementation timelines.
- Precludes new declarations and governing documents of a common interest community or homeowners' association within a city subject to the middle housing and density requirements from prohibiting such middle housing and density requirements.
- Adds a null and void clause.

1 AN ACT Relating to creating additional middle housing near
2 transit and in areas traditionally dedicated to single-family
3 detached housing; amending RCW 36.70A.030, 36.70A.190, and
4 36.70A.070; adding new sections to chapter 36.70A RCW; adding a new
5 section to chapter 64.38 RCW; adding a new section to chapter 64.90
6 RCW; and creating new sections.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that every
9 Washington resident should have access to safe, healthy, secure, and
10 affordable housing; and, that it is the responsibility of the state
11 and all cities and counties to plan for all current and future
12 residents within their jurisdictions of all income levels, races, and
13 ethnicities to have such housing. As our state population grows, the
14 legislature recognizes the need for the state's housing supply to
15 grow and adapt to meet the needs of all households, regardless of
16 age, race, ethnicity, religion, sexual orientation, gender identity,
17 country of origin, or income, including families with children,
18 seniors, and people who have a disability.

19 The legislature finds that adding a built environment subelement
20 to comprehensive plans is desirable as the legislature mandates
21 increasing density for middle housing, particularly in larger cities,

1 pursuant to this act, in order to protect and improve the physical
2 and mental health of communities with less access to open space and
3 tree canopy, reduce health risks of extreme heat events related to
4 climate change, or reduce disproportionately higher risks of exposure
5 to air pollution or other environmental contaminants.

6 The legislature finds that it has duties under existing statutes,
7 including chapter 36.70A RCW, to provide funding for all cities and
8 counties to plan for new required elements of comprehensive plans
9 including, but not limited to, planning for affordable housing and
10 meeting the goals of the state in reducing our contribution to
11 climate change. The legislature recognizes that it has been difficult
12 to project what the costs may be of planning for new elements
13 pursuant to this act. It is the intent of the legislature that the
14 evaluation provided for in RCW 36.70A.190, and updates to it
15 periodically thereafter, shall determine what constitutes adequate
16 funding for planning for new elements of comprehensive plans and for
17 the adoption of implementing ordinances and development regulations
18 pursuant to chapter 36.70A RCW for future comprehensive plan updates.

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) "Adopt a comprehensive land use plan" means to enact a new
24 comprehensive land use plan or to update an existing comprehensive
25 land use plan.

26 (2) "Affordable housing" means, unless the context clearly
27 indicates otherwise, residential housing whose monthly costs,
28 including utilities other than telephone, do not exceed thirty
29 percent of the monthly income of a household whose income is:

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

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

38 (3) "Agricultural land" means land primarily devoted to the
39 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) "City" means any city or town, including a code city.

(5) "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) "Cottage housing" means four or more residential units on a lot with a common open space that is either:

(a) Owned in common; or

(b) Has units owned as condominium units with property owned in common and a minimum of 20 percent of the lot size as open space.

(7) "Courtyard apartments" means up to six attached dwelling units arranged on two or three sides of a central courtyard or lawn area.

(8) "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.

~~((7))~~ (9) "Department" means the department of commerce.

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

~~((9))~~ (11) "Emergency housing" means temporary indoor accommodations for individuals or families who are homeless or at

1 imminent risk of becoming homeless that is intended to address the
2 basic health, food, clothing, and personal hygiene needs of
3 individuals or families. Emergency housing may or may not require
4 occupants to enter into a lease or an occupancy agreement.

5 ~~((10))~~ (12) "Emergency shelter" means a facility that provides
6 a temporary shelter for individuals or families who are currently
7 homeless. Emergency shelter may not require occupants to enter into a
8 lease or an occupancy agreement. Emergency shelter facilities may
9 include day and warming centers that do not provide overnight
10 accommodations.

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

17 ~~((12))~~ (14) "Forestland" means land primarily devoted to
18 growing trees for long-term commercial timber production on land that
19 can be economically and practically managed for such production,
20 including Christmas trees subject to the excise tax imposed under RCW
21 84.33.100 through 84.33.140, and that has long-term commercial
22 significance. In determining whether forestland is primarily devoted
23 to growing trees for long-term commercial timber production on land
24 that can be economically and practically managed for such production,
25 the following factors shall be considered: (a) The proximity of the
26 land to urban, suburban, and rural settlements; (b) surrounding
27 parcel size and the compatibility and intensity of adjacent and
28 nearby land uses; (c) long-term local economic conditions that affect
29 the ability to manage for timber production; and (d) the availability
30 of public facilities and services conducive to conversion of
31 forestland to other uses.

32 ~~((13))~~ (15) "Freight rail dependent uses" means buildings and
33 other infrastructure that are used in the fabrication, processing,
34 storage, and transport of goods where the use is dependent on and
35 makes use of an adjacent short line railroad. Such facilities are
36 both urban and rural development for purposes of this chapter.
37 "Freight rail dependent uses" does not include buildings and other
38 infrastructure that are used in the fabrication, processing, storage,
39 and transport of coal, liquefied natural gas, or "crude oil" as
40 defined in RCW 90.56.010.

1 (~~((14))~~) (16) "Geologically hazardous areas" means areas that
2 because of their susceptibility to erosion, sliding, earthquake, or
3 other geological events, are not suited to the siting of commercial,
4 residential, or industrial development consistent with public health
5 or safety concerns.

6 (~~((15))~~) (17) "Long-term commercial significance" includes the
7 growing capacity, productivity, and soil composition of the land for
8 long-term commercial production, in consideration with the land's
9 proximity to population areas, and the possibility of more intense
10 uses of the land.

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

17 (~~((17))~~) (19) "Major transit stop" means:

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

20 (b) Commuter rail stops;

21 (c) Stops on rail or fixed guideway systems, including
22 transitways;

23 (d) Stops on bus rapid transit routes or routes that run on high
24 occupancy vehicle lanes;

25 (e) Stops for a bus or other transit mode providing actual fixed
26 route service at intervals of at least 15 minutes for at least five
27 hours during the peak hours of operation on weekdays; or

28 (f) Washington state ferry terminals.

29 (20) "Middle housing" means duplexes, triplexes, fourplexes,
30 attached and detached accessory dwelling units, stacked flats,
31 townhouses, and courtyard apartments.

32 (21) "Minerals" include gravel, sand, and valuable metallic
33 substances.

34 (~~((18))~~) (22) "Moderate-income household" means a single person,
35 family, or unrelated persons living together whose adjusted income is
36 at or below 120 percent of the median household income adjusted for
37 household size, for the county where the household is located, as
38 reported by the United States department of housing and urban
39 development.

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

17 ~~((20))~~ (24) "Public facilities" include streets, roads,
18 highways, sidewalks, street and road lighting systems, traffic
19 signals, domestic water systems, storm and sanitary sewer systems,
20 parks and recreational facilities, and schools.

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

24 ~~((22))~~ (26) "Recreational land" means land so designated under
25 RCW 36.70A.1701 and that, immediately prior to this designation, was
26 designated as agricultural land of long-term commercial significance
27 under RCW 36.70A.170. Recreational land must have playing fields and
28 supporting facilities existing before July 1, 2004, for sports played
29 on grass playing fields.

30 ~~((23))~~ (27) "Rural character" refers to the patterns of land
31 use and development established by a county in the rural element of
32 its comprehensive plan:

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

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

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

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

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

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

5 (g) That are consistent with the protection of natural surface
6 water flows and groundwater and surface water recharge and discharge
7 areas.

8 ~~((+24+))~~ (28) "Rural development" refers to development outside
9 the urban growth area and outside agricultural, forest, and mineral
10 resource lands designated pursuant to RCW 36.70A.170. Rural
11 development can consist of a variety of uses and residential
12 densities, including clustered residential development, at levels
13 that are consistent with the preservation of rural character and the
14 requirements of the rural element. Rural development does not refer
15 to agriculture or forestry activities that may be conducted in rural
16 areas.

17 ~~((+25+))~~ (29) "Rural governmental services" or "rural services"
18 include those public services and public facilities historically and
19 typically delivered at an intensity usually found in rural areas, and
20 may include domestic water systems, fire and police protection
21 services, transportation and public transit services, and other
22 public utilities associated with rural development and normally not
23 associated with urban areas. Rural services do not include storm or
24 sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

25 ~~((+26+))~~ (30) "Short line railroad" means those railroad lines
26 designated class II or class III by the United States surface
27 transportation board.

28 ~~((+27+))~~ (31) "Stacked flat" means dwelling units in a two or
29 three story residential building on a residential zoned lot in which
30 each floor may be separately rented or owned and is a discrete
31 dwelling unit.

32 (32) "Townhouses" means dwelling units constructed in a row of
33 two or more attached units, where each dwelling unit is located on an
34 individual lot or parcel and shares at least one common wall with an
35 adjacent unit.

36 (33) "Urban governmental services" or "urban services" include
37 those public services and public facilities at an intensity
38 historically and typically provided in cities, specifically including
39 storm and sanitary sewer systems, domestic water systems, street
40 cleaning services, fire and police protection services, public

transit services, and other public utilities associated with urban areas and normally not associated with rural areas.

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

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

~~((30))~~ (36) "Very low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below fifty 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.

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

1 **Sec. 3.** RCW 36.70A.190 and 1991 sp.s. c 32 s 3 are each amended
2 to read as follows:

3 (1) The department shall establish a program of technical and
4 financial assistance and incentives to counties and cities to
5 encourage and facilitate the adoption and implementation of
6 comprehensive plans and development regulations throughout the state.

7 (2)(a) The department shall evaluate the costs for counties and
8 cities to review and revise their comprehensive plans to assure
9 compliance with this chapter. This evaluation must be completed by
10 December 1, 2022, and updated every five years thereafter. The
11 department shall provide a report of the evaluation to the
12 legislature upon completion of the evaluation. The evaluation must
13 include, at a minimum, the costs for each general jurisdiction size
14 and type, and the costs to complete various types of planning
15 requirements, including:

16 (i) Meeting the requirements of a new goal in RCW 36.70A.020;

17 (ii) Meeting the requirements of a new comprehensive plan element
18 in RCW 36.70A.070;

19 (iii) Updating a critical areas ordinance;

20 (iv) Updating a shoreline master program;

21 (v) Making a minor update to a comprehensive plan element;

22 (vi) Making a complex update to a comprehensive plan element;

23 (vii) Updating a development regulation; and

24 (viii) Implementing a new development regulation.

25 (b) The department shall consult with the Washington state
26 association of counties and the association of Washington cities as
27 part of the process for performing and completing the evaluation.

28 (c) In order to ensure that jurisdictions receive adequate
29 funding for their comprehensive plan updates, the department shall
30 distribute funds in the form of grants.

31 (3)(a) The department shall develop a priority list and establish
32 funding levels for planning and technical assistance grants both for
33 counties and cities that plan under RCW 36.70A.040. Priority for
34 assistance shall be based on a county's or city's population growth
35 rates, commercial and industrial development rates, the existence and
36 quality of a comprehensive plan and development regulations, and
37 other relevant factors.

38 (~~((3))~~) (b) The department may also contract with a public or
39 nonprofit agency with appropriate experience in providing technical

1 assistance and training to assist local governments related to
2 comprehensive planning and other obligations under this chapter.

3 (4) The department shall develop and administer a grant program
4 to provide direct financial assistance to counties and cities for the
5 preparation of comprehensive plans under this chapter. The department
6 may establish provisions for county and city matching funds to
7 conduct activities under this subsection. Grants may be expended for
8 any purpose directly related to the preparation of a county or city
9 comprehensive plan as the county or city and the department may
10 agree, including, without limitation, the conducting of surveys,
11 inventories and other data gathering and management activities, the
12 retention of planning consultants, contracts with regional councils
13 for planning and related services, and other related purposes.

14 ~~((4))~~ (5) The department shall establish a program of technical
15 assistance:

16 (a) Utilizing department staff, the staff of other state
17 agencies, and the technical resources of counties and cities to help
18 in the development of comprehensive plans required under this
19 chapter. The department shall make available planners and department
20 regulations specialists to cities and counties to assist in the
21 development of comprehensive plans and related development
22 regulations.

23 (b) Additional technical assistance may include, but is not
24 ~~((be))~~ limited to, ~~((model land use ordinances,))~~ regional education
25 and training programs~~((,))~~ and information for local and regional
26 inventories; and

27 ~~((b))~~ (c) Adopting by rule procedural criteria to assist
28 counties and cities in adopting comprehensive plans and development
29 regulations that meet the goals and requirements of this chapter.
30 These criteria shall reflect regional and local variations and the
31 diversity that exists among different counties and cities that plan
32 under this chapter.

33 ~~((5))~~ (6) The department shall provide mediation services to
34 resolve disputes between counties and cities regarding, among other
35 things, coordination of regional issues and designation of urban
36 growth areas.

37 ~~((6))~~ (7) The department shall provide planning grants to
38 enhance citizen participation under RCW 36.70A.140.

1 **Sec. 4.** RCW 36.70A.070 and 2021 c 254 s 2 are each amended to
2 read as follows:

3 The comprehensive plan of a county or city that is required or
4 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,
5 and descriptive text covering objectives, principles, and standards
6 used to develop the comprehensive plan. The plan shall be an
7 internally consistent document and all elements shall be consistent
8 with the future land use map. A comprehensive plan shall be adopted
9 and amended with public participation as provided in RCW 36.70A.140.
10 Each comprehensive plan shall include a plan, scheme, or design for
11 each of the following:

12 (1)(a) A land use element designating the proposed general
13 distribution and general location and extent of the uses of land,
14 where appropriate, for agriculture, timber production, housing,
15 commerce, industry, recreation, open spaces, general aviation
16 airports, public utilities, public facilities, and other land uses.
17 The land use element shall include population densities, building
18 intensities, and estimates of future population growth. The land use
19 element shall provide for protection of the quality and quantity of
20 groundwater used for public water supplies. Wherever possible, the
21 land use element should consider utilizing urban planning approaches
22 that promote physical activity. Where applicable, the land use
23 element shall review drainage, flooding, and stormwater runoff in the
24 area and nearby jurisdictions and provide guidance for corrective
25 actions to mitigate or cleanse those discharges that pollute waters
26 of the state, including Puget Sound or waters entering Puget Sound.

27 (b) The land use element shall include a subelement on the "built
28 environment" to protect and improve the physical and mental health of
29 residents within the portions of urban growth areas with higher
30 densities. The subelement should include provisions improving
31 determinants of health which are equitable with residents in other
32 communities including, but not limited to, tree canopy or green open
33 space to prevent extreme heat islands, reduction in air pollution and
34 exposures to contaminants in homes as well as in the environment,
35 solar energy and sunlight access. The department shall, in
36 consultation with the department of health and the department of
37 ecology, adopt guidance to promote these goals. The department's
38 guidance shall also include provisions that provide for access to
39 sunlight in residential and school spaces based on the health and

1 learning benefits from natural lighting, and for meeting state and
2 local goals for use of solar energy to meet climate change goals.

3 (2) A housing element ensuring the vitality and character of
4 established residential neighborhoods that:

5 (a) Includes an inventory and analysis of existing and projected
6 housing needs that identifies the number of housing units necessary
7 to manage projected growth, as provided by the department of
8 commerce, including:

9 (i) Units for moderate, low, very low, and extremely low-income
10 households; and

11 (ii) Emergency housing, emergency shelters, and permanent
12 supportive housing;

13 (b) Includes a statement of goals, policies, objectives, and
14 mandatory provisions for the preservation, improvement, and
15 development of housing, including single-family residences, and
16 within an urban growth area boundary, moderate density housing
17 options including ~~((f, t))~~, but not limited to, duplexes, triplexes,
18 and townhomes;

19 (c) Identifies sufficient capacity of land for housing including,
20 but not limited to, government-assisted housing, housing for
21 moderate, low, very low, and extremely low-income households,
22 manufactured housing, multifamily housing, group homes, foster care
23 facilities, emergency housing, emergency shelters, permanent
24 supportive housing, and within an urban growth area boundary,
25 consideration of duplexes, triplexes, and townhomes;

26 (d) Makes adequate provisions for existing and projected needs of
27 all economic segments of the community and increasing economic
28 integration among all economic segments of the population in all
29 areas of the jurisdiction, including:

30 (i) Incorporating consideration for low, very low, extremely low,
31 and moderate-income households;

32 (ii) Documenting programs and actions needed to achieve housing
33 availability including gaps in local funding, barriers such as
34 development regulations, and other limitations;

35 (iii) Consideration of housing locations in relation to
36 employment location and shopping for household essentials, including
37 food and health products; and

38 (iv) Consideration of the role of accessory dwelling units in
39 meeting housing needs;

1 (e) Makes adequate provisions for middle housing options as
2 required in section 5 of this act;

3 (f) Identifies local policies and regulations that result in
4 racially disparate impacts, displacement, and exclusion in housing,
5 including:

6 (i) Zoning that may have a discriminatory effect;

7 (ii) Disinvestment; and

8 (iii) Infrastructure availability;

9 ~~((f))~~ (g) Identifies and implements policies and regulations to
10 address and begin to undo racially disparate impacts, displacement,
11 and exclusion in housing caused by local policies, plans, and
12 actions;

13 ~~((g))~~ (h) Identifies areas that may be at higher risk of
14 displacement from market forces that occur with changes to zoning
15 development regulations and capital investments; ~~((and~~

16 ~~(h))~~ (i) Establishes a goal and plan to adopt development
17 regulations, investments, incentives, or other programs which will
18 achieve substantial measurable progress over a 20-year planning
19 horizon toward increased economic and racial integration in all areas
20 of the jurisdiction through programs encouraging, authorizing,
21 directly investing in, or incentivizing new affordable housing
22 options for all economic segments of the population including duplex,
23 triplex, townhomes, accessory dwelling units, multifamily housing,
24 subdivision of properties above minimum lot size, or with condominium
25 common ownership;

26 (j)(i) Establishes antidisplacement policies, with consideration
27 given to the preservation of historical and cultural communities as
28 well as investments in low, very low, extremely low, and moderate-
29 income housing; equitable development initiatives; inclusionary
30 zoning; community planning requirements; tenant protections; land
31 disposition policies; and consideration of land that may be used for
32 affordable housing. The county or city shall make a finding that
33 comprehensive plans and development regulations affirmatively prevent
34 displacement of lower and moderate-income community members,
35 including families, in communities of interest. Such communities
36 shall be determined based on community input solicited through
37 appropriate outreach, including public meetings, in order to ensure
38 that there is no net displacement of lower and moderate-income
39 residents or people from racial, ethnic, and religious communities

1 which have been subject to discriminatory housing policies in the
2 past.

3 (ii) Any city planning under RCW 36.70A.040 that has a population
4 of 20,000 or more as of the effective date of this section, or any
5 city that is determined by the office of financial management
6 pursuant to RCW 43.62.030 to have a population of 20,000 or more at
7 least one year prior to its next comprehensive plan update, shall
8 adopt a subelement of their plan's housing element which shall ensure
9 that the jurisdiction will adopt development regulations, fees,
10 incentives, subsidies, or funded investment programs, including
11 programs funded pursuant to interlocal agreements, that are found to
12 reasonably meet the projected needs for new housing for all economic
13 segments of the region and to prevent displacement of lower income
14 residents and communities; and

15 (k) Allows subdivision of lots to increase the supply of housing
16 affordable to lower and moderate-income residents. Options for
17 subdivision include allowing lot sizes as follows:

18 (i) For cities with a population over 40,000, subdivision of lots
19 to 3,200 square feet or 80 percent of the average lot on a block
20 within an urban growth area is allowed;

21 (ii) For new development on lots under 3,200 square feet in an
22 area, a special exception is required which includes public notice
23 and an opportunity to appeal pursuant to this chapter and the land
24 use petition act in chapter 36.70C RCW; and

25 (iii) For short subdivision of lots developed with more than one
26 house, ownership of the houses may be divided using the unit lot
27 subdivision process. A property containing a detached accessory
28 dwelling unit may be segregated in ownership from the principal
29 dwelling unit.

30 In counties and cities subject to the review and evaluation
31 requirements of RCW 36.70A.215, any revision to the housing element
32 shall include consideration of prior review and evaluation reports
33 and any reasonable measures identified. The housing element should
34 link jurisdictional goals with overall county goals to ensure that
35 the housing element goals are met.

36 (3) A capital facilities plan element consisting of: (a) An
37 inventory of existing capital facilities owned by public entities,
38 showing the locations and capacities of the capital facilities; (b) a
39 forecast of the future needs for such capital facilities; (c) the
40 proposed locations and capacities of expanded or new capital

1 facilities; (d) at least a six-year plan that will finance such
2 capital facilities within projected funding capacities and clearly
3 identifies sources of public money for such purposes; and (e) a
4 requirement to reassess the land use element if probable funding
5 falls short of meeting existing needs and to ensure that the land use
6 element, capital facilities plan element, and financing plan within
7 the capital facilities plan element are coordinated and consistent.
8 Park and recreation facilities shall be included in the capital
9 facilities plan element. Any city that has identified a specific
10 infrastructure deficiency and utilized the process under section 6 of
11 this act shall include, as part of its capital facilities plan
12 update, actions necessary to remedy that deficiency.

13 (4) A utilities element consisting of the general location,
14 proposed location, and capacity of all existing and proposed
15 utilities, including, but not limited to, electrical lines,
16 telecommunication lines, and natural gas lines.

17 (5) Rural element. Counties shall include a rural element
18 including lands that are not designated for urban growth,
19 agriculture, forest, or mineral resources. The following provisions
20 shall apply to the rural element:

21 (a) Growth management act goals and local circumstances. Because
22 circumstances vary from county to county, in establishing patterns of
23 rural densities and uses, a county may consider local circumstances,
24 but shall develop a written record explaining how the rural element
25 harmonizes the planning goals in RCW 36.70A.020 and meets the
26 requirements of this chapter.

27 (b) Rural development. The rural element shall permit rural
28 development, forestry, and agriculture in rural areas. The rural
29 element shall provide for a variety of rural densities, uses,
30 essential public facilities, and rural governmental services needed
31 to serve the permitted densities and uses. To achieve a variety of
32 rural densities and uses, counties may provide for clustering,
33 density transfer, design guidelines, conservation easements, and
34 other innovative techniques that will accommodate appropriate rural
35 economic advancement, densities, and uses that are not characterized
36 by urban growth and that are consistent with rural character.

37 (c) Measures governing rural development. The rural element shall
38 include measures that apply to rural development and protect the
39 rural character of the area, as established by the county, by:

40 (i) Containing or otherwise controlling rural development;

1 (ii) Assuring visual compatibility of rural development with the
2 surrounding rural area;

3 (iii) Reducing the inappropriate conversion of undeveloped land
4 into sprawling, low-density development in the rural area;

5 (iv) Protecting critical areas, as provided in RCW 36.70A.060,
6 and surface water and groundwater resources; and

7 (v) Protecting against conflicts with the use of agricultural,
8 forest, and mineral resource lands designated under RCW 36.70A.170.

9 (d) Limited areas of more intensive rural development. Subject to
10 the requirements of this subsection and except as otherwise
11 specifically provided in this subsection (5)(d), the rural element
12 may allow for limited areas of more intensive rural development,
13 including necessary public facilities and public services to serve
14 the limited area as follows:

15 (i) Rural development consisting of the infill, development, or
16 redevelopment of existing commercial, industrial, residential, or
17 mixed-use areas, whether characterized as shoreline development,
18 villages, hamlets, rural activity centers, or crossroads
19 developments.

20 (A) A commercial, industrial, residential, shoreline, or mixed-
21 use area are subject to the requirements of (d)(iv) of this
22 subsection, but are not subject to the requirements of (c)(ii) and
23 (iii) of this subsection.

24 (B) Any development or redevelopment other than an industrial
25 area or an industrial use within a mixed-use area or an industrial
26 area under this subsection (5)(d)(i) must be principally designed to
27 serve the existing and projected rural population.

28 (C) Any development or redevelopment in terms of building size,
29 scale, use, or intensity shall be consistent with the character of
30 the existing areas. Development and redevelopment may include changes
31 in use from vacant land or a previously existing use so long as the
32 new use conforms to the requirements of this subsection (5);

33 (ii) The intensification of development on lots containing, or
34 new development of, small-scale recreational or tourist uses,
35 including commercial facilities to serve those recreational or
36 tourist uses, that rely on a rural location and setting, but that do
37 not include new residential development. A small-scale recreation or
38 tourist use is not required to be principally designed to serve the
39 existing and projected rural population. Public services and public
40 facilities shall be limited to those necessary to serve the

1 recreation or tourist use and shall be provided in a manner that does
2 not permit low-density sprawl;

3 (iii) The intensification of development on lots containing
4 isolated nonresidential uses or new development of isolated cottage
5 industries and isolated small-scale businesses that are not
6 principally designed to serve the existing and projected rural
7 population and nonresidential uses, but do provide job opportunities
8 for rural residents. Rural counties may allow the expansion of small-
9 scale businesses as long as those small-scale businesses conform with
10 the rural character of the area as defined by the local government
11 according to RCW 36.70A.030(~~((+23+))~~) (27). Rural counties may also
12 allow new small-scale businesses to utilize a site previously
13 occupied by an existing business as long as the new small-scale
14 business conforms to the rural character of the area as defined by
15 the local government according to RCW 36.70A.030(~~((+23+))~~) (27). Public
16 services and public facilities shall be limited to those necessary to
17 serve the isolated nonresidential use and shall be provided in a
18 manner that does not permit low-density sprawl;

19 (iv) A county shall adopt measures to minimize and contain the
20 existing areas or uses of more intensive rural development, as
21 appropriate, authorized under this subsection. Lands included in such
22 existing areas or uses shall not extend beyond the logical outer
23 boundary of the existing area or use, thereby allowing a new pattern
24 of low-density sprawl. Existing areas are those that are clearly
25 identifiable and contained and where there is a logical boundary
26 delineated predominately by the built environment, but that may also
27 include undeveloped lands if limited as provided in this subsection.
28 The county shall establish the logical outer boundary of an area of
29 more intensive rural development. In establishing the logical outer
30 boundary, the county shall address (A) the need to preserve the
31 character of existing natural neighborhoods and communities, (B)
32 physical boundaries, such as bodies of water, streets and highways,
33 and land forms and contours, (C) the prevention of abnormally
34 irregular boundaries, and (D) the ability to provide public
35 facilities and public services in a manner that does not permit low-
36 density sprawl;

37 (v) For purposes of (d) of this subsection, an existing area or
38 existing use is one that was in existence:

39 (A) On July 1, 1990, in a county that was initially required to
40 plan under all of the provisions of this chapter;

1 (B) On the date the county adopted a resolution under RCW
2 36.70A.040(2), in a county that is planning under all of the
3 provisions of this chapter under RCW 36.70A.040(2); or

4 (C) On the date the office of financial management certifies the
5 county's population as provided in RCW 36.70A.040(5), in a county
6 that is planning under all of the provisions of this chapter pursuant
7 to RCW 36.70A.040(5).

8 (e) Exception. This subsection shall not be interpreted to permit
9 in the rural area a major industrial development or a master planned
10 resort unless otherwise specifically permitted under RCW 36.70A.360
11 and 36.70A.365.

12 (6) A transportation element that implements, and is consistent
13 with, the land use element.

14 (a) The transportation element shall include the following
15 subelements:

16 (i) Land use assumptions used in estimating travel;

17 (ii) Estimated traffic impacts to state-owned transportation
18 facilities resulting from land use assumptions to assist the
19 department of transportation in monitoring the performance of state
20 facilities, to plan improvements for the facilities, and to assess
21 the impact of land-use decisions on state-owned transportation
22 facilities;

23 (iii) Facilities and services needs, including:

24 (A) An inventory of air, water, and ground transportation
25 facilities and services, including transit alignments and general
26 aviation airport facilities, to define existing capital facilities
27 and travel levels as a basis for future planning. This inventory must
28 include state-owned transportation facilities within the city or
29 county's jurisdictional boundaries;

30 (B) Level of service standards for all locally owned arterials
31 and transit routes to serve as a gauge to judge performance of the
32 system. These standards should be regionally coordinated;

33 (C) For state-owned transportation facilities, level of service
34 standards for highways, as prescribed in chapters 47.06 and 47.80
35 RCW, to gauge the performance of the system. The purposes of
36 reflecting level of service standards for state highways in the local
37 comprehensive plan are to monitor the performance of the system, to
38 evaluate improvement strategies, and to facilitate coordination
39 between the county's or city's six-year street, road, or transit
40 program and the office of financial management's ten-year investment

1 program. The concurrency requirements of (b) of this subsection do
2 not apply to transportation facilities and services of statewide
3 significance except for counties consisting of islands whose only
4 connection to the mainland are state highways or ferry routes. In
5 these island counties, state highways and ferry route capacity must
6 be a factor in meeting the concurrency requirements in (b) of this
7 subsection;

8 (D) Specific actions and requirements for bringing into
9 compliance locally owned transportation facilities or services that
10 are below an established level of service standard;

11 (E) Forecasts of traffic for at least ten years based on the
12 adopted land use plan to provide information on the location, timing,
13 and capacity needs of future growth;

14 (F) Identification of state and local system needs to meet
15 current and future demands. Identified needs on state-owned
16 transportation facilities must be consistent with the statewide
17 multimodal transportation plan required under chapter 47.06 RCW;

18 (iv) Finance, including:

19 (A) An analysis of funding capability to judge needs against
20 probable funding resources;

21 (B) A multiyear financing plan based on the needs identified in
22 the comprehensive plan, the appropriate parts of which shall serve as
23 the basis for the six-year street, road, or transit program required
24 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW
25 35.58.2795 for public transportation systems. The multiyear financing
26 plan should be coordinated with the ten-year investment program
27 developed by the office of financial management as required by RCW
28 47.05.030;

29 (C) If probable funding falls short of meeting identified needs,
30 a discussion of how additional funding will be raised, or how land
31 use assumptions will be reassessed to ensure that level of service
32 standards will be met;

33 (v) Intergovernmental coordination efforts, including an
34 assessment of the impacts of the transportation plan and land use
35 assumptions on the transportation systems of adjacent jurisdictions.
36 The comprehensive plan shall describe how the city or county will
37 ensure that the transit frequency that is relied on in the plan,
38 development regulations, and permitting decisions is going to be
39 continued undiminished, including any interlocal agreements with
40 transit providers that will be utilized. For any area where such

1 transit frequency is not reasonably assured, the level of required
2 density or mix of housing required by this section is not required to
3 be increased beyond what would be required if the transit was not
4 present;

5 (vi) Demand-management strategies;

6 (vii) Pedestrian and bicycle component to include collaborative
7 efforts to identify and designate planned improvements for pedestrian
8 and bicycle facilities and corridors that address and encourage
9 enhanced community access and promote healthy lifestyles.

10 (b) After adoption of the comprehensive plan by jurisdictions
11 required to plan or who choose to plan under RCW 36.70A.040, local
12 jurisdictions must adopt and enforce ordinances which prohibit
13 development approval if the development causes the level of service
14 on a locally owned transportation facility to decline below the
15 standards adopted in the transportation element of the comprehensive
16 plan, unless transportation improvements or strategies to accommodate
17 the impacts of development are made concurrent with the development.
18 These strategies may include increased public transportation service,
19 ride-sharing programs, demand management, and other transportation
20 systems management strategies. For the purposes of this subsection
21 (6), "concurrent with the development" means that improvements or
22 strategies are in place at the time of development, or that a
23 financial commitment is in place to complete the improvements or
24 strategies within six years. If the collection of impact fees is
25 delayed under RCW 82.02.050(3), the six-year period required by this
26 subsection (6)(b) must begin after full payment of all impact fees is
27 due to the county or city.

28 (c) The transportation element described in this subsection (6),
29 the six-year plans required by RCW 35.77.010 for cities, RCW
30 36.81.121 for counties, and RCW 35.58.2795 for public transportation
31 systems, and the ten-year investment program required by RCW
32 47.05.030 for the state, must be consistent.

33 (7) An economic development element establishing local goals,
34 policies, objectives, and provisions for economic growth and vitality
35 and a high quality of life. A city that has chosen to be a
36 residential community is exempt from the economic development element
37 requirement of this subsection.

38 (8) A park and recreation element that implements, and is
39 consistent with, the capital facilities plan element as it relates to
40 park and recreation facilities. The element shall include: (a)

1 Estimates of park and recreation demand for at least a ten-year
2 period; (b) an evaluation of facilities and service needs; and (c) an
3 evaluation of intergovernmental coordination opportunities to provide
4 regional approaches for meeting park and recreational demand.

5 (9) It is the intent that new or amended elements required after
6 January 1, 2002, be adopted concurrent with the scheduled update
7 provided in RCW 36.70A.130. Requirements to incorporate any such new
8 or amended elements shall be null and void until funds sufficient to
9 cover applicable local government costs are appropriated and
10 distributed by the state at least two years before local government
11 must update comprehensive plans as required in RCW 36.70A.130.

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

14 (1)(a) Any city planning under RCW 36.70A.040 that has a
15 population of 20,000 or more as of the effective date of this
16 section, or any city that is determined by the office of financial
17 management pursuant to RCW 43.62.030 to have a population of 20,000
18 or more at least one year prior to its next comprehensive plan
19 update, must authorize the development of all middle housing types on
20 all lots exceeding 4,500 square feet zoned for detached single-family
21 residential use and within one-half mile, based on walking distance,
22 of a major transit stop. If a city adopts a maximum of four
23 residential units per lot within one-half mile of a major transit
24 stop, it may consider a detached accessory dwelling unit as one of
25 the units.

26 (b) Cities subject to the requirements of (a) of this subsection
27 must also allow development of duplexes and attached and detached
28 accessory dwelling units on all other lots exceeding 4,500 square
29 feet zoned for single-family residential use, and for the development
30 of triplexes on corner lots exceeding 5,000 square feet. Cities may
31 limit development on such lots to a total of two detached residential
32 units per lot inclusive of either duplexes or detached accessory
33 dwelling units on noncorner lots, and to a total of three detached
34 residential units or a triplex per lot on corner lots.

35 (2)(a) As an alternative to the requirements in subsection (1) of
36 this section, cities may alter local zoning to allow an average
37 minimum net density equivalent to 33 dwelling units per acre within
38 one-half mile of a major transit stop, based on walking distance.

1 (b) In determining net density for housing within one-half mile
2 of a major transit stop a city may exclude sensitive or critical
3 areas, dedicated open space, schools, bodies of water, or lands which
4 are not buildable to the level of density otherwise required.

5 (c) Any city choosing to adopt an average minimum density
6 pursuant to (a) of this subsection shall also adopt findings of fact
7 demonstrating that the actions taken to implement the average minimum
8 density will not result in racially disparate impacts, displacement,
9 or further exclusion in housing. The city shall transmit such
10 findings to the department.

11 (3) When providing for the required middle housing types as
12 required in subsection (1) of this section or for the minimum net
13 density as required in subsection (2) of this section, the city shall
14 ensure that multifamily housing within such areas includes sufficient
15 units to meet the projections of housing needed within the planning
16 horizon for families and households of various sizes and income
17 levels.

18 (4) Any city with a population of between 10,000 and 20,000 as of
19 the effective date of this section, or any city determined by the
20 office of financial management pursuant to RCW 43.62.030 to have a
21 population between 10,000 and 20,000 at least one year prior to its
22 next comprehensive plan update, must authorize the development of
23 duplexes on all lots exceeding 4,500 square feet which are zoned for
24 detached single-family residential use that do not have an accessory
25 dwelling unit on the lot.

26 (5)(a) Any city with a population over 100,000 may not require
27 the inclusion of off-street parking as a condition for the
28 construction of middle housing within one-half mile of a major
29 transit stop, unless the street on which the construction will occur
30 has no on-street parking.

31 (b) Any city with a population between 20,000 and 100,000 may not
32 require more than one off-street parking spot on a lot within one-
33 half mile of a major transit stop for every three bedrooms on the
34 lot, unless the street on which the lot is located has no on-street
35 parking.

36 (6)(a) Outside of the limitations in this section, a city may
37 apply all otherwise applicable regulations for the development of
38 middle housing, including regulations for health, safety, or
39 environment.

(b) Cities may adopt development and design standards related to the siting and design of middle housing. Such development and design standards may 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 middle housing, provided that this subsection does not limit the amount of affordable housing that a city may require to be provided, either on-site or through an in-lieu payment, pursuant to a program enacted under RCW 36.70A.540. A city may not require zoning, development, siting, or design review standards for middle housing that are more restrictive than those required for detached single-family residences and the same development permit and environmental review processes that apply to detached single-family residences shall be applied to middle housing.

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

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

(1) Any city subject to the requirements under section 5 of this act may apply to the department for, and the department may certify, an extension of the implementation timelines.

(2) An extension certified under this section may be applied only to specific areas where a city has identified water, sewer, stormwater, or transportation services that are currently deficient, or are expected to be deficient within the next five years, and for which the local government has established a plan of actions that will remedy the deficiency in those services on a specific timeline. The department may certify additional extensions of a city's remediation timeline.

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

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

NEW SECTION. **Sec. 7.** A new section is added to chapter 64.38 RCW to read as follows:

Governing documents of associations within cities subject to the middle housing and density requirements of this act that are created

1 after the effective date of this section may not prohibit the
2 construction or development of the types of housing or density
3 requirements that must be permitted by this act within such cities.

4 NEW SECTION. **Sec. 8.** A new section is added to chapter 64.90
5 RCW to read as follows:

6 Declarations and governing documents of a common interest
7 community within cities subject to the middle housing and density
8 requirements of this act that are created after the effective date of
9 this section may not prohibit the construction or development of the
10 types of housing or density requirements that must be permitted by
11 this act within such cities.

12 NEW SECTION. **Sec. 9.** If specific funding for the purposes of
13 this act, referencing this act by bill or chapter number, is not
14 provided by June 30, 2022, in the omnibus appropriations act, this
15 act is null and void.

--- END ---