

Middle Housing in Washington:

May 2023 Fact Sheet for Implementing E2SHB 1110

In 2023, the Washington State Legislature passed E2SHB 1110, which substantially changes the way many cities in Washington are to plan for housing. The bill requires cities of certain sizes and locations to allow multiple dwelling units per lot in a middle housing type of form.

What is middle housing? "Middle housing" is defined in the bill 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 are cities required to do? Table 1 summarizes the middle housing requirements that apply to cities in each of the population tiers established by the bill. ¹ Commerce will provide more detail in the coming year on the requirements of the bill and implementation tools.

Which cities are required to allow middle housing? Over the 2024-2027 periodic update cycle, cities that must allow middle housing, in accordance with the bill, include cities over 25,000 in population, as well as any city of any population size that is in a county of over 275,000 population, and which is contiguous with an urban growth area that includes the largest city in the county. Table 2, at the end of this document, identifies cities currently subject to the requirements of E2SHB 1110, based on 2020 population estimates, and Commerce's best understanding.²

When does a local government need to allow middle housing? Section 3(11)(a) of E2SHB 1110 requires cities to implement the bill's 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 upcoming periodic review deadline in the state, that being December 31, 2024, which means that they must implement E2SHB 1110 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 using OFM population estimates 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.³

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

² If your city is listed or not listed incorrectly, please contact Commerce.

³ E2SHB 1110, Section 3 (11)(b)

Table 1: Basic requirements for cities subject to the middle housing bill in the 2024-2027 periodic update.

	CITY LIMITS: Number of middle housing units that must be allowed per lot within city limits	NEAR A MAJOR TRANSIT STOP: Number of middle housing units per lot that must be allowed within ¼ mile of transit	WITH AFFORDABLE HOUSING: Number of middle housing units that must be allowed within city limits if affordable units provided Sec. 3(2)(a)
TIER ONE: Cities with population of at least 75,000 HB 1110, Sec. 3(1)(b)	4 du/lot on all lots zoned predominantly residential, unless zoning permits higher densities	6 du/ lot within 1/4 mile walking distance of a major transit stop, unless zoning permits higher densities	6 du/lot if 2 are affordable, unless zoning permits higher densities
TIER TWO: Cities with population between 25,000 and 75,000 HB 1110, Sec. 3(1)(a)	2 du/lot on all lots zoned predominantly residential, unless zoning permits higher densities	4 du/lot within 1/4 mile walking distance of a major transit stop, unless zoning permits higher densities	4 du/lot on all lots predominantly residential if one is affordable
TIER THREE: Cities with population under 25,000 that are contiguous with the UGA of the largest city in a county with a population over 275,000 HB 1110, Sec. 3(1)(c)	2 du/lot on all lots zoned predominantly residential, unless zoning permits higher densities		

What types of assistance will be coming from Commerce?

Model ordinance: Commerce is directed under the bill to develop a model ordinance by the end of December, 2023. (Section 4 (2)(a)). 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. More information will be coming in June 2023. All such 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.⁴ We are also developing some handouts and videos on key housing topics.

Commerce will also be developing the following to implement the middle housing legislation:

- Guidance to assist cities on preparing a parking study.⁵
- Rules for a process by which cities may seek Commerce approval of an alternative local action necessary to meet the requirements of the bill.⁶

⁴ www.commerce.wa.gov/serving-communities/growth-management/growth-management-topics/planning-for-middle-housing/

⁵ See E2SHB 1110, Sec. 3 (7)(d-f)

⁶ See E2SHB 1011. 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.
- Possible changes to land capacity and buildable lands guidance to address units per lot density requirements.

Other Questions and Answers: Commerce is collecting questions from local governments about this bill and other related legislation passed this session, and has answered the first set of questions below. If you have additional questions or need for technical assistance, please email dave.osaki@commerce.wa.gov or anne.fritzel@commerce.wa.gov and Commerce will consider how to respond.

QUESTION #1: 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. However, E2SHB 1110 focuses on the minimum number of dwelling units on a lot in a house-scale building or buildings. This is a different way of thinking of density. 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.

QUESTION #2: How can cities adopt design and development standards that reflect differences between detached single-unit houses and “middle housing” types? E2SHB 1110 does not prohibit cities from adopting more restrictive design and development standards for middle housing than for single family detached housing, provided that those design and development standards are “objective” and are applied through an administrative design review process.

“Objective design and development” standards for middle housing must also comply with EHB 1293 Sec. 1 (2), which provides in part: “. . . a clear and objective development regulation: (a) Must include one or more ascertainable guideline, standard, or criterion by which an applicant can determine whether a given building design is permissible under that development regulation; and (b) May not result in a reduction in density, height, bulk, or scale below the generally applicable development regulations for a development proposal in the applicable zone.”

“Administrative design review” means, under E2SHB 1110 Sec 2(10), “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, unless such review is otherwise required by state or federal law, or the structure is a designated landmark or historic district established under a local preservation ordinance. A city may utilize public meetings, hearings, or voluntary review boards to consider, recommend, or approve requests for variances from locally established design review standards.”⁷

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 houses are the predominant use. These middle housing standards may go beyond those requirements typical of a single family detached residence are so long as they are “objective” and promote compatibility. The middle housing definition conveys that objective design and development standards are intended to make middle housing compatible with, not identical to, detached single family houses. Because Subsection (6)(b) states that middle housing regulations may not be more restrictive than for detached houses, there is flexibility for some standards to be less

⁷ See Section 2 (1) of E2SHB 1110

restrictive.⁸ One example might be to allow driveway widths that are narrower for certain middle housing types than for a detached house with a three-car garage.

QUESTION #3: Does E2SHB 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? E2SHB 1110 Sec. 3(6)(g) states that: “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.” So, a city has discretion to allow subdivision of land into lots of 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 may be limited by the size of the lot and the application of development standards such as maximum lot coverage, parking, and setback requirements.

QUESTION #4: How can the provisions of E2SHB 1110 (middle housing) be harmonized with the provisions of EHB 1337 (accessory dwelling units)?

- Section 4 (1)(c) of HB 1337 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.
- Section 3 (5) of E2SHB 1110, requires that cities allow at least six of the nine types of middle housing to achieve the require unit count.

A city may allow accessory dwelling units to help achieve the unit count, but also must allow middle housing types (such as a duplex) that can satisfy the minimum density (i.e., unit count per lot). For example, where a city must allow four units per lot, it does not have to increase the unit count to also accommodate two ADUs. 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.

For more information on implementing middle housing and Commerce’s future work plan please contact:

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⁸ See Section 3, Subsection (6)(a) and (b) of E2SHB 1110.

Table 2 – 2020 City populations and three tiers per E2SHB 1110 Section 3 (1)(a) – (c)

TIER 1		TIER 2		TIER 3	
Cities with populations greater than 75K		Cities with population between 25k and 75k		Cities with populations < 25K contiguous with the UGA of the largest city in a county with population >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	62,220	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	101,830	Bothell	48,415	Lake Forest Park	13,620
Yakima	96,968	Bremerton	43,505	Woodinville	13,069
Bellingham	91,482	Puyallup	42,937	Newcastle	13,017
Kirkland	92,175	Edmonds	42,853	Edgewood	12,327
Kennewick	83,921	Issaquah	40,051	Liberty Lake	12,030
Auburn	77,245	Lake Stevens	35,630	Fife	10,999
Pasco	77,108	Lynnwood	38,568	Airway Heights	10,757
Counties with population greater than 275,000		Wenatchee	35,575	Sumner	10,621
		Mount Vernon	35,219	DuPont	10,151
King	2,371,000	University Place	34,866	Milton	8,697

TIER 1		TIER 2		TIER 3	
Pierce	958,900	Walla Walla	34,060	Pacific	7,235
Snohomish	862,343	Des Moines	32,888	Fircrest	7,156
Spokane	559,775	SeaTac	31,454	Normandy Park	6,790
Clark	526,696	Maple Valley	29,013	Steilacoom	6,727
Thurston	307,552	Camas	26,065	Brier	6,560
Kitsap	282,955	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	317