

Revised July 2023

# Middle Housing in Washington: Fact Sheet for Implementing E2SHB 1110

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In 2023, the Washington State Legislature passed E2SHB 1110 (“HB 1110”), which substantially changes the way many cities in Washington are to plan for housing. HB 1110 requires cities of certain sizes and locations to allow multiple dwelling units per lot in a middle housing type of form. Commerce is collecting questions from local governments about the bill and other related legislation passed this session, and has answered certain questions received below, with more to follow. If you have additional questions or need for technical assistance, please email [dave.osaki@commerce.wa.gov](mailto:dave.osaki@commerce.wa.gov) or [Anne.Fritzel@commerce.wa.gov](mailto:Anne.Fritzel@commerce.wa.gov).

**What is middle housing?** HB 1110 defines "Middle housing" as *“buildings that are compatible in scale, form, and character with single-family houses and contain two or more attached, stacked, or clustered homes including duplexes, triplexes, fourplexes, fiveplexes, sixplexes, townhouses, stacked flats, courtyard apartments, and cottage housing.”*

### What types of assistance will be coming from Commerce?

- **Model ordinances:** Commerce is directed under the HB 1110 to publish model ordinances no later than six months following the effective date of the bill, which will be in January of 2024. Stakeholders will be notified of the opportunity to review drafts of the model middle housing ordinances in the fall of 2023 and invited to provide comment.
- **Grant program:** Commerce will offer a statewide competitive grant program in the 2023-2025 biennium to help jurisdictions implement the bill’s requirements. All grant funds must be expended by June of 2025.
- **Continuing guidance from Commerce:** Commerce has already developed a web page on middle housing, which includes tools such as PowerPoint presentations, photos, posters, and will include objective design standards, and a pro-forma calculator that local governments can use to communicate about middle housing.<sup>1</sup> Commerce will also be developing the following to implement the middle housing legislation:
  - Middle housing model ordinances and guidance on the requirements
  - Rules for a process by which cities may seek Commerce approval of an alternative local action necessary to meet the requirements of the bill.<sup>2</sup>

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<sup>1</sup> [www.commerce.wa.gov/serving-communities/growth-management/growth-management-topics/planning-for-middle-housing/](http://www.commerce.wa.gov/serving-communities/growth-management/growth-management-topics/planning-for-middle-housing/)

<sup>2</sup> See E2SHB 1110, Sec. 4(3)

- Standards and procedures for Commerce to use when processing a city request to extend the date by when middle housing rules must be applied, when and where certain criteria apply.
- Guidance to assist cities on preparing a parking study.<sup>3</sup>
- Possible changes to land capacity and buildable lands guidance to address units per lot density requirements.

## APPLICABILITY

**What are cities required to do?** Table 1 below summarizes the middle housing requirements that apply to cities in each of the three population tiers established by HB 1110.<sup>4</sup> Commerce will provide more detail in the coming year on requirements of the bill and implementation tools.

**Table 1: Basic requirements for cities subject to the HB 1110 in the 2024-2027 periodic update.**

	<b>Minimum number of middle housing units that must be allowed per lot in predominately residential zones</b>	<b>NEAR A MAJOR TRANSIT STOP: Minimum number of middle housing units that must be allowed per lot within ¼ mile walking distance of major transit stop in predominately residential zones</b>	<b>WITH AFFORDABLE HOUSING: Minimum number of middle housing units that must be allowed per lot with affordable housing in predominately residential zones where density in applicable zone does not otherwise allow this number (See also HB 1110, Sec. 3(2))</b>
<b>TIER ONE: Cities with population of at least 75,000</b> E2SHB 1110, Sec. 3(1)(b)	4 du/lot, unless zoning permits higher densities	6 du/ lot, unless zoning permits higher densities	6 du/lot if at least 2 units are affordable, unless zoning permits higher densities
<b>TIER TWO: Cities with population of at least 25,000 but less than 75,000</b> E2SHB 1110, Sec. 3(1)(a)	2 du/lot unless zoning permits higher densities	4 du/lot, unless zoning permits higher densities	4 du/lot if at least 1 unit is affordable, unless zoning permits higher densities
<b>TIER THREE: Cities with population under 25,000 that are contiguous with a UGA that includes the largest city in a county with a population over 275,000</b> E2SHB 1110, Sec. 3(1)(c)	2 du/lot, unless zoning permits higher densities	N/A	N/A

**Which cities are required to allow middle housing?** Over the 2024-2027 periodic update cycle, cities of at least 25,000 in population must allow middle housing, as well as cities with a population less than 25,000 in a county of over 275,000 population and which are within a contiguous urban growth area that includes the largest city in the county. **Table 2**, at the end of the document, identifies

<sup>3</sup> See E2SHB 1110, Sec. 3(7)(a)

<sup>4</sup> E2SHB 1110, Sec. 3(11)(a) requires use of the Washington State Office of Financial Management’s 2020 April 1 population data. <https://ofm.wa.gov/washington-data-research/population-demographics/population-estimates>

cities currently subject to the requirements of HB 1110, based on 2020 Office of Financial Management population data, and Commerce’s best understanding.<sup>5</sup>

**When does a local government need to allow middle housing?** Cities subject to the bill must implement the requirements no later than six months after their next periodic update required under RCW 36.70A.130. Cities in the central Puget Sound region (within King, Kitsap, Snohomish and Pierce counties) have the earliest periodic review deadline, on December 31, 2024, which means that they must implement the bill by June 30, 2025. Additional cities may be added to this list over time or moved to the next tier, should they meet the population threshold in future years. Commerce recommends cities look ahead to when their population might meet the thresholds in the bill and be prepared to meet the requirement, if applicable, within 12 months after their next implementation progress report required under RCW 36.70A.130.<sup>6</sup>

## DESIGN AND DENSITY

**What does E2SHB 1110 mean when it uses the term “density”?** “Density” measured in “dwelling units per acre” has traditionally been the way that zoning ordinances have regulated residential land use. HB 1110 introduces the term “unit density” because the bill focuses instead on the minimum number of dwelling units on a lot, not on a per acre basis. Local jurisdictions may need to review and amend comprehensive plan policies and development regulations to take this into consideration, at least for accommodating middle housing.

**How can cities adopt design and development standards that reflect differences between detached single-unit houses and “middle housing” types?** One way to adopt design and development standards that reflect differences between detached single-unit houses and “middle housing” types is to adopt standards for middle housing that are less restrictive than existing standards required for detached single-family residences. Because HB 1110 Section (6)(b) states that middle housing regulations may not be “more restrictive” than for detached single-family residences, there is flexibility for some standards to be less restrictive.<sup>7</sup> One example might be to allow driveway widths that are narrower for certain middle housing types than for a detached house. The less restrictive standard, however, must still be objective (see further below in a separate question regarding EHB 1293’s objective development regulations).

An alternate way to adopt design and development standards is through the administrative design review process in HB 1110 Section 3(6)(a). “Administrative design review” is defined, in part, as, “...a development permit process whereby an application is reviewed, approved, or denied by the planning director or the planning director’s designee based solely on objective design and development standards without a public predecision hearing...”<sup>8</sup> Objective design review standards enable a city to adopt those middle housing specific standards that it deems necessary to achieve compatibility in residential zones where detached single family houses are the predominant use. These middle housing standards may include design and development standards that are not existing requirements for a detached single family residence so long as these design and development standards are “objective” and promote compatibility. The middle housing definition conveys that objective design and development standards are intended to make middle housing buildings compatible with, not identical to, the scale, form and character of detached single family houses.<sup>9</sup>

**\*NEW\* QUESTION JULY 2023: Can a city still have a design review board?** While some cities may choose to have a design review board review certain types of permits, e.g., for commercial development, HB 1110 allows only administrative design review for middle housing. This means that the planning director or the planning director’s designee must decide based on objective criteria, and not a design review board.<sup>10</sup> Another 2023 bill, ESHB 1293, places constraints on all design review, not just for housing, including a limitation of no more than one public meeting and the requirement to use only “clear and objective” development regulations.

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<sup>5</sup> If your city is incorrectly listed or incorrectly omitted, please contact Commerce.

<sup>6</sup> E2SHB 1110, Sec. 3(11)(b)

<sup>7</sup> See E2SHB 1110, Sec. 3 6(a) and 6(b)

<sup>8</sup> See E2SHB 1110, Sec. 2(1)

<sup>9</sup> See E2SHB 1110, Sec 2(21) "Middle housing" means buildings that are compatible in scale, form, and character with single-family houses and contain two or more attached, stacked, or clustered homes including duplexes, triplexes, fourplexes, fiveplexes, sixplexes, townhouses, stacked flats, courtyard apartments, and cottage housing.

<sup>10</sup> E2SHB 1110, Sec. 3(6)(a)

**\*NEW\* QUESTION JULY 2023 Are cities required to adopt Commerce’s 2023 Objective Design and Development Standards?**

No. The standards in the Objective Design and Development Standards Toolkit are provided solely as a resource for cities to consider at their discretion to provide for middle housing. Commerce will prepare model ordinances by January 2024 specific to HB 1110 requirements.

**Given that all cities must allow two accessory dwelling units per lot under HB 1337, how does this harmonize with E2SHB 1110 (middle housing)?** HB 1337 (section 4(1)(c)) requires that, within urban growth areas, cities and counties allow two accessory dwelling units on all lots in zoning districts that allow single-family homes. HB 1110 (section 3(5)), requires that cities allow at least six of the nine types of middle housing to achieve the required unit count.

A city must allow accessory dwelling units and such units may help achieve the unit count, AND the city also must allow middle housing types (such as a duplex) that can satisfy the minimum density<sup>11</sup> (i.e., unit count per lot). For example, where a city must allow two or four units per lot, it does not have to increase the unit count to also accommodate two ADUs.<sup>12</sup> A city may choose to allow such a higher count but is not required to do so. Both bills require that a city allow separate sale of units and the land they sit upon.

**\*NEW\* QUESTION JULY 2023 Is a city required to change the name of zoning districts that include “single-family” (or something similar) in the title?** No. HB 1110 does not require that a new name, be assigned to a zoning district, however, some cities have chosen to rename their single-family zones. For example, the City of Walla Walla has renamed its previous “single family” zones as “Neighborhood Residential Zones” which allow both detached and middle housing types. A city that wishes to rename an existing zoning district, or to create, name, and map a new one, has authority to do so as a legislative action,

## LOT SPLITS AND SUBDIVISION

**Does HB 1110 require a city to allow subdivision of land into lots smaller than 1,000 square feet and then also require that the city allow additional units on these small lots?** HB 1110 Section 3(6)(g) states, in part, “Any city subject to the requirements of this section . . . are not required to achieve the . . . density under this act on lots after subdivision below 1,000 square feet unless the city chooses to enact smaller allowable lot sizes.” A city has discretion to allow subdivision of land into lots less than 1,000 square feet and allow additional units on each of those lots, but is not required to do so. While lots may be subdivided (or even if a lot is not subdivided), the ability to fully achieve four units per lot, for instance, may be limited by the size of the lot and the application of development standards such as maximum lot coverage, parking, and setback requirements.

## TRANSIT STOPS AND PARKING

**\*NEW\* QUESTION JULY 2023: The middle housing bill requires increases in allowed density within “walking distance of a major transit stop”. Does this mean distance is to be measured along some reasonable path, such as street network or by a straight line distance?** A city may use a method of measuring walking distance that is not just a straight line distance (although using a straight line distance is acceptable if a city chooses that method). To measure walking distance typically means to calculate the actual walking distance of each path (whether sidewalk, street edge, or trail) that connects one location to another. For purposes of HB 1110, this would include measuring the walking distance of each pedestrian route leading from a lot to the lot or specific right of way location on which a major transit stop is located. This type of measurement can be done using certain computerized mapping applications. However, it is likely to result in a smaller total area (and not identified by standard shape, such as a circle) on a map than a simple measurement that radiates equidistant from the major transit stop. For practical reasons, jurisdictions are encouraged

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<sup>11</sup> E2SHB 1110, Section 3(5) states, “A city must allow at least six of the nine types of middle housing to achieve the unit density required in subsection (1) of this section. A city may allow accessory dwelling units to achieve the unit density required in subsection (1) of this section. Cities are not required to allow accessory dwelling units or middle housing types beyond the density requirements in subsection (1) of this section. A city must also allow zero lot line short subdivision where the number of lots created is equal to the unit density required in subsection (1) of this section.”

<sup>12</sup> E2SHB 1110 and EHB 1337 do not expressly state how to reconcile the different requirements between the two bills for jurisdictions with a two unit density requirement per lot.

to define a station area using logical boundaries such as roads, edges of land use designations, or other features to delineate a logical area.

**\*NEW\* QUESTION July 2023** **What is the maximum off-street parking requirement for middle housing on a lot exactly 6,000 square feet in area?** E2SHB 1110 Section 3(6)(e) and (f) address off-street parking requirements for middle housing based on lot size as follows,

*“(e) Shall 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 before any zero lot line subdivisions or lot splits;*

*(f) Shall 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 before any zero lot line subdivisions or lot splits;”*

A lot exactly 6,000 square feet is not addressed. In instances where a lot is 6,000 square feet, a jurisdiction may specify in its development regulations whether (6)(e) or (6)(f) will apply. Regardless, fewer parking spaces than the maximum under HB 1110 may be appropriate in many locations. In general, in this specific situation, Commerce recommends requiring fewer parking spaces to reduce barriers to housing development. A developer may choose to provide additional parking spaces.

## ADDITIONAL QUESTIONS:

Commerce has received additional questions, which will be answered in further updates, including:

- How are jurisdictions to allow zero lot line subdivisions?
- How does the definition of Major Transit Stop, which includes, “fixed guideway systems”, apply?
- How does the provision in ESHB 1293 about height apply to “stepbacks” in particular circumstances (such as for properties adjacent to single-family zones)?
- Should airport overlay areas be exempted from needing to allow additional middle housing?
- Are there best practices for wildfire/urban interface areas that could be used for E2SHB 1110 implementation?
- Will Commerce provide guidance to utilities to help with growth modeling?
- E2SHB 1110, EHB 1337, and ESHB 1293 establish requirements for local government development regulations, but not comprehensive plans. Do we need to adopt plan policies that reference or align with these new regulatory changes?
- Can a city adopt and apply middle housing design and development standards through an overlay zone?
- What type of design standards may cities require for accessory dwelling units?
- How should land capacity be calculated, given that more units will be allowed?
- Does E2SHB 1110 have any bearing on vacant residential land that is yet to be platted? The bill does not seem to indicate if it only applies to platted lots of record as of 2023, or if lots created through future residential plats would also be affected.

### AFFORDABILITY

- Would the bill requirement for mid-size cities to allow 4 units per lot outside ¼ mile distance from a major transit stop mean we cannot allow additional units without an affordability requirement?
- Does E2SHB 1110 require jurisdictions to allow plats within ¼ mile of transit with 4-plexes on each lot, or does that requirement only apply to existing lots meeting the size requirements of the zoning?
- Does E2SHB 1110 allow jurisdictions to apply affordability requirements within ¼ mile of transit?
- Would an affordability requirement that provided the same number of affordable units, but some flexibility in the types of units allowed, be considered compliant?

### CONTACT INFORMATION

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**Table 2 – 2020 City populations and three tiers per HB 1110 Section 3(1)(a)-(c)**

TIER 1		TIER 2		TIER 3	
Cities with population of at least 75k		Cities with population of at least 25k and but less than 75k		Cities with populations less than 25K that are within a contiguous UGA with the largest city, in a county with a population more than 275,000	
Seattle	737,015	Redmond	73,256	Kenmore	23,914
Spokane	228,989	Marysville	70,714	Tukwila	21,798
Tacoma	219,346	Sammamish	67,455	Mukilteo	21,538
Vancouver	190,915	Lakewood	63,612	Mountlake Terrace	21,286
Bellevue	151,854	Richland	60,560	Mill Creek	20,926
Kent	136,588	Shoreline	58,608	Covington	20,777
Everett	110,629	Olympia	55,382	Arlington	19,868
Renton	106,785	Lacey	53,526	Washougal	17,039
Spokane Valley	102,976	Burien	52,066	Port Orchard	15,587
Federal Way	101,030	Bothell	48,161	Lake Forest Park	13,630
Yakima	96,968	Bremerton	43,505	Woodinville	13,069
Kirkland	92,175	Puyallup	42,937	Newcastle	13,017
Bellingham	91,482	Edmonds	42,853	Edgewood	12,327
Auburn	87,256	Issaquah	40,051	Liberty Lake	12,003
Kennewick	83,921	Lynnwood	38,568	Fife	10,999
Pasco	77,108	Lake Stevens	35,630	Airway Heights	10,757
<b>Counties with April 1, 2020 population greater than 275,000</b>		Wenatchee	35,575	Sumner	10,621
		Mount Vernon	35,219	DuPont	10,151
King	2,269,675	University Place	34,866	Milton	8,697
Pierce	920,393	Walla Walla	34,060	Pacific	7,235

Snohomish	827,957	Des Moines	32,888	Fircrest	7,156
Spokane	539,339	SeaTac	31,454	Normandy Park	6,771
Clark	503,311	Maple Valley	28,013	Steilacoom	6,727
Thurston	294,793	Camas	26,065	Brier	6,560
Kitsap	275,611	Mercer Island	25,748	Black Diamond	4,697
		Tumwater	25,573	Algona	3,290
		Moses Lake	25,146	Clyde Hill	3,126
				Medina	2,915
				Millwood	1,881
				Woodway	1,318
				Yarrow Point	1,134
				Ruston	1,055
				Hunts Point	457
				Beaux Arts Village	317