

SENATE BILL REPORT

SB 5670

As of January 17, 2022

Title: An act relating to creating additional middle housing near transit and in areas traditionally dedicated to single-family detached housing.

Brief Description: Creating additional middle housing near transit and in areas traditionally dedicated to single-family detached housing.

Sponsors: Senators Das, Kuderer, Frockt, Lias, Lovelett, Mullet, Nguyen, Pedersen, Saldaña and Stanford; by request of Office of the Governor.

Brief History:

Committee Activity: Housing & Local Government: 1/18/22.

Brief Summary of Bill

- Requires any fully planning city with a population of 20,000 or more to authorize the development of all middle housing types on all lots zoned for single-family residential use within one-half mile of a major transit stop and duplexes, triplexes, and fourplexes on all other lots zoned for single-family residential use.
- Requires any fully planning city with a population of 10,000 or more to authorize the development of duplexes on all lots zoned for detached single-family residential use.
- Provides an alternative for fully planning cities to implement new middle housing zoning policy and related requirements through alteration of local zoning to allow for certain average minimum density equivalents.
- Requires the Department of Commerce to provide technical assistance and publish model middle housing ordinances to assist cities to implement the new middle housing zoning policy and related requirements.

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.

SENATE COMMITTEE ON HOUSING & LOCAL GOVERNMENT

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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 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. 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.

Comprehensive Plan—Mandatory Housing Element. The comprehensive plan of a fully planning county or city must consist of a map or maps and descriptive text covering objectives, principles, and standards used to develop the plan. The plan must be an internally consistent document and all elements must be consistent with the future land-use map. Each comprehensive plan must include a plan, scheme, or design for certain enumerated elements, including a mandatory housing element. The housing element must ensure the vitality and character of established residential neighborhoods and among other requirements:

- identify local policies and regulations that result in racially disparate impacts, displacement, and exclusion in housing, including discriminatory zoning;
- identify and implement policies and regulations to address and begin to undo racially disparate impacts, displacement, and exclusion in housing;
- identify areas at higher risk of displacement from market forces that occur with changes to zoning development regulations and capital investments; and
- establish anti-displacement policies, with consideration to the preservation of historical and cultural communities as well as investments in low, very low, extremely low, and moderate-income housing and inclusionary zoning.

Planning Actions. 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 a minimum net density of six dwelling units per acre in all residential zones;
- authorizing middle housing types on parcels in one or more zoning districts that permit single-family residences unless unfeasible to do so; and
- allowing off-street parking to compensate for lack of on-street parking when private roads are used or a parking demand study shows less parking is required.

State Environmental Policy Act. The State Environmental Policy Act (SEPA) establishes a review process for state and local governments to identify environmental impacts that may result from governmental decisions, such as the issuance of permits or the adoption of land-use plans. The SEPA environmental review process involves a project proponent or the lead agency completing an environmental checklist to identify and evaluate probable environmental impacts.

The information collected through the SEPA review process may be used to condition a proposal mitigating environmental impacts or to deny a proposal when significant adverse environmental impacts are identified. Any appeal brought under SEPA must be linked to a specific governmental action.

Summary of Bill: Any fully planning city with a population of 20,000 or more must authorize the development of all middle housing types on all lots zoned for detached single-family residential use and within one-half mile of a major transit stop. "Middle housing" is defined as duplexes, triplexes, fourplexes, fiveplexes, sixplexes, stacked flats, townhouses, and courtyard apartments. Definitions for townhouses and courtyard apartments are also provided. "Major transit stop" is defined as:

- stops on a high capacity transportation system;
- commuter rail stops;
- stops on rail or fixed guideway systems, including transitways;
- stops on bus rapid transit routes or routes that run on high occupancy vehicle lanes;
- stops for a bus or other transit mode providing actual fixed route service at intervals of at least 15 minutes for at least five hours during the peak hours of operation on weekdays; or
- Washington State ferry terminals.

Any fully planning city with a population of 20,000 or more must also authorize the development of duplexes, triplexes, and fourplexes on all other lots zoned for single-family residential use. Any fully planning city with a population of 10,000 or more must authorize the development of duplexes on all lots zoned for detached single-family residential use, and may allow all middle housing types in addition to duplexes.

As an alternative to satisfying the new middle housing zoning policy and related requirements, such fully planning cities:

- with a population of 500,000 or more may alter local zoning to allow an average

- minimum density equivalent to 40 dwelling units or more per gross acre across the entirety of the city's UGA;
- with a population of at least 100,000, but fewer than 500,000, may alter local zoning to allow an average minimum density equivalent to 30 dwelling units or more per gross acre across the entirety of the city's UGA;
 - with a population of at least 20,000, but fewer than 100,000, may alter local zoning to allow an average minimum density equivalent to 25 dwelling units or more per gross acre across the entirety of the city's UGA; and
 - with a population of at least 10,000, but fewer than 20,000, may alter local zoning to allow an average minimum density equivalent to 15 dwelling units or more per gross acre.

Any fully planning city choosing to alter local zoning to allow certain authorized average minimum density equivalents must also adopt findings of fact demonstrating that actions taken to implement that average minimum density will not result in racially disparate impacts, displacement, or further exclusion in housing, and transmit such findings to the Department of Commerce (Commerce).

Any fully planning city with a population of 20,000 or more that has not adopted local antidisplacement measures as a portion of the city's mandatory housing element must do so, within nine months of the effective date of this section, for areas within one-half mile of a major transit stop.

Any fully planning city with a population of 10,000 or more may adopt development and design standards related to the siting and design of middle housing, without discouraging the development of middle housing through unreasonable costs, fees, delays, or other requirements or actions that make impracticable the permitting, siting, or construction of middle housing. Such cities must apply to middle housing the same development permit and environmental review processes that apply to detached single-family residences.

Any fully planning city with a population of 10,000 or more 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;
- require off-street parking as a condition of permitting development of middle housing within one-half mile of a major transit stop;
- require more than one off-street parking space per lot as a condition of permitting development of middle housing on lots smaller than 6000 square feet; and
- require more than two off-street parking spaces per lot as a condition of permitting development of middle housing on lots greater than 6000 square feet.

Any fully planning city continues to be authorized to permit detached single-family residences.

The new middle housing zoning policy and related requirements apply and take effect on

the latter of:

- 24 months after the act takes effect for cities with a population of 10,000 or more; or
- 12 months after a determination by the office of financial management that a city has reached a qualifying population threshold.

Commerce must provide technical assistance to fully planning cities to implement the new middle housing zoning policy and related requirements, and prioritize such technical assistance to cities demonstrating the greatest need.

Commerce must also publish model middle housing ordinances no later than 18 months after the effective date of the act. For any fully planning city with a population of 10,000 or more that has not passed ordinances, regulations, or other official controls within the required time frames, the model ordinance developed by Commerce supersedes, preempts, and invalidates local development regulations until the city takes all necessary implementation actions.

Commerce must also establish a process for cities implementing the new middle housing zoning policy and related requirements to seek approval of necessary local actions. Any such local actions approved by Commerce are exempt from appeals under the GMA and SEPA.

Any fully planning city with a population of 10,000 or more may apply to Commerce to extend the implementation timelines for the new middle housing zoning policy and related requirements. Any such extension certified by Commerce may apply only to specific areas where a city has identified water, sewer, stormwater, or transportation services 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 to remedy the deficiency in those services on a specific timeline. Commerce may also certify additional extensions of a city's remediation timeline. An application for an implementation timeline extension by a city must be filed with Commerce no later than 24 months following the effective date of the act. Commerce may establish by rule any procedures necessary to implement such extension allowances.

Appropriation: None.

Fiscal Note: Requested on January 14, 2022.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.