

HOUSE BILL REPORT

HB 1110

As Reported by House Committee On:
Housing

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

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

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

Brief History:

Committee Activity:

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

Brief Summary of Substitute Bill

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

HOUSE COMMITTEE ON HOUSING

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

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

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

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

Staff: Serena Dolly (786-7150).

Background:

Growth Management Act.

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

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

Comprehensive Plans.

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

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

Mandatory Housing Element.

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

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

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

Planning Actions to Increase Residential Building Capacity.

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

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

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

Technical Assistance and Funding.

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

Homeowners' Associations and Common Interest Communities.

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

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

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

Summary of Substitute Bill:

Density Requirements.

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

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

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

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

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

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

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

A major transit stop includes:

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

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

Antidisplacement Measures.

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

Middle Housing Requirements.

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

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

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

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

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

Technical Assistance.

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

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

Alternative Local Action.

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

Extensions.

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

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

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

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

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

Homeowners' Associations and Common Interest Communities.

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

Substitute Bill Compared to Original Bill:

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

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

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

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

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

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

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

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

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

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

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

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

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

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

(Opposed) None.

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

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

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

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

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