

E2SHB 2160 - S COMM AMD

By Committee on Local Government, Land Use & Tribal Affairs

NOT CONSIDERED 03/07/2024

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that the state has
4 made groundbreaking investments in state-of-the-art mass transit and
5 intermodal infrastructure. The legislature finds that to maximize the
6 state's return on these investments, land use policies and practices
7 must allow housing development to keep pace with progress being
8 implemented in transportation infrastructure development. The
9 legislature also intends new development to reflect the state's
10 commitment to affordable housing and vibrant, walkable, accessible
11 urban environments that improve health, expand multimodal
12 transportation options, and include varied community facilities,
13 parks, and green spaces that are open to people of all income levels.

14 The legislature recognizes that cities planning under chapter
15 36.70A RCW require direction and technical assistance to ensure the
16 benefits of state transportation investments are maximized and shared
17 equitably while avoiding unnecessary programmatic and cost burdens to
18 local governments in their comprehensive planning, code enactment,
19 and permit processing workloads. The legislature further recognizes
20 that regulatory flexibility and local control are also important
21 features of optimal planning outcomes.

22 **Sec. 2.** RCW 36.70A.030 and 2023 c 332 s 2 and 2023 c 228 s 14
23 are each reenacted and amended to read as follows:

24 Unless the context clearly requires otherwise, the definitions in
25 this section apply throughout this chapter.

26 (1) "Active transportation" means forms of pedestrian mobility
27 including walking or running, the use of a mobility assistive device
28 such as a wheelchair, bicycling and cycling irrespective of the
29 number of wheels, and the use of small personal devices such as foot
30 scooters or skateboards. Active transportation includes both

1 traditional and electric assist bicycles and other devices. Planning
2 for active transportation must consider and address accommodation
3 pursuant to the Americans with disabilities act and the distinct
4 needs of each form of active transportation.

5 (2) "Active transportation facilities" means facilities provided
6 for the safety and mobility of active transportation users including,
7 but not limited to, trails, as defined in RCW 47.30.005, sidewalks,
8 bike lanes, shared-use paths, and other facilities in the public
9 right-of-way.

10 (3) "Administrative design review" means a development permit
11 process whereby an application is reviewed, approved, or denied by
12 the planning director or the planning director's designee based
13 solely on objective design and development standards without a public
14 predecision hearing, unless such review is otherwise required by
15 state or federal law, or the structure is a designated landmark or
16 historic district established under a local preservation ordinance. A
17 city may utilize public meetings, hearings, or voluntary review
18 boards to consider, recommend, or approve requests for variances from
19 locally established design review standards.

20 (4) "Adopt a comprehensive land use plan" means to enact a new
21 comprehensive land use plan or to update an existing comprehensive
22 land use plan.

23 (5) "Affordable housing" means, unless the context clearly
24 indicates otherwise, residential housing whose monthly costs,
25 including utilities other than telephone, do not exceed (~~(thirty)~~) 30
26 percent of the monthly income of a household whose income is:

27 (a) For rental housing, 60 percent of the median household income
28 adjusted for household size, for the county where the household is
29 located, as reported by the United States department of housing and
30 urban development; or

31 (b) For owner-occupied housing, 80 percent of the median
32 household income adjusted for household size, for the county where
33 the household is located, as reported by the United States department
34 of housing and urban development.

35 (6) "Agricultural land" means land primarily devoted to the
36 commercial production of horticultural, viticultural, floricultural,
37 dairy, apiary, vegetable, or animal products or of berries, grain,
38 hay, straw, turf, seed, Christmas trees not subject to the excise tax
39 imposed by RCW 84.33.100 through 84.33.140, finfish in upland

1 hatcheries, or livestock, and that has long-term commercial
2 significance for agricultural production.

3 (7) "City" means any city or town, including a code city.

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

8 (9) "Cottage housing" means residential units on a lot with a
9 common open space that either: (a) Is owned in common; or (b) has
10 units owned as condominium units with property owned in common and a
11 minimum of 20 percent of the lot size as open space.

12 (10) "Courtyard apartments" means up to four attached dwelling
13 units arranged on two or three sides of a yard or court.

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

23 (12) "Department" means the department of commerce.

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

34 (14) "Emergency housing" means temporary indoor accommodations
35 for individuals or families who are homeless or at imminent risk of
36 becoming homeless that is intended to address the basic health, food,
37 clothing, and personal hygiene needs of individuals or families.
38 Emergency housing may or may not require occupants to enter into a
39 lease or an occupancy agreement.

1 (15) "Emergency shelter" means a facility that provides a
2 temporary shelter for individuals or families who are currently
3 homeless. Emergency shelter may not require occupants to enter into a
4 lease or an occupancy agreement. Emergency shelter facilities may
5 include day and warming centers that do not provide overnight
6 accommodations.

7 (16) "Environmental justice" means the fair treatment and
8 meaningful involvement of all people regardless of race, color,
9 national origin, or income with respect to development,
10 implementation, and enforcement of environmental laws, regulations,
11 and policies. Environmental justice includes addressing
12 disproportionate environmental and health impacts in all laws, rules,
13 and policies with environmental impacts by prioritizing vulnerable
14 populations and overburdened communities and the equitable
15 distribution of resources and benefits.

16 (17) "Extremely low-income household" means a single person,
17 family, or unrelated persons living together whose adjusted income is
18 at or below (~~thirty~~) 30 percent of the median household income
19 adjusted for household size, for the county where the household is
20 located, as reported by the United States department of housing and
21 urban development.

22 (18) "Floor area ratio" means a measure of development intensity
23 equal to building square footage divided by the developable property
24 square footage. Developable property excludes public facilities and
25 portions of lots with critical areas and critical area buffers as
26 designated in RCW 36.70A.060, except for critical aquifer recharge
27 areas where a single-family detached house is an allowed use provided
28 that any requirements to maintain aquifer recharge are met.

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

1 to manage for timber production; and (d) the availability of public
2 facilities and services conducive to conversion of forestland to
3 other uses.

4 ~~((19))~~ (20) "Freight rail dependent uses" means buildings and
5 other infrastructure that are used in the fabrication, processing,
6 storage, and transport of goods where the use is dependent on and
7 makes use of an adjacent short line railroad. Such facilities are
8 both urban and rural development for purposes of this chapter.
9 "Freight rail dependent uses" does not include buildings and other
10 infrastructure that are used in the fabrication, processing, storage,
11 and transport of coal, liquefied natural gas, or "crude oil" as
12 defined in RCW 90.56.010.

13 ~~((20))~~ (21) "Geologically hazardous areas" means areas that
14 because of their susceptibility to erosion, sliding, earthquake, or
15 other geological events, are not suited to the siting of commercial,
16 residential, or industrial development consistent with public health
17 or safety concerns.

18 ~~((21))~~ (22) "Green infrastructure" means a wide array of
19 natural assets and built structures within an urban growth area
20 boundary, including parks and other areas with protected tree canopy,
21 and management practices at multiple scales that manage wet weather
22 and that maintain and restore natural hydrology by storing,
23 infiltrating, evapotranspiring, and harvesting and using stormwater.

24 ~~((22))~~ (23) "Green space" means an area of land, vegetated by
25 natural features such as grass, trees, or shrubs, within an urban
26 context and less than one acre in size that creates public value
27 through one or more of the following attributes:

- 28 (a) Is accessible to the public;
- 29 (b) Promotes physical and mental health of residents;
- 30 (c) Provides relief from the urban heat island effects;
- 31 (d) Promotes recreational and aesthetic values;
- 32 (e) Protects streams or water supply; or
- 33 (f) Preserves visual quality along highway, road, or street
34 corridors.

35 ~~((23))~~ (24) "Long-term commercial significance" includes the
36 growing capacity, productivity, and soil composition of the land for
37 long-term commercial production, in consideration with the land's
38 proximity to population areas, and the possibility of more intense
39 uses of the land.

1 ~~((24))~~ (25) "Low-income household" means a single person,
2 family, or unrelated persons living together whose adjusted income is
3 at or below ~~((eighty))~~ 80 percent of the median household income
4 adjusted for household size, for the county where the household is
5 located, as reported by the United States department of housing and
6 urban development.

7 ~~((25))~~ (26) "Major transit stop" means:

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

10 (b) Commuter rail stops;

11 (c) Stops on rail or fixed guideway systems; or

12 (d) Stops on bus rapid transit routes.

13 ~~((26))~~ (27) "Middle housing" means buildings that are
14 compatible in scale, form, and character with single-family houses
15 and contain two or more attached, stacked, or clustered homes
16 including duplexes, triplexes, fourplexes, fiveplexes, sixplexes,
17 townhouses, stacked flats, courtyard apartments, and cottage housing.

18 ~~((27))~~ (28) "Minerals" include gravel, sand, and valuable
19 metallic substances.

20 ~~((28))~~ (29) "Moderate-income household" means a single person,
21 family, or unrelated persons living together whose adjusted income is
22 at or below 120 percent of the median household income adjusted for
23 household size, for the county where the household is located, as
24 reported by the United States department of housing and urban
25 development.

26 ~~((29))~~ (30) "Overburdened community" means a geographic area
27 where vulnerable populations face combined, multiple environmental
28 harms and health impacts, and includes, but is not limited to, highly
29 impacted communities as defined in RCW 19.405.020.

30 ~~((30))~~ (31) "Per capita vehicle miles traveled" means the
31 number of miles traveled using cars and light trucks in a calendar
32 year divided by the number of residents in Washington. The
33 calculation of this value excludes vehicle miles driven conveying
34 freight.

35 ~~((31))~~ (32) "Permanent supportive housing" is subsidized,
36 leased housing with no limit on length of stay that prioritizes
37 people who need comprehensive support services to retain tenancy and
38 utilizes admissions practices designed to use lower barriers to entry
39 than would be typical for other subsidized or unsubsidized rental
40 housing, especially related to rental history, criminal history, and

1 personal behaviors. Permanent supportive housing is paired with on-
2 site or off-site voluntary services designed to support a person
3 living with a complex and disabling behavioral health or physical
4 health condition who was experiencing homelessness or was at imminent
5 risk of homelessness prior to moving into housing to retain their
6 housing and be a successful tenant in a housing arrangement, improve
7 the resident's health status, and connect the resident of the housing
8 with community-based health care, treatment, or employment services.
9 Permanent supportive housing is subject to all of the rights and
10 responsibilities defined in chapter 59.18 RCW.

11 ~~((32))~~ (33) "Public facilities" include streets, roads,
12 highways, sidewalks, street and road lighting systems, traffic
13 signals, domestic water systems, storm and sanitary sewer systems,
14 parks and recreational facilities, and schools.

15 ~~((33))~~ (34) "Public services" include fire protection and
16 suppression, law enforcement, public health, education, recreation,
17 environmental protection, and other governmental services.

18 ~~((34))~~ (35) "Recreational land" means land so designated under
19 RCW 36.70A.1701 and that, immediately prior to this designation, was
20 designated as agricultural land of long-term commercial significance
21 under RCW 36.70A.170. Recreational land must have playing fields and
22 supporting facilities existing before July 1, 2004, for sports played
23 on grass playing fields.

24 ~~((35))~~ (36) "Rural character" refers to the patterns of land
25 use and development established by a county in the rural element of
26 its comprehensive plan:

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

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

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

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

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

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

1 (g) That are consistent with the protection of natural surface
2 water flows and groundwater and surface water recharge and discharge
3 areas.

4 (~~(36)~~) (37) "Rural development" refers to development outside
5 the urban growth area and outside agricultural, forest, and mineral
6 resource lands designated pursuant to RCW 36.70A.170. Rural
7 development can consist of a variety of uses and residential
8 densities, including clustered residential development, at levels
9 that are consistent with the preservation of rural character and the
10 requirements of the rural element. Rural development does not refer
11 to agriculture or forestry activities that may be conducted in rural
12 areas.

13 (~~(37)~~) (38) "Rural governmental services" or "rural services"
14 include those public services and public facilities historically and
15 typically delivered at an intensity usually found in rural areas, and
16 may include domestic water systems and fire and police protection
17 services associated with rural development and normally not
18 associated with urban areas. Rural services do not include storm or
19 sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

20 (~~(38)~~) (39) "Short line railroad" means those railroad lines
21 designated class II or class III by the United States surface
22 transportation board.

23 (~~(39)~~) (40) "Single-family zones" means those zones where
24 single-family detached housing is the predominant land use.

25 (~~(40)~~) (41) "Stacked flat" means dwelling units in a
26 residential building of no more than three stories on a residential
27 zoned lot in which each floor may be separately rented or owned.

28 (~~(41)~~) (42) "Station area" means all lots that are:

29 (a) Fully within an urban growth area; and

30 (b) Fully or partially within:

31 (i) One-half mile walking distance of an entrance to a train
32 station with a stop on a light rail system, a commuter rail stop, or
33 a stop on rail or fixed guideway systems; or

34 (ii) One-quarter mile walking distance of a stop on a fixed route
35 bus system that is designated as a bus rapid transit stop in the
36 transit development plan as required in RCW 35.58.2795, for which an
37 environmental determination has been issued as required under chapter
38 43.21C RCW, and that features fixed transit assets that indicate
39 permanent, high capacity service including, but not limited to,

1 elevated platforms or enhanced stations, off-board fare collection,
2 dedicated lanes, busways, or transit signal priority.

3 (43) "Townhouses" means buildings that contain three or more
4 attached single-family dwelling units that extend from foundation to
5 roof and that have a yard or public way on not less than two sides.

6 ~~((42))~~ (44) "Transportation system" means all infrastructure
7 and services for all forms of transportation within a geographical
8 area, irrespective of the responsible jurisdiction or transportation
9 provider.

10 ~~((43))~~ (45) "Urban governmental services" or "urban services"
11 include those public services and public facilities at an intensity
12 historically and typically provided in cities, specifically including
13 storm and sanitary sewer systems, domestic water systems, street
14 cleaning services, fire and police protection services, public
15 transit services, and other public utilities associated with urban
16 areas and normally not associated with rural areas.

17 ~~((44))~~ (46) "Urban growth" refers to growth that makes
18 intensive use of land for the location of buildings, structures, and
19 impermeable surfaces to such a degree as to be incompatible with the
20 primary use of land for the production of food, other agricultural
21 products, or fiber, or the extraction of mineral resources, rural
22 uses, rural development, and natural resource lands designated
23 pursuant to RCW 36.70A.170. A pattern of more intensive rural
24 development, as provided in RCW 36.70A.070(5)(d), is not urban
25 growth. When allowed to spread over wide areas, urban growth
26 typically requires urban governmental services. "Characterized by
27 urban growth" refers to land having urban growth located on it, or to
28 land located in relationship to an area with urban growth on it as to
29 be appropriate for urban growth.

30 ~~((45))~~ (47) "Urban growth areas" means those areas designated
31 by a county pursuant to RCW 36.70A.110.

32 ~~((46))~~ (48) "Very low-income household" means a single person,
33 family, or unrelated persons living together whose adjusted income is
34 at or below ~~((fifty))~~ 50 percent of the median household income
35 adjusted for household size, for the county where the household is
36 located, as reported by the United States department of housing and
37 urban development.

38 ~~((47))~~ (49)(a) "Vulnerable populations" means population groups
39 that are more likely to be at higher risk for poor health outcomes in
40 response to environmental harms, due to: (i) Adverse socioeconomic

1 factors, such as unemployment, high housing and transportation costs
2 relative to income, limited access to nutritious food and adequate
3 health care, linguistic isolation, and other factors that negatively
4 affect health outcomes and increase vulnerability to the effects of
5 environmental harms; and (ii) sensitivity factors, such as low birth
6 weight and higher rates of hospitalization.

7 (b) "Vulnerable populations" includes, but is not limited to:

8 (i) Racial or ethnic minorities;

9 (ii) Low-income populations; and

10 (iii) Populations disproportionately impacted by environmental
11 harms.

12 (~~(48)~~) (50) "Wetland" or "wetlands" means areas that are
13 inundated or saturated by surface water or groundwater at a frequency
14 and duration sufficient to support, and that under normal
15 circumstances do support, a prevalence of vegetation typically
16 adapted for life in saturated soil conditions. Wetlands generally
17 include swamps, marshes, bogs, and similar areas. Wetlands do not
18 include those artificial wetlands intentionally created from
19 nonwetland sites, including, but not limited to, irrigation and
20 drainage ditches, grass-lined swales, canals, detention facilities,
21 wastewater treatment facilities, farm ponds, and landscape amenities,
22 or those wetlands created after July 1, 1990, that were
23 unintentionally created as a result of the construction of a road,
24 street, or highway. Wetlands may include those artificial wetlands
25 intentionally created from nonwetland areas created to mitigate
26 conversion of wetlands.

27 (~~(49)~~) (51) "Wildland urban interface" means the geographical
28 area where structures and other human development meets or
29 intermingles with wildland vegetative fuels.

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

32 (1) Cities planning under RCW 36.70A.040 may not enact or enforce
33 any development regulation within a station area that would prohibit
34 the siting of multifamily residential housing on lots where any other
35 residential use is permissible.

36 (2)(a) Cities planning under RCW 36.70A.040 must allow new
37 residential and mixed-use development within any station area at the
38 transit-oriented development density of:

1 (i) At least 3.5 floor area ratio, on average, within one-half
2 mile walking distance of an entrance to a train station with a stop
3 on a light rail system, a commuter rail stop, or a stop on rail or
4 fixed guideway systems; and

5 (ii) At least 2.5 floor area ratio, on average, or at least a 3.0
6 floor area ratio, on average if a city exempts up to 25 percent of
7 station areas, within one-quarter mile walking distance of a stop on
8 a fixed route bus system that is designated as a bus rapid transit
9 stop in the transit development plan as required in RCW 35.58.2795,
10 for which an environmental determination has been issued as required
11 under chapter 43.21C RCW, and that features fixed transit assets that
12 indicate permanent, high capacity service including, but not limited
13 to, elevated platforms or enhanced stations, off-board fare
14 collection, dedicated lanes, busways, or transit signal priority.

15 (b) A city planning under RCW 36.70A.040 may adopt a modification
16 to a station area designation, but only after consultation with and
17 approval by the department.

18 (c) Cities planning under RCW 36.70A.040 may not enact or enforce
19 any development regulation that imposes:

20 (i) A maximum floor area ratio of less than the transit-oriented
21 development density in this subsection for any residential or mixed-
22 use development within a station area, unless a city has adopted an
23 exemption for the station area under (a)(ii) of this subsection; or

24 (ii) A maximum residential density, measured in residential units
25 per acre or other metric of land area within a station area.

26 (3) For the purposes of this section:

27 (a) "Mixed-use development" means a building with more than 50
28 percent of the gross floor area dedicated to residential uses.

29 (b) "Stop" includes any existing stop and any stop funded for
30 development and projected for construction within an applicable six-
31 year transit development plan under RCW 35.58.2795. "Stop" does not
32 include a stop used exclusively for bus service, including express
33 bus service operated by a regional transit agency as defined under
34 chapter 81.104 RCW and trolley buses, unless the stop also serves a
35 fixed route bus system as a designated bus rapid transit stop in the
36 transit development plan as required in RCW 35.58.2795, for which an
37 environmental determination has been issued as required under chapter
38 43.21C RCW, and that features fixed transit assets that indicate
39 permanent, high capacity service including, but not limited to,

1 elevated platforms or enhanced stations, off-board fare collection,
2 dedicated lanes, busways, or transit signal priority.

3 (4) The department must develop guidance to convert different
4 types of planning measurements to the transit-oriented development
5 density requirements and applicable floor area ratios.

6 (5)(a) Within any station area, any building in which all units
7 are affordable housing for at least 50 years or are dedicated to
8 permanent supportive housing, an additional 1.5 floor area ratio in
9 excess of the transit-oriented development density required under
10 subsection (2)(a) of this section must be permitted. If a city has
11 enacted or expands a program under RCW 36.70A.540 in an area where
12 development regulations must comply with this section, that program,
13 including the amount of affordable housing required either on-site or
14 through an in-lieu payment, governs to the extent it varies from the
15 requirements of this subsection.

16 (b) For the purposes of this subsection (5), "affordable housing"
17 means residential housing with a monthly cost, including utilities
18 other than telephone, that does not exceed 30 percent of the monthly
19 income of a household whose income is no more than 80 percent of the
20 median household income adjusted for household size, for the county
21 where the household is located, as reported by the United States
22 department of housing and urban development.

23 (6) Any floor area within a building located in a station area
24 that is reserved for residential units in multifamily housing that
25 includes at least three bedrooms must not be counted toward
26 applicable floor area ratio limits. A city may require the
27 residential units to comply with affordability requirements to be
28 eligible for an exclusion from the applicable floor area ratio
29 limits.

30 (7) Cities planning under RCW 36.70A.040 may by ordinance
31 designate parts of a station area in which to enact or enforce floor
32 area ratios for residential or mixed-use development that are more or
33 less than the applicable transit-oriented development density, if the
34 average maximum floor area ratio of all residential and mixed-use
35 areas within a station area is no less than the applicable transit-
36 oriented development density.

37 (8) At least 10 percent of all residential units in buildings
38 constructed within a station area must be maintained as affordable
39 housing for at least 50 years, unless:

1 (a) The building is constructed on a lot in which a density that
2 meets or exceeds the transit-oriented development density in
3 subsection (2) of this section was authorized prior to January 1,
4 2024;

5 (b) The building is subject to affordability requirements with a
6 lower income threshold or a greater amount of required affordable
7 housing that were enacted by a city prior to January 1, 2024; or

8 (c) A city has enacted or expands a mandatory program under RCW
9 36.70A.540 that requires a minimum amount of affordable housing that
10 must be provided by residential development, either on-site or
11 through an in-lieu payment as allowed by RCW 36.70A.540, in an area
12 where development regulations must comply with this section. Such
13 mandatory program may be enacted, modified, or expanded by a city in
14 coordination with adopting regulations to comply with this act, and
15 may require an amount of affordable housing that differs or exceeds
16 the amount required. An optional program established under RCW
17 36.70A.540 does not meet the requirements of this subsection (8)(c).

18 (9) Nothing in this section prohibits a city from approving an
19 exemption under chapter 84.14 RCW for multifamily residential housing
20 within a station area that meets the affordability requirements in
21 subsection (8) of this section and the requirements of chapter 84.14
22 RCW.

23 (10) A city that has enacted an incentive program prior to
24 January 1, 2024, that requires public benefits, such as school
25 capacity, greater amounts of affordable housing, green space, or
26 green infrastructure, in return for additional development
27 allowances, may continue to require such public benefits if complying
28 with the requirements of this section provides additional development
29 capacity that would have triggered the public benefits requirements.

30 (11)(a) No later than the deadlines established in subsection
31 (16) of this section, cities planning under RCW 36.70A.040 must act
32 to modify or repeal any existing development regulations applicable
33 in a station area that, alone or in combination, are inconsistent
34 with this section, and may not enact any development regulations
35 applicable in a station area that, alone or in combination with other
36 development regulations, are inconsistent with this section.

37 (b) A city may apply any objective development regulations within
38 a station area that are required for other multifamily residential
39 uses in the same zone, including tree canopy and retention
40 requirements.

1 (c) This subsection (11) does not apply to development
2 regulations that are generally applicable health and safety
3 standards, including building code standards and fire and life safety
4 standards.

5 (12) Nothing in this section requires alteration, displacement,
6 or limitation of industrial or agricultural uses or industrial,
7 manufacturing, or agricultural areas within the urban growth area.

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

11 (14) Cities planning under RCW 36.70A.040 may exclude from the
12 requirements in this section any portion of a lot that is designated
13 as a shoreline environment governed by a shoreline master program or
14 as a critical area governed by a critical area ordinance, except for
15 critical aquifer recharge areas where a single-family detached house
16 is an allowed use provided that any requirements to maintain aquifer
17 recharge are met, and any lot that:

18 (a) Is nonconforming with development regulations governing lot
19 dimensions including, but not limited to, standards related to lot
20 width, area, geometry, or street access, unless an applicant
21 demonstrates that the nonconforming lot may be developed in
22 compliance with the development regulations governing lot dimensions
23 by obtaining any modification, deviation, variance, or similar code
24 departure approval allowed under the development regulations;

25 (b) Contains a designated landmark or is located within a
26 historic district established under a local preservation ordinance
27 adopted prior to the effective date of this section;

28 (c) Has been designated as containing urban separators by
29 countywide planning policies as of the effective date of this
30 section; or

31 (d) Is an industrial, manufacturing, or agricultural designated
32 lot that either is limited to one dwelling unit per lot or only
33 allows housing for individuals and their families responsible for
34 caretaking, farm work, security, or maintenance.

35 (15) For cities subject to a growth target adopted under RCW
36 36.70A.210 that limits the maximum residential capacity of the
37 jurisdiction, any additional residential capacity required by this
38 section may not be considered an inconsistency with the countywide
39 planning policies, multicounty planning policies, or growth targets
40 adopted under RCW 36.70A.210.

1 (16)(a) Any city that is required to review its comprehensive
2 plan by December 31, 2024, as specified in RCW 36.70A.130(5)(a), must
3 comply with the requirements of this section by the earlier of
4 December 31, 2029, or its first implementation progress report due
5 after December 31, 2024, as specified in RCW 36.70A.130(9), and
6 thereafter at each comprehensive plan update or implementation
7 progress report following the completion or funding of any transit
8 stop that would create a new station area within the jurisdiction.

9 (b) Any city that is required to review its comprehensive plan
10 after December 31, 2024, as specified in RCW 36.70A.130(5)(b), (c),
11 or (d), must comply with the requirements of this section no later
12 than six months after its first comprehensive plan update due after
13 December 31, 2024, and thereafter at each comprehensive plan update
14 or implementation progress report following the completion or funding
15 of any transit stop that would create a new station area within the
16 jurisdiction.

17 (c) A federally recognized Indian tribe may voluntarily choose to
18 participate in the planning process to implement the requirements of
19 this section in accordance with RCW 36.70A.040(8).

20 (17)(a) The department must publish a model transit-oriented
21 development ordinance by June 30, 2026.

22 (b) In any city subject to this section that has not passed
23 ordinances, regulations, or other official controls by the deadlines
24 required under subsection (16) of this section, the model ordinance
25 supersedes, preempts, and invalidates local development regulations
26 until the city takes all actions necessary to implement this section.

27 (18) A city may seek an extension from the transit-oriented
28 development density requirements of this section by applying to the
29 department for an extension in any areas that are at high risk of
30 displacement based on a city's antidisplacement analysis or an
31 antidisplacement map. The department must review the city's analysis
32 and certify a five-year extension from the requirements of this
33 section for areas at high risk of displacement. The city must create
34 an implementation plan that identifies the antidisplacement policies
35 available to residents to mitigate displacement risk. During the
36 extension, the city may delay implementation or enact alternative
37 floor area ratio requirements within any areas at high risk of
38 displacement. The department may recertify an extension for
39 additional five-year periods based on evidence of ongoing
40 displacement risk in the area.

1 (19) (a) (i) The department may approve actions under this
2 subsection (19) for cities that have, by June 30, 2025, adopted a
3 plan and implementing development regulations for a specific station
4 area that are substantially similar to the requirements of this
5 section for that station area. In determining whether a city's
6 adopted plan and development regulations are substantially similar,
7 the department's evaluation may include, but not be limited to, if:

8 (A) The regulations will provide a development capacity and allow
9 the opportunity for creation of affordable housing that is at least
10 equivalent to the amount of development capacity and affordable
11 housing that would be allowed in that station area if the specific
12 provisions of this section were adopted;

13 (B) The jurisdiction offers a way to achieve buildings that
14 exceed 85 feet in height; and

15 (C) No lot within the station area is zoned exclusively for
16 detached single-family residences.

17 (ii) The department must establish by rule any standards or
18 procedures necessary to implement (a) of this subsection.

19 (b) Any local actions approved by the department pursuant to (a)
20 of this subsection are exempt from appeals under this chapter and
21 chapter 43.21C RCW.

22 (c) The department's final decision to approve or reject actions
23 by cities under this subsection (19) may be appealed to the growth
24 management hearings board by filing a petition as provided in RCW
25 36.70A.290.

26 (20) (a) (i) By August 1, 2024, the governor shall convene a work
27 group to develop a list of antidisplacement guiding principles and
28 strategies. The work group must be comprised, at a minimum, of the
29 following members:

30 (A) Representatives of impacted cities, including at least one
31 representative of a city that does not have extensive staffing or
32 resources;

33 (B) A representative of impacted tenants;

34 (C) A representative of ethnic or cultural associations;

35 (D) A representative of an organization advocating for affordable
36 housing;

37 (E) A representative of an association representing tenants;

38 (F) A representative with experience developing affordable
39 housing;

1 (G) A representative of an organization advocating for nonprofit
2 builders of affordable housing;

3 (H) A representative from a development industry association; and

4 (I) Other representatives with experience developing or
5 implementing antidisplacement strategies.

6 (ii) The work group must:

7 (A) Develop definitions for displacement and gentrification;

8 (B) Develop a list of recommended antidisplacement strategies,
9 including strategies that mitigate the impacts of displacement and
10 protect against gentrification; and

11 (C) Identify the potential costs and funding sources to implement
12 the strategies.

13 (iii) By September 30, 2025, the work group must submit a report
14 of its findings and recommendations to the department.

15 (b) By October 15, 2025, the department shall develop, and make
16 available to cities, antidisplacement guiding principles and a list
17 of potential strategies.

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

20 Subject to appropriation, the department must establish and
21 administer a capital grant program to assist cities in providing the
22 infrastructure necessary to accommodate development at transit-
23 oriented development densities within station areas, including water,
24 sewer, stormwater, and transportation infrastructure and parks and
25 recreation facilities.

26 NEW SECTION. **Sec. 5.** A new section is added to chapter 44.28
27 RCW to read as follows:

28 (1) The joint committee shall review jurisdictions' experiences
29 with:

30 (a) The effects of the 10 percent affordable housing requirement
31 under section 3 of this act;

32 (b) In-lieu payment options for affordable housing requirements,
33 including how such payments were structured and the amount of housing
34 created using in-lieu payments; and

35 (c) Requirements for transit-oriented development density around
36 fixed route transit stops providing frequent bus service.

1 (2) In evaluating the impacts under this section, the joint
2 committee must conduct case studies that consider the following
3 factors:

4 (a) The effects on housing supply, including the supply of
5 affordable housing;

6 (b) The implementation of transit-oriented development density
7 regulations; and

8 (c) How statewide transit-oriented development density
9 regulations are interacting with residential housing construction and
10 development in specific cities, including at least one city located
11 east of the crest of the Cascade mountains, at least one city located
12 in a county with a population greater than 900,000 but less than
13 1,000,000, and at least one city located in a county with a
14 population greater than 800,000 but less than 900,000.

15 (3) In conducting its evaluation, the joint committee must
16 consult with the following entities:

17 (a) Representatives of the department of commerce;

18 (b) Representatives of the Washington state housing finance
19 commission;

20 (c) Representatives of the University of Washington's Runstad
21 department of real estate;

22 (d) Representatives of regional transportation planning
23 organizations that include cities with station areas;

24 (e) Representatives of transit agencies serving areas that
25 include cities with station areas;

26 (f) Representatives of affordable housing advocacy organizations
27 working in cities with station areas;

28 (g) Representatives of the for-profit housing development
29 industry working in cities with station areas;

30 (h) Representatives of the nonprofit housing development industry
31 working in cities with station areas;

32 (i) Representatives of cities located east of the crest of the
33 Cascade mountains; and

34 (j) Representatives of cities located west of the crest of the
35 Cascade mountains.

36 (4) The joint committee must complete the review and evaluation
37 required under this section by June 30, 2035.

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

1 (1) To encourage transit-oriented development and transit use and
2 resulting substantial environmental benefits, cities planning under
3 RCW 36.70A.040 may not require off-street automobile parking as a
4 condition of permitting residential or mixed-use development within a
5 station area as defined in RCW 36.70A.030, except for off-street
6 automobile parking that is permanently marked for the exclusive use
7 of individuals with disabilities or parking that is permanently
8 marked for the short-term exclusive use of delivery vehicles.

9 (2) If a project permit application within a station area, as
10 defined in RCW 36.70B.020, does not provide parking in compliance
11 with this section, the proposed absence of parking may not be treated
12 as a basis for issuance of a determination of significance pursuant
13 to chapter 43.21C RCW.

14 (3) The parking provisions of this section do not apply:

15 (a) If a local government submits to the department an empirical
16 study prepared by a credentialed transportation or land use planning
17 expert that clearly demonstrates, and the department finds and
18 certifies, that the application of the parking limitations under
19 subsection (1) of this section will be significantly less safe for
20 automobile drivers or passengers, pedestrians, or bicyclists than if
21 the jurisdiction's parking requirements were applied to the same
22 location. The department must develop guidance to assist cities and
23 counties on items to include in the study; or

24 (b) To portions of cities within a one-mile radius of a
25 commercial airport in Washington with at least 9,000,000 annual
26 enplanements.

27 (4) If a residential or mixed-use development provides parking
28 for residential uses in excess of what is required in subsection (1)
29 of this section, cities planning under RCW 36.70A.040 may enact or
30 enforce development regulations to:

31 (a) Require a share of any provided residential parking to be
32 distributed between units designated as affordable housing and units
33 offered at market rate; and

34 (b) Include all or a portion of the cost of unbundled parking
35 charges into the monthly cost for rental units designated as
36 affordable housing.

37 **Sec. 7.** RCW 43.21C.229 and 2023 c 368 s 1 are each amended to
38 read as follows:

1 (1) The purpose of this section is to accommodate infill and
2 housing development and thereby realize the goals and policies of
3 comprehensive plans adopted according to chapter 36.70A RCW.

4 (2) A city or county planning under RCW 36.70A.040 is authorized
5 by this section to establish categorical exemptions from the
6 requirements of this chapter. An exemption may be adopted by a city
7 or county under this subsection if it meets the following criteria:

8 (a) It categorically exempts government action related to
9 development proposed to fill in an urban growth area, designated
10 according to RCW 36.70A.110, where current density and intensity of
11 use in the area is roughly equal to or lower than called for in the
12 goals and policies of the applicable comprehensive plan and the
13 development is either:

14 (i) Residential development;

15 (ii) Mixed-use development; or

16 (iii) Commercial development up to 65,000 square feet, excluding
17 retail development;

18 (b) It does not exempt government action related to development
19 that is inconsistent with the applicable comprehensive plan or would
20 clearly exceed the density or intensity of use called for in the
21 goals and policies of the applicable comprehensive plan;

22 (c) The local government considers the specific probable adverse
23 environmental impacts of the proposed action and determines that
24 these specific impacts are adequately addressed by the development
25 regulations or other applicable requirements of the comprehensive
26 plan, subarea plan element of the comprehensive plan, planned action
27 ordinance, or other local, state, or federal rules or laws; and

28 (d) (i) The city or county's applicable comprehensive plan was
29 previously subjected to environmental analysis through an
30 environmental impact statement under the requirements of this chapter
31 prior to adoption; or

32 (ii) The city or county has prepared an environmental impact
33 statement that considers the proposed use or density and intensity of
34 use in the area proposed for an exemption under this section.

35 (3) All project actions that propose to develop one or more
36 residential housing units within the incorporated areas in an urban
37 growth area designated pursuant to RCW 36.70A.110 or middle housing
38 within the unincorporated areas in an urban growth area designated
39 pursuant to RCW 36.70A.110, and that meet the criteria identified in
40 (a) and (b) of this subsection, are categorically exempt from the

1 requirements of this chapter. For purposes of this section, "middle
2 housing" has the same meaning as in RCW 36.70A.030 as amended by
3 chapter 332, Laws of 2023. Jurisdictions shall satisfy the following
4 criteria prior to the adoption of the categorical exemption under
5 this subsection (3):

6 (a) The city or county shall find that the proposed development
7 is consistent with all development regulations implementing an
8 applicable comprehensive plan adopted according to chapter 36.70A RCW
9 by the jurisdiction in which the development is proposed, with the
10 exception of any development regulation that is inconsistent with
11 applicable provisions of chapter 36.70A RCW; and

12 (b) The city or county has prepared environmental analysis that
13 considers the proposed use or density and intensity of use in the
14 area proposed for an exemption under this section and analyzes
15 multimodal transportation impacts, including impacts to neighboring
16 jurisdictions, transit facilities, and the state transportation
17 system.

18 (i) Such environmental analysis shall include documentation that
19 the requirements for environmental analysis, protection, and
20 mitigation for impacts to elements of the environment have been
21 adequately addressed for the development exempted. The requirements
22 may be addressed in locally adopted comprehensive plans, subarea
23 plans, adopted development regulations, other applicable local
24 ordinances and regulations, or applicable state and federal
25 regulations. The city or county must document its consultation with
26 the department of transportation on impacts to state-owned
27 transportation facilities including consideration of whether
28 mitigation is necessary for impacts to transportation facilities.

29 (ii) Before finalizing the environmental analysis pursuant to
30 (b)(i) of this subsection (3), the city or county shall provide a
31 minimum of 60 days' notice to affected tribes, relevant state
32 agencies, other jurisdictions that may be impacted, and the public.
33 If a city or county identifies that mitigation measures are necessary
34 to address specific probable adverse impacts, the city or county must
35 address those impacts by requiring mitigation identified in the
36 environmental analysis pursuant to this subsection (3)(b) through
37 locally adopted comprehensive plans, subarea plans, development
38 regulations, or other applicable local ordinances and regulations.
39 Mitigation measures shall be detailed in an associated environmental
40 determination.

1 (iii) The categorical exemption is effective 30 days following
2 action by a city or county pursuant to (b)(ii) of this subsection
3 (3).

4 (4) Until September 30, 2025, all project actions that propose to
5 develop one or more residential housing or middle housing units
6 within a city west of the crest of the Cascade mountains with a
7 population of 700,000 or more are categorically exempt from the
8 requirements of this chapter. After September 30, 2025, project
9 actions that propose to develop one or more residential housing or
10 middle housing units within the city may utilize the categorical
11 exemption in subsection (3) of this section.

12 (5) All project actions that propose to develop residential or
13 mixed-use development within a station area are categorically exempt
14 from the requirements of this chapter.

15 (6) Any categorical exemption adopted by a city or county under
16 this section applies even if it differs from the categorical
17 exemptions adopted by rule of the department under RCW
18 43.21C.110(1)(a). Nothing in this section shall invalidate
19 categorical exemptions or environmental review procedures adopted by
20 a city or county under a planned action pursuant to RCW 43.21C.440.
21 However, any categorical exemption adopted by a city or county under
22 this section shall be subject to the rules of the department adopted
23 according to RCW 43.21C.110(1)(a) that provide exceptions to the use
24 of categorical exemptions adopted by the department.

25 NEW SECTION. Sec. 8. A new section is added to chapter 64.38
26 RCW to read as follows:

27 Governing documents created after the effective date of this
28 section and applicable to associations located fully or partially
29 within a station area as defined in RCW 36.70A.030 may not prohibit
30 the construction or development of multifamily housing or transit-
31 oriented development density that must be permitted by cities under
32 section 3 of this act or require off-street parking inconsistent or
33 in conflict with section 6 of this act.

34 NEW SECTION. Sec. 9. A new section is added to chapter 64.90
35 RCW to read as follows:

36 Declarations and governing documents created after the effective
37 date of this section and applicable to a common interest community
38 located fully or partially within a station area as defined in RCW

1 36.70A.030 may not prohibit the construction or development of
2 multifamily housing or transit-oriented development density that must
3 be permitted by cities under section 3 of this act or require off-
4 street parking inconsistent or in conflict with section 6 of this
5 act.

6 NEW SECTION. **Sec. 10.** A new section is added to chapter 64.34
7 RCW to read as follows:

8 A declaration created after the effective date of this section
9 and applicable to an association located fully or partially within a
10 station area as defined in RCW 36.70A.030 may not prohibit the
11 construction or development of multifamily housing or transit-
12 oriented development density that must be permitted by cities under
13 section 3 of this act or require off-street parking inconsistent or
14 in conflict with section 6 of this act.

15 NEW SECTION. **Sec. 11.** A new section is added to chapter 64.32
16 RCW to read as follows:

17 A declaration created after the effective date of this section
18 and applicable to an association of apartment owners located fully or
19 partially within a station area as defined in RCW 36.70A.030 may not
20 prohibit the construction or development of multifamily housing or
21 transit-oriented development density that must be permitted by cities
22 under section 3 of this act or require off-street parking
23 inconsistent or in conflict with section 6 of this act."

E2SHB 2160 - S COMM AMD

By Committee on Local Government, Land Use & Tribal Affairs

NOT CONSIDERED 03/07/2024

24 On page 1, line 2 of the title, after "development;" strike the
25 remainder of the title and insert "amending RCW 43.21C.229;
26 reenacting and amending RCW 36.70A.030; adding new sections to
27 chapter 36.70A RCW; adding a new section to chapter 44.28 RCW; adding
28 a new section to chapter 64.38 RCW; adding a new section to chapter
29 64.90 RCW; adding a new section to chapter 64.34 RCW; adding a new
30 section to chapter 64.32 RCW; and creating a new section."

EFFECT: Amends bus rapid transit stop to include a bus rapid
transit stop for which an environmental determination has been issued

as required by the State Environmental Policy Act (SEPA). Requires cities planning under the Growth Management Act to allow new residential and mixed-use development within any station area at the transit-oriented development density of at least 3.0 floor area ratio, on average if a city exempts up to 25 percent of station areas. Removes the categorical exemption under SEPA for all project actions that propose to develop residential or mixed-use development within a station area.

--- END ---