

City Planning Commission Agenda
June 6, 2023
6:00 p.m.

Mayor
Jay McGowan
City Administrator
Robert Omans
City Clerk
Kathi Swanson/Debbie Lee
City Planning
Colleda Monick/Virgil Amick



Planning Commissioners
Position #1-Gary Berndt, Chair
Position #2-Matt Fluegge
Position #3 - Vacant
Position #4-Elizabeth Torrey
Position #5-Colin Brissey
Position #6-Paul Kantwill
Position #7-Ian Steele

The Cle Elum Planning Commission meetings are conducted in a hybrid format, with in-person participation at City Hall and from remote locations via Zoom.

Cle Elum City Hall, 119 W. First Street, Cle Elum, WA 98922

Zoom connection information on next page; will change every meeting to ensure cybersecurity.

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- 1. Call to Order and Roll Call.**
 - 2. Citizen Comments on Non-Agenda Items (limited to 5 minutes).**
 - 3. Adoption of Minutes:**
 - a. May 2, 2023
 - 4. Public Hearing.**
 - a. Wildfire Safety/Firewise Decision, continuation of Public Hearing
 - 5. Planning Updates.**
 - a. Update from Gregg Dohrn, planning priority update
 - b. Update from Chair Gary Berndt
 - c. Update from Planning Consultant Colleda Monick; state legislature (HB 1110 and HB 1337).
 - 6. New Business.**
 - 7. Next Meeting Agenda Development.**
 - a. Sign Code Amendments (?)
 - 8. Commissioner Comments and Discussion.**
 - 9. Adjournment.**

City of Cle Elum is inviting you to a scheduled Zoom meeting.

Topic: Planning Commission

Time: Jun 6, 2023 06:00 PM Pacific Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/89334728107?pwd=cm1XbUQ1SVRLaGRJMSt2eHNFQUpiQT09>

Meeting ID: 893 3472 8107

Passcode: 420282

One tap mobile

+12532158782,,89334728107#,,,,*420282# US (Tacoma)

+12532050468,,89334728107#,,,,*420282# US

Dial by your location

+1 253 215 8782 US (Tacoma)

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+1 669 900 6833 US (San Jose)

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+1 346 248 7799 US (Houston)

+1 408 638 0968 US (San Jose)

+1 669 444 9171 US

+1 309 205 3325 US

+1 312 626 6799 US (Chicago)

+1 360 209 5623 US

+1 386 347 5053 US

+1 507 473 4847 US

+1 564 217 2000 US

+1 646 876 9923 US (New York)

+1 646 931 3860 US

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Find your local number: <https://us06web.zoom.us/j/89334728107?pwd=cm1XbUQ1SVRLaGRJMSt2eHNFQUpiQT09>

City of Cle Elum
Planning Commission Meeting
Study Session with the Cle Elum City Council
May 2, 2023, 6:00 pm

Call to Order – Roll Call of Membership

The Special meeting of the Cle Elum Planning Commission, in conjunction with the Cle Elum City Council was called to order by Chair Gary Berndt at 6:00 p.m. Chairman Berndt reported all members of the Planning Commission were present, including Matt Fluegge, Elizabeth Torrey, Colin Brissey, Paul Kantwill and Ian Steele. Mayor McGowan reported 4 of 7 of the city council members were present, including Matthew Lundh, Siw Bay-Hansen, Beth Williams and Ken Ratliff. Sarah Lackey, Steven Harper and Beth Williams were absent. The Pledge of Allegiance was recited. Other members present were Contract Planner Colleda Monick, and City Clerk Kathi Swanson.

Public Comment – Limited to 5-Minutes

Larry Stauffer – 2661 Lower Peoh Point Road: 1) Provided a letter to the Commissioners and Council members from the Kittitas County Commissioners making reference to traffic impacts they want to identify and noting the lack of response from the City of Cle Elum. Mr. Stauffer commented it seems appropriate to be considered this year. **2) Commented** he does not believe the process was followed correctly with regard to the issuance of the Notice of Application and public notice requirement for 47 Degrees North.

Adoption of Minutes

A motion was made by Elizabeth Torrey and seconded by Colin Brissey to adopt the minutes from the 03/07/2023, 04/04/2023 and 04/18/2023 meetings. The motion carried unanimously.

Public Hearing

Wildfire Safety/Firewise:

This subject is still being assessed. The public comment period has ended. The Commission will review the comments from the Washington Department of Fish and Wildlife and will bring the document back to the Planning Commission for review prior to sending it to council. Chairman Berndt will contact WDFW to address the question of how the City plans to adopt the appendices. This subject will be deliberated at the 05/16/2023 Planning Commission meeting to the priority of the order in which to review and direct council.

Planning Priority Discussion – Joint review between Planning Commission and City

Council:

Chairman Berndt offered priorities that can be completed by the Planning Commission:

- 1) Complete Critical Areas Ordinance
- 2) Firewise in 2022 docketing must be completed. Chair Berndt will follow up with WDFW to work with them on their request. Complete and send ordinance to council.
- 3) Initiated the 2023 docketing comp plan. Currently there are no requests, and the docket has closed. The city did receive a recommendation from the County to amend the Traffic portion of the city's Comp Plan.
- 4) Zero lot line construction

Planning Commissioners recommended identifying every project that is already in progress, discover the status and determine what should be take to completion and checked off the list. Commissioners agreed the majority of the Draft does not concern the Planning Commission, but

does concern the Council and Planning Department. Planner Colleda Monick and Gary Berndt will work together to decide what the Planning Commission should be addressing.

The Planning Commission would like to see a revised list that clearly lays out line items of Planning Commission priorities with a clear description of the item. A committee consisting of Elizabeth Torrey, Colin Brissey and Colleda Monick was formed to discuss.

The Planning Commission will complete the review of the critical areas at the next meeting and send to council for finalization.

Councilmember Matthew Lundh noted there is some disconnection between the City Council and Planning Commission. He will ask the council if they would like to appoint a liaison from the council who would work with the Planning Commission.

Motion to Adjourn

A motion was made to adjourn by Colin Brissey and seconded by Matt Fluegge. The motion carried unanimously and the meeting adjourned at 7:37

The Commission meeting is scheduled for Tuesday May 16, 2023, at 6:00 p.m.

Planning Chair – Gary Berndt

Cle Elum Mayor – Jay McGowan

Attest – City Clerk Kathi Swanson



Recommendation Regarding Firewise Amendments

TO: City of Cle Elum Planning Commission
FROM: Colleda Monick, Planning Consultant
SUBJECT: Comprehensive Plan Amendments – FIREWISE
FOR MEETING OF: June 6, 2023

I. PURPOSE AND DESCRIPTION OF PROPOSED AMENDMENTS:

The Cle Elum Planning Division is proposing a non-project minor amendment to the City of Cle Elum's Comprehensive Plan.

The Planning Commission held at least 6 study sessions for these proposed amendments on March 15, 2022; August 11, 2022; October 4, 2022; January 3, 2023; February 15, 2023; and March 7, 2023.

These proposed amendments would be new Goals and Policies that are not currently in the city's Comprehensive Plan and include:

Potential New Goal: Actively protect the city from the risk of wildfires.

To achieve this Goal, the City of Cle Elum adopts and shall actively implement the following policies:

Potential New Policy 1: *The City will actively participate in and support the Kittitas County Community Wildfire Protection Plan (CWPP) that has been developed and updated through the Kittitas Fire Adapted Communities Coalition and regional partners.*

Potential New Policy 2: *The Cle Elum Fire Department, in partnership with all other local wildfire fire suppression entities, will continue to support mutual rapid responses to ensure that timely suppression actions are employed.*

Potential New Policy 3: *The City hereby adopts the "National Cohesive Wildland Fire Management Strategy" (<https://www.forestsandrangelands.gov/strategy/thestrategy.shtml>) to guide local efforts to address the challenges associated with:*

- a. The management of vegetation and fuels for wildfires.*
- b. The protection of lives and property.*
- c. Managing the potential for human-caused ignitions; and*
- d. Effectively and efficiently responding to fires.*

New Policy 4: *The City shall adopt the "2021 International Wildland-Urban Interface Code (IWUIC)" that is within the International Uniform Building Code and provide examples of fire-*



resistant construction (See <https://codes.iccsafe.org/content/IWUIC2021P1/arrangement-and-format-of-the-2021-iwuic>).

Potential New Policy 5: *The City, in partnership with the Kittitas County Fire Districts, Kittitas County Departments, the City of Roslyn, and the Town of South Cle Elum (aka “Regional Partners”), will prepare, adopt, and implement consistent development standards focused on minimizing the risk of wildfires. Areas of special emphasis should include, but is not limited to:*

- a. *Properties along the I-90 corridor.*
- b. *Large parcels under common ownership within the City limits, the Cle Elum UGA, and nearby properties.*
- c. *Forested properties.*
- d. *Properties that contain environmentally sensitive areas, parks, open space, and required buffer areas.*
- e. *Areas identified as high or extreme fire hazard including debris created as a part of land clearing or timber harvest.*

Potential New Policy 6 *The City will apply “firesafe” vegetation management principles to City-owned properties on an ongoing basis. This shall include such measures as:*

- a. *Fuels reduction.*
- b. *Fire resistive landscaping.*
- c. *Vegetation maintenance.*
- d. *Implement program to collect biomass from citizens to give a cost-effective way for citizens of the city to eliminate extra biomass.*

Potential New Policy 7: *The City will engage and encourage state and federal agencies, and non-profit organizations that own or manage tracts of forested land to recognize the increasing risk of wildfires and to prepare and implement land stewardship plans that include measures to reduce the risk of wildfires.*

Potential New Policy 8: *The City will require that the owners of forested property suitable for development prepare and implement a stewardship plan focusing on vegetation management that maintains fire resiliency to minimize wildland fire behavior. These plans should include primary and secondary egress, street standards that allow large emergency vehicle access, fire resistant vegetation, including landscaping, tree species selection and density, and greenbelt locations.*

Potential New Policy 9: *The City and its Regional Partners will establish uniform standards for ingress and egress, emergency vehicle access, and evacuation routes as well as shared protocols for timely evacuation notification, traffic control, responder access, and emergency shelter plans for current and future development. This shall include, but is not limited to:*



- a. *A requirement that at least two means of effective ingress and egress for emergency vehicles in all seasons and weather conditions, as determined by local fire marshals, to include but not limited to load capacity, road grade and width, emergency vehicle turnaround, and street access shall be provided and maintained by project sponsors in areas where 30 or more residences exist or can be developed. If access road is blocked or is otherwise unusable for any reason, there shall be an alternate route for emergency vehicles to access and safely return to their stations, and for residents to escape. No new developments shall be approved that do not permit emergency vehicle access or the evacuation of residence under any circumstances.*

Potential New Policy 10: *The City, in consultation with its Regional Partners and the Washington State Department of Natural Resources, will develop and implement protocols to ensure that all development activities in and near forested areas are conducted in accordance with Industrial Fire Precaution Levels as determined by the Washington State Department of Natural Resources (DNR). This shall include, but is not limited to, compliance with the DNR Handbook on Forest Fire Protection published October 2018, and as may subsequently be amended.*

Potential New Policy 11: *The City in consultation with its Regional Partners, will continue to enforce fireworks bans and open burning rules and restrictions and seek a consistent approach to manage risks associated with those activities.*

Potential New Policy 12: *The City will adopt and implement standards for wildland fire suppression training and certification. First responders should have adequate training, personal protective equipment, and appropriate wildland firefighting equipment to safely engage in any suppression action.*

Potential New Policy 13: *Within one year of the adoption these wildfire policies, City Staff, in consultation with the Firewise Advisory Committee and the City Planning Commission, shall prepare and present for City Council approval:*

- a. *Defensible space standards for new developments utilizing the three vegetation management zones of 0-5 feet, 5-30 feet, and 30- 100 feet or the property boundary, with management prescriptions for each zone.*
- b. *A requirement that building permits and land use approvals include a condition of approval that property owners shall maintain vegetation in accordance with City standards and shall schedule an inspection by the City Fire Department at least once every five years.*
- c. *A plan for the City Fire Department to conduct periodic wildfire risk assessments and to provide property owners with recommendations to maintain their property to be fire resistant along with and fire resistive construction and retrofits to help make the community safer.*



II. CLE ELUM COMPREHENSIVE PLAN 2037

The proposed text amendments are consistent with the following goals and policies of the Comprehensive Plan 2037.

Goal LU-1: Management and Implementation

Policy LU-1.1 To influence the character of the City of Cle Elum by managing land use and developing facilities and services in a manner that directs and controls land use patterns and intensities.

LU-1.2 Land use changes should be guided by topography, soils conditions, adjacent land uses, and the ability of the City to provide facilities and services.

LU – 1.3 Ensure that new development does not outpace the City’s ability to provide and maintain adequate public facilities and services by allowing new development to occur only when and where adequate facilities exist or can be provided.

LU – 1.4 Upon adoption of and/or changes to the Comprehensive Plan, the City Development Regulations shall be reviewed for consistency with the Comprehensive Plan and County Wide Planning Policies.

LU – 1.6 The City will take a more active role in interagency planning and coordination among local jurisdictions, including: Kittitas County, South Cle Elum and Roslyn.

Goal LU-3: Preserve Cle Elum’s natural environment while allowing for growth and development.

Goal LU-4: Preserve and Protect Residential Neighborhoods

LU – 4.8 Require greenbelts, buffers and/or open space to buffer incompatible uses from residential uses.

Goal LU-6: Open Space

LU – 6.1 Discourage the disturbance of vegetation when not in conjunction with the actual development.

LU – 6.2 Open space areas should be encouraged to be used as buffers for different types of land uses.

LU – 6.3 Lands designated for open space should provide for multiple open space benefits whenever possible including active or passive recreation opportunities, scenic amenities, fish and wild life habitat, etc.

LU – 6.6 Develop strategies to protect existing open space areas.

Goal LU-17: Climate and Sustainability

LU – 17.1 Develop and implement climate change adaptation strategies that create a more resilient community by addressing the impacts of climate change to public health and safety, the economy, public and private infrastructure, water resources, and habitat.

LU – 17.3 Support federal, state, and regional policies and education programs intended to protect clean air in Ellensburg and the Kittitas Valley.

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LU – 17.14 Promote community responsibility and engagement through public education and involvement programs that raise awareness about environmental issues.

Goal LU-19: Emergency Management and Disaster Preparedness

LU – 19.1 Continue to collaborate with other Kittitas County communities and agencies to maintain, update, and improve emergency management and disaster preparedness plans, policies, and implementation.

LU – 19.2 Develop community outreach strategies to educate the public on disaster prevention and preparedness.

LU – 19.3 Maintain and update as applicable the 2018 Upper Kittitas County Emergency Preparedness Plan and continue to coordinate closely with the other Upper County communities of Suncadia, Roslyn, and South Cle Elum.

III. ENVIRONMENTAL REVIEW (SEPA)

This project was processed for review under the State Environmental Policy Act as a procedural action per WAC 197-11-800(19), and a Preliminary Determination of Nonsignificance was issued on March 16, 2023. The DNS was retained on May 25, 2023.

IV. PUBLIC NOTICE

Notice of Public Hearing
Legal Ad Publication

March 16, 2023
March 16, 2023

Public comments were submitted prior to the drafting of this report and are included herein as a separate appendix.

V. FINDINGS AND CONCLUSIONS

1. No adverse impacts have been identified by the approval of these amendments.
2. Proposed Comprehensive Plan amendments are consistent with and further enhance the City of Cle Elum Comprehensive Plan 2037, as required by RCW 36.70A.130(1)(d).

VI. RECOMMENDATION

The City of Cle Elum Planning Department recommends APPROVAL of these goals and policies.

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APPENDIX: Public Comments; submitted written comments and spoken during the public hearing on April 4, 2023.

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State of Washington
DEPARTMENT OF FISH AND WILDLIFE
South Central Region • Region 3 • 1701 South 24th Avenue, Yakima, WA 98902-5720
Telephone: (509) 575-2740 • Fax: (509) 575-2474

March 27, 2023

Virgil Amick, Permit/Office Technician
City of Cle Elum
Via email: vamick@cleelum.gov

**SUBJECT: WDFW COMMENTS ON PROPOSED CITY OF CLE ELUM 2023
COMPREHENSIVE PLAN FIREWISE AMENDMENTS**

Dear Mr. Amick,

The Washington Department of Fish and Wildlife (WDFW) has reviewed the draft 2023 Comprehensive Plan "Firewise" amendments. We are supportive of the intent of the document; however, there are a few areas which we feel would benefit from further revision and clarification:

Proposed New Policy 4: WDFW would like to know if the City of Cle Elum plans on adopting the appendices listed in *2021 International Wildland-Urban Interface Code*. These appendices are listed as optional within that document, and so may be adopted in part, entirely, or not at all. WDFW requests clarification on how and if Cle Elum plans to incorporate the appendices. Specifically, WDFW requests the ability to review and provide input on specific proposed language if Appendices A, B, F, and G are fully or partially adopted, as these appendices have the potential to involve Fish and Wildlife Habitat Conservation Areas (FWHCA), the Critical Area of which WDFW has specialized expertise and authority.

Proposed New Policy 5: We request that the Washington Department of Fish and Wildlife be included in this partnership, as FWHCAs are the Critical Area which is most affected by fire-wising. To this point, WDFW is supportive of firewising around homes and structures, but frequently we observe that firewising extends into Critical Areas such as riparian and wetland habitat, because these landscape features are located within the firewise buffer. Development regulations should require that Critical Areas buffers must be additional to firewising buffers, to prevent the continued degradation of these natural resources during firewise activities.

Proposed New Policy 6: WDFW requests that natural resources including FWHCAs, wetlands, and riparian zones be given separate consideration prior to firewising on city-owned property. WDFW is willing to provide technical assistance to the City of Cle Elum to achieve this objective. The intent behind this request is to ensure that these habitat features

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Page 2

are not degraded or deleteriously impacted during firewising activities. We wish to clarify that this does not mean that firewising cannot ever occur in these locations, simply that special considerations must be given to the way in which they are firewised, to prevent their degradation. WDFW has specialized knowledge of how these Critical Areas can be firewised without damaging their functionality or the ecosystem services that they provide to wildlife and to people.

Proposed New Policy 7: WDFW supports the intent of this wording. However, we wish to make known that there are several local examples of developments which were authorized and built immediately adjacent to public lands, such that the firewising buffer extended onto those public lands. This resulted in pushing the responsibility of firewising for residential protection onto public agencies or non-profit conservation lands. For numerous reasons, this is not an ideal scenario for any party. WDFW requests that development regulations require that new structures and their firewise buffers be far enough away that those buffers do not encroach onto adjacent publicly managed lands.

Proposed New Policy 8 and 9: When developing "stewardship plans" and "uniform standards", impacts to FWICAs need to be taken into account. This could include riparian, aquatic, wetland, and upland habitats. WDFW can provide review and input to ensure that any proposed plans do not negatively impact these important resources.

Proposed New Policy 13: WDFW requests to participate in any Firewise Advisory Committee meetings that may include agenda items or discussion regarding vegetation management, habitat impacts, discussions on Critical Areas, or other similar topics.

Thank you again for the opportunity to comment and participate in this important update process. WDFW remains a committed partner as you amend and implement the "Firewise Amendments" to the Comprehensive Plan. Please contact me to discuss WDFW's recommendations or any of the other comments presented within this letter.

Sincerely,

A handwritten signature in cursive script that reads "Scott Downes".

Scott Downes
Area Habitat Biologist
Scott.Downes@dfw.wa.gov

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KITITITAS COUNTY
DEPARTMENT OF PUBLIC WORKS

Mark R. Cook, PE Director



April 13, 2023

City of Cle Elum
Planning Department
119 West First Street
Cle Elum, WA 98922

RE: 2022 Comprehensive Plan Amendments

Dear Planning Official:

Kittitas County Department of Public Works is submitting written comments on the City of Cle Elum's proposed "2022 Annual Comprehensive Plan/Development Regulations Update, Notice of Extended Public Review and Comment Period/Likely SEPA Threshold Determination of Non-Significance March 30, 2023". Thank you for the notice of extension allowing public comment until April 21, 2023.

We note with interest that the proposed 2022 City Comprehensive Plan Amendments address a potential new goal: "Actively protect the city from risk of wildfires". While we concur with the city on the need to actively address wildland fires issues in Upper Kittitas County, we are disappointed to learn the city has declined to address the issue of weekend traffic mitigation. Last fall, we asked the city to consider amending the existing traffic element of the city's comprehensive plan allowing for traffic mitigations resulting from weekend impacts. Our request was driven by the lack of weekend traffic mitigation required by the city following Sun Communities 47 Degrees North proposal – subsequently withdrawn by the applicant. Learning that the applicant was likely to reapply in 2023, we asked the city to amend two existing policies in the city's traffic element: policy T-8 and policy T-23. Having received no response from city planning consultants or staff, I requested the Board of County Commissioners send a letter to the city with the same request (September 19, 2022, Board of County Commissioners to the Honorable Jay McGowan, Mayor). Additionally, the city council was copied on the September 19, 2022, letter.

As we are currently working with the city commenting on the recently submitted re-application by Sun Communities, we see significant impacts to the county's transportation network resulting from Sun's proposal on weekend traffic levels of service. We encourage the city to insist on developer mitigation resulting from proposed traffic generation adversely impacting the county's transportation system on weekends.

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Dept. of Public Works
Page 2

Sincerely,

A handwritten signature in blue ink that reads "Mark R. Cook".

Mark R. Cook, PE
Director

C: Board of County Commissioners

Attachment: September 19, 2022 Letter from the Board of County Commissioners

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City of Cle Elum Planning Commission comments
My name is Phil Hess; I reside at 4650 Airport Rd.

PH 4-4-2023

In my opinion the City should take leadership and expand our role to include all land use and growth management planning issues in upper Kittitas County – of which there are many.

Too me, there is a huge disconnect between multiple planning authorities & jurisdictions driving how our community will look 20-30-40 years into the future.

In my view, we should pause consideration of future developments until such time as we have a professionally prepared Master Plan with a vision of what the upper county should look like in the future.

The current structure of the various planning commissions and approval processes is leading us into an assortment of projects disconnected with developing a fire adapted community and long range transportation and emergency services planning.

In my view, we should consider a consolidation of the multiple planning authorities/jurisdictions into a single Growth Management Authority to implement the professionally prepared Master Plan. This is not a new idea – it has been done successfully in other locations.

In the meantime, for projects already being proposed, I suggest the Planning Commission recommend Impact fees with provisions for escalation as build out occurs to cover future vegetation management for fire resiliency, transportation, school, and emergency services: fire, EMS, law enforcement, emergency evacuation planning.

The alternative is continuation of developer-driven land use changes with little regard to the future. The Growth Management Act, as applied here, is dysfunctional in my opinion.

The City of Cle Elum planning commission is uniquely positioned to help drive land use planning in away that our landscapes & communities we have been privileged to enjoy are attractive to those who follow us.

Sounds NIMBY-like, but at some point the inevitable growth has to be planned better than the processes now in place, in my opinion.

Thank-you,
Phil Hess

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Public Comments from April 4, 2023, Public Hearing

Phil Hess, noted his position on city fire advisory committee, but expressed that he was speaking as a citizen and would be providing his own comments. Mr. Hess strongly supports the amendments. He noted that, we are in a high fire risk community. This amendment should be kept as a living document and updated frequently. He expressed that this document was critically important to adopt.

Ingrid Vimont, Hospital District, reiterated Hess's earlier comments regarding coordinating our efforts with various agencies.
Rose Beaton, Doctoral Student studying wild fire and a DNR Resiliency Coordinator, commended the commission for taking an active approach. She noted support for better integration of language.

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SUGGESTED MOTIONS:

Approval:

Based on the testimony and evidence presented during this evening's continuation of the public hearing, I move that the Planning Commission draft findings of fact and forward a recommendation of **approval** the Cle Elum City Council.

Approval with modifications:

Based on the testimony and evidence presented during this evening's continuation of the public hearing, I move that the City of Cle Elum Planning staff modify the draft language to include the changes noted in the minutes of this evening's public hearing, and with these changes move that the Planning Commission draft findings of fact and forward a recommendation of **approval** to the Cle Elum City Council.

Denial:

Based on the testimony and evidence presented during this evening's continuation of the public hearing, I move that the Planning Commission reject the proposal to include findings of fact documenting those reasons for denial, and order the proposal be forwarded to the Cle Elum Council with a recommendation for **denial**.

HOUSE BILL REPORT

E2SHB 1110

As Passed Legislature

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: House Committee on Appropriations (originally sponsored by 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];

Appropriations: 2/21/23, 2/24/23 [DP2S(w/o sub HOUS)].

Floor Activity:

Passed House: 3/6/23, 75-21.

Senate Amended.

Passed Senate: 4/11/23, 35-14.

House Concurred.

Passed House: 4/18/23, 79-18.

Passed Legislature.

Brief Summary of Engrossed Second Substitute Bill

- Requires certain cities planning under the Growth Management Act to authorize minimum development densities in residential zones and include specific provisions related to middle housing in their development regulations.
- Requires the Department of Commerce to provide technical assistance to cities in implementing the requirements, to develop model middle

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.

housing ordinances, and to establish a process for cities to seek approval of alternative local actions.

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

Staff: Serena Dolly (786-7150).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Housing. Signed by 25 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg, Chopp, Couture, Davis, Fitzgibbon, Harris, Lekanoff, Pollet, Riccelli, Ryu, Sandlin, Senn, Simmons, Slatter, Springer, Steele, Stonier and Tharinger.

Minority Report: Do not pass. Signed by 4 members: Representatives Chandler, Dye, Rude and Schmick.

Minority Report: Without recommendation. Signed by 1 member: Representative Connors.

Staff: Jackie Wheeler (786-7125).

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. When developing their comprehensive plans, counties and cities must consider various goals set forth in statute and include mandatory elements such as housing and a capital facilities plan. Comprehensive plans are implemented through locally adopted development regulations, and both the plans and the local regulations must be reviewed and revised every 10 years.

The Department of Commerce (Commerce) must establish a program of technical and financial assistance to encourage and facilitate cities and counties to adopt and implement comprehensive plans.

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 provided by Commerce;
- 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;
- adequate provisions for existing and projected needs of all economic segments of the community;
- 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:

- 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 accessory dwelling units (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.

Common Interest Communities.

A common interest community (CIC) is a form of real estate in which each unit owner or homeowner has an exclusive interest in a unit or lot and a shared or undivided interest in common area property. In Washington, several statutes govern residential CICs, such as condominiums and homeowners' associations. Generally these groups can regulate or limit the use of property by its members.

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

Summary of Engrossed Second Substitute Bill:

Density Requirements.

A fully planning city meeting the population criteria, based on 2020 OFM population data, must provide by ordinance, and incorporate into its development regulations, zoning regulations, and other official controls, authorization for the development of a minimum number of units on all lots zoned predominately for residential use by six months after the city's next required comprehensive plan update. A city not meeting the population threshold must comply with the density and middle housing requirements by 12 months after its next comprehensive plan implementation progress report after a determination by OFM that the city has reached the population threshold.

Unless zoning permitting higher densities or intensities applies, a fully planning city with a population of at least 25,000 but less than 75,000 must include authorization for at least:

- two units per lot;
- four units per lot within 0.25 miles walking distance of a major transit stop; and
- four units per lot if at least one unit is affordable housing.

Unless zoning permitting higher densities or intensities applies, a fully planning city with a population of at least 75,00 must include authorization for at least:

- four units per lot;
- six units per lot within 0.25 miles walking distance of a major transit stop; and
- six units per lot if at least two units are affordable housing.

Unless zoning permitting higher densities or intensities applies, a fully planning city with a population less than 25,000, within a contiguous UGA with the largest city in a county with a population of more than 275,000, must include authorization for the development of at least two units per 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.

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 affordable units also must be comparable in size and number of bedrooms as other units and be generally distributed throughout the development. A city with an affordable housing incentive program may vary from these affordable housing requirements and require any development to provide affordable housing, either onsite or through an in-lieu payment.

The density requirements do not apply to:

- lots designated with critical areas or their buffers
- watershed serving a reservoir for potable water if that watershed is listed as impaired or threatened under the federal Clean Water Act; or
- lots that have been designated urban separators by countywide planning policies.

Alternative Density Requirement.

A city subject to the density requirements may choose to implement the density requirements for at least 75 percent of lots in the city that are primarily dedicated to single-family detached housing units. Unless identified as at higher risk of displacement, the 75 percent of lots allowing the minimum density requirements must include any areas:

- for which the exclusion would further racially disparate impacts or result in zoning with a discriminatory effect;
- within 0.5 miles walking distance of a major transit stop; or
- historically covered by a covenant or deed restriction excluding racial minorities from owning property or living in the area, as known to the city at the time of each comprehensive plan update.

The 25 percent of lots for which the minimum density requirements are not authorized must

include:

- any areas for which Commerce has certified an extension due to the risk of displacement or lack of infrastructure capacity;
- any lots designated with critical areas or their buffers;
- any portion of a city within a 1 mile radius of a commercial airport with at least 9 million annual enplanements that is exempt from the parking requirements; and
- any areas subject to sea level rise, increased flooding, susceptible to wildfires, or geological hazards over the next 100 years.

A city implementing the alternative density requirement may apply to Commerce for an extension from the implementation timelines for areas at risk of displacement as determined by the city's antidisplacement analysis. A city granted an extension must create a plan for implementing antidisplacement policies by their next comprehensive plan implementation progress report. Commerce may certify one further extension based on evidence of significant ongoing displacement risk in the impacted area.

A city implementing the alternative density requirements also may apply for an extension to specific areas where a city can demonstrate that water, sewer, stormwater, transportation infrastructure, including facilities and transit services, or fire protection services lack capacity to accommodate an increased density. To qualify for an extension, the city must have included one or more improvements, as needed, within its capital facilities plan to adequately increase capacity or identified which special district is responsible for providing the necessary infrastructure. If an extension is requested due to lack of water supply from the city or the purveyors who serve water within the city, Commerce's evaluation must be based on the applicable water system plans in effect and approved by the Department of Health.

Any granted extension remains in effect until the earliest of:

- the infrastructure is improved to accommodate the capacity;
- the city's deadline to complete its next periodic comprehensive plan update; or
- the city's deadline to complete its comprehensive plan implementation progress.

A city may reapply for an additional timeline extension with its next periodic comprehensive plan update or five-year comprehensive plan 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 granted an extension for a specific area must allow development if the developer commits to providing the necessary water, sewer, or stormwater infrastructure.

Middle Housing Requirements.

A city must allow at least six of the nine types of middle housing and may allow ADUs to achieve the minimum density requirements. Middle housing is defined 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. A city is not required to allow ADUs or middle housing types beyond the density requirements.

A city subject to the density requirements is directed to include specific provisions related to middle housing in their development regulations. Any city subject to the middle housing requirements:

- may only apply administrative design review for middle housing;
- 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, unless otherwise required by state law;
- is not required to achieve the per-unit density on lots after subdivision below 1,000 square feet unless the city chooses to enact smaller allowable lot sizes;
- must also allow zero lot line short subdivisions where the number of lots created is equal to the unit density required;
- may not require off-street parking as a condition of permitting development of middle housing within 0.5 miles walking distance 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 before any zero lot line subdivisions or lot splits; 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 before any zero lot line subdivisions or lot splits.

A SEPA categorical exemption is established for development regulations that remove parking requirements for infill development. The limits on off-street parking requirements do not apply if a city submits to Commerce an empirical study prepared by a credentialed transportation or land use planning expert that clearly demonstrates, and Commerce certifies, that parking limits for middle housing will be significantly less safe for vehicle drivers or passengers, pedestrians, or bicyclists than if the jurisdiction's parking requirements were applied to the same location for the same number of detached houses. Commerce must develop guidance to assist cities on items to include in the study. The off-street parking requirements also do not apply to any portion of a city within a 1-mile radius of a commercial airport with at least 9 million annual enplanements.

A city may not approve a building permit if other federal, state, and local requirements for a building permit are not met, including adequate water supply requirements. If an area zoned for residential use is currently served only by private wells, group B water systems, or group A water systems with less than 50 connections, or if a city or water providers within the city do not have an adequate water supply or available connections to serve the zoning increase, the city may limit the areas subject to the density requirements to match

current water availability.

Development may be limited to two units per lot in an area served only by on-site sewage systems until either the landowner or local government provides sewer service or demonstrates a sewer system will serve the development at the time of construction.

A city meeting the density and middle housing requirements is not required to update its capital facilities plan element to accommodate the increased housing until its first comprehensive plan update required on or after June 30, 2034, unless Commerce grants a timeline extension.

Department of Commerce.

Commerce must provide technical assistance to cities in implementing density and middle housing 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 until the city takes action to adopt the density and middle housing requirements.

Commerce must establish a process for cities to seek approval of alternative local actions to meet density requirements and may approve actions for cities that have adopted the following by January 1, 2023:

- a comprehensive plan, and have adopted, or within one year of the effective date adopts, permanent development regulations that are substantially similar to the density and missing middle requirements; or
- a comprehensive plan or development regulations that have significantly reduced or eliminated residentially zoned areas that are predominantly single family.

Commerce must find as substantially similar plans and regulations that:

- result in an overall increase in housing units allowed in single-family zones that is at least 75 percent of the increase in housing units allowed in single-family zones if the density requirements were adopted;
- allow for middle housing throughout the city, rather than just in targeted locations; and
- allow for additional density near major transit stops and in projects that incorporate dedicated affordable housing.

If a city can clearly demonstrate that the regulations adopted will allow for a greater increase in middle housing production within single family zones than would be allowed through the density requirements, Commerce may determine that a comprehensive plan and development regulations that do not meet these criteria are substantially similar. Any alternative local actions approved by Commerce are exempt from appeals under the GMA and SEPA.

Commerce may establish by rule any standards or procedures necessary to implement the

density and middle housing requirements and issue guidance for local jurisdictions to ensure that the levels of middle housing zoning can be integrated with the methods used by cities to calculate zoning densities and intensities in local zoning and development regulations.

Common Interest Communities.

Governing documents and declarations of CICs within cities subject to the density and middle housing requirements that are created after this bill takes effect may not prohibit the construction, development, or use of the additional housing units.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony (Housing):

(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.

Staff Summary of Public Testimony (Appropriations):

(In support) Washington has been underproducing housing for generations and the key reason is because land use regulations severely limit the number and types of homes that can be built. If we want to build more homes, we need to open up more land for more types of housing. It is a statewide problem that requires a statewide solution. Access to quality housing in close proximity to where people want to live and work, that is near parks and schools, allows people to drive less is essential to everyone's quality of life. It is key to fighting climate change, supporting the vulnerable, and building stronger local economies. The statewide mandate for more housing options could not be clearer. On the surface this bill is about housing, but in substance it is about empowering people to take root in our communities and could enrich democracy in Washington. Those with disabilities who are limited in their ability to find work in their local area would benefit from housing that is close to light rail or bus rapid transit, which this bill could allow. This bill balances the need of for-profit developers while also creating an affordability bonus. It will help ensure everyone has a safe and affordable place to call home by not only building more houses in more places, but also creating more homeowners.

A number of cities are seeing the need for a wider range of affordable housing and are working to address those needs but would like to see all cities fully participate in addressing this issue. The work required under this bill has been funded in the Governor's budget and Commerce looks forward to working with cities and counties on increasing housing choices. Instead of asking where we will find the money for the infrastructure, we must ask where we are going to find the infrastructure for a million housing units that are needed with or without this bill. A start would be to legalize the types of housing that require less infrastructure per unit.

There has been a lot of work and ongoing conversation around middle housing over the last few years. Some of those in support of the bill are appreciative of the changes that were made in the prior committee and would prefer the version of the bill as it passed out of the policy committee.

(Opposed) This bill would upzone areas that are miles away from the nearest bus service or infrastructure system necessary to support it. This will cost millions of dollars and will drive up the price of housing in already expensive areas. Planning at the local level is critical because what works in one city may not work in another. The bill does not allow for this kind of differentiation or application of local knowledge. Many cities are willing to address the statewide housing shortage, but it needs to be in a way that makes sense to each

city. Cities like Woodinville are accommodating growth by concentrating it around services and areas with existing or planned infrastructure in a way that makes sense to that city. Transportation options like light rail or bus rapid transit are often out of the city's control and are very limited.

The bill makes no provision for low-income housing and is limited regarding affordable housing. What may be considered affordable housing is not affordable for most, particularly the homeless population. The bill eliminates climate protections and will increase impervious surfaces, creating more heat islands. It would benefit a narrow business interest at the expense of our environment and community. Many cities are working on middle housing regulations that are appropriate for their neighborhoods and this would be negated if the bill were to pass. Just as the State of Washington does not want the federal government overriding the state on protections for abortion rights, the state should not be overriding housing codes and regulations of local towns and cities. Cities under the direction of the Growth Management Act should be exempt from the provisions of this bill.

(Other) This bill has moved too far from what came out of the prior committee and several changes are needed, including a more nuanced approach to the parking limitations and infrastructure concerns. There are also concerns around the amendments to add density around all community amenities which should be revisited. There should be an amendment to allow cities currently in the comprehensive plan update process to be eligible for the substantially similar determination provision of the bill. Cities put years of work into their comprehensive plan updates, including hours engaging with the public. Implementing the goals of the bill through this process will be the most efficient way to accomplish the bill's desired outcomes.

Allowing middle housing on all residential lots is likely to have unintended consequences and unfunded impacts, particularly on lots that lack emergency access and existing or planned infrastructure. This bill will require upgrades to water, sewer, and stormwater infrastructure that could result in increases to utility fees. This could burden residents and inhibit development where cities have been planning investments. The bill will likely apply to 58 cities and could cost over \$7 million in direct expenses and a potential for \$6 million in additional costs. It fails to provide the resources and tools needed to plan for and address critical infrastructure needs and is not positioned to deliver the affordable housing that Washington is calling for. Many cities are already adopting provisions to allow more housing options and increase density around areas with significant transit-oriented development investments.

Persons Testifying (Housing): (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 Testifying (Appropriations): (In support) Joe Kunzler; Shaun Scott; Ryan Donohue, Habitat for Humanity Seattle-King and Kittitas Counties; Josie Cummings, Building Industry Association of Washington; Lyset Cadena, City of Burien; Mike Ennis, Association of Washington Business; Matt Hutchins, American Institute of Architects Washington Council; and Dave Andersen, Washington State Department of Commerce.

(Opposed) Brandon Buchanon and Mike Millman, City of Woodinville; Judy Bendich; Jonelle Kemmerling; and Kathleen Russell.

(Other) Salim Nice, City of Mercer Island; Carl Schroeder, Association of Washington Cities; Arne Woodard, City of Spokane Valley; Lacey Jane Wolfe, City of Bellevue; and Dana Ralph, City of Kent.

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

Persons Signed In To Testify But Not Testifying (Appropriations): None.

HOUSE BILL REPORT

EHB 1337

As Passed Legislature

Title: An act relating to expanding housing options by easing barriers to the construction and use of accessory dwelling units.

Brief Description: Expanding housing options by easing barriers to the construction and use of accessory dwelling units.

Sponsors: Representatives Gregerson, Barkis, Berry, Christian, Duerr, Fitzgibbon, Taylor, Ramel, Reeves, Simmons, Walen, Graham, Bateman, Reed, Lekanoff, Doglio, Tharinger, Cortes, Macri and Stonier.

Brief History:

Committee Activity:

Housing: 1/23/23, 2/2/23 [DP].

Floor Activity:

Passed House: 3/2/23, 81-15.

Senate Amended.

Passed Senate: 4/6/23, 39-7.

House Concurred.

Passed House: 4/14/23, 85-11.

Passed Legislature.

Brief Summary of Engrossed Bill

- Requires fully planning cities and counties to allow accessory dwelling units (ADUs) in urban growth areas (UGAs).
- Prohibits certain ADU regulations within UGAs.
- Allows cities and counties to offer incentives for the development or construction of ADUs within UGAs.

HOUSE COMMITTEE ON HOUSING

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.

Majority Report: Do pass. Signed by 11 members: Representatives Peterson, Chair; Alvarado, Vice Chair; Leavitt, Vice Chair; Klicker, Ranking Minority Member; Barkis, Bateman, Chopp, Entenman, Low, Reed and Taylor.

Minority Report: Without recommendation. Signed by 2 members: Representatives 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 must designate urban growth areas (UGAs), within which urban growth must be encouraged and outside of which growth may occur only if it is not urban in nature. Each city in a county must be included in a UGA. Planning jurisdictions must include within their UGAs sufficient areas and densities to accommodate projected urban growth for the succeeding 20-year period.

The GMA also directs fully planning jurisdictions to adopt internally consistent, comprehensive land use plans. Comprehensive plans are implemented through locally adopted development regulations, and both the plans and the local regulations are subject to review and revision requirements prescribed in the GMA. Comprehensive plans must be reviewed and, if necessary, revised every ten years to ensure that it complies with the GMA. When developing their comprehensive plans, counties and cities must consider various goals set forth in statute.

Each comprehensive plan must include a plan, scheme, or design for certain mandatory elements, including a housing element. The housing element must ensure the vitality and character of established residential neighborhoods and, among other requirements, consider the role of accessory dwelling units (ADUs) in meeting housing needs.

Accessory Dwelling Units.

An ADU is a residential living unit providing independent living facilities and permanent provisions for sleeping, cooking, sanitation, and living on the same lot as a single-family home, duplex, triplex, townhome, or other housing unit. An attached ADU is a dwelling unit located within or attached to another housing unit. A detached ADU is separate and detached from another housing unit.

Cities with more than 20,000 people, counties with more than 125,000 people, and counties that are required to plan under the Growth Management Act are required to incorporate in their development and zoning regulations recommendations made by the then Department of Community, Trade, and Economic Development, now the Department of Commerce, for the development and placement of accessory apartments in 1993.

As of July 1, 2021, fully planning cities under the GMA may not require the provision of off-street parking for ADUs within a quarter mile of a major transit stop, such as a high-capacity transportation system stop, a rail stop, or certain bus stops, unless the city determines that on-street parking is infeasible for the ADU.

Summary of Engrossed Bill:

Beginning six months after its next periodic comprehensive plan update, a fully planning city or county must ensure local development regulations allow for the construction of accessory dwelling units (ADUs) within urban growth areas (UGAs) and comply with the following policies:

- not assessing impact fees on the construction of ADUs that are greater than 50 percent of the impact fees that would be imposed on the principal unit;
- not requiring the owner of a lot on which there is an ADU to reside in or occupy the ADU or another housing unit on the same lot;
- allowing at least two ADUs on all lots that allow for single-family homes within a UGA in the following configurations: one attached ADU and one detached ADU, two attached ADUs, or two detached ADUs, which may be comprised of either one or two detached structures;
- permitting ADUs in structures detached from the principal unit;
- allowing an ADU on any lot that meets the minimum lot size required for the principal unit;
- not establishing a maximum gross floor area requirement for ADUs that is less than 1,000 square feet;
- not establishing roof height limits on an ADU of less than 24 feet, unless the height limit on the principal unit is less than 24 feet;
- not imposing setback requirements, yard coverage limits, tree retention mandates, restrictions on entry door locations, aesthetic requirements, or requirements for design review for ADUs that are more restrictive than those for principal units;
- allowing detached ADUs to be sited at a lot line if the lot line abuts a public alley, unless the city or county routinely plows snow on the public alley;
- allowing ADUs to be converted from existing structures, including detached garages;
- not prohibiting the sale of a condominium unit independently of a principal unit solely on the grounds that the condominium unit was originally built as an ADU; and
- not requiring public street improvements as a condition of permitting ADUs.

A city or county may impose a limit of two accessory dwelling units, in addition to the

principal unit, on a residential lot of 2000 square feet or less. A city or county may not authorize the construction of an ADU in a location where development is restricted under other laws, rules, or ordinances as a result of physical proximity to on-site sewage system infrastructure, critical areas, or other unsuitable physical characteristics of a property.

In addition, a city or county may not:

- require off-street parking as a condition of permitting development of ADUs within 0.5 miles walking distance of a major transit stop;
- require more than one off-street parking space per unit as a condition of permitting development of ADUs on lots smaller than 6000 square feet before any zero lot line subdivisions or lot splits; and
- require more than two off-street parking spaces per unit as a condition of permitting development of ADUs on lots greater than 6000 square feet before any zero lot line subdivisions or lot splits.

The provisions for off-street parking do not apply:

- if a local government submits to the Department of Commerce (Commerce) an empirical study prepared by a credentialed transportation or land use planning expert that clearly demonstrates, and Commerce finds and certifies, that the application of the established parking limitations for ADUs will be significantly less safe for vehicle drivers or passengers, pedestrians, or bicyclists than if the local government's parking requirements were applied to the same location for the same number of detached houses. Commerce must develop guidance to assist cities and counties on items to include in the study; or
- to portions of cities within a 1-mile radius of a commercial airport in Washington with at least 9 million annual enplanements.

The requirements do not apply to lots designated with critical areas or their buffers, or to a watershed serving as a reservoir for potable water if that watershed is or was listed as impaired or threatened under the United States Clean Water Act.

Cities and counties may apply certain regulations to ADUs, including:

- generally applicable development regulations;
- public health, safety, building code, and environmental permitting requirements that would be applicable to the principal unit, including regulations to protect ground and surface waters from on-site wastewater;
- a prohibition on the construction of ADUs that are not connected to or served by public sewers;
- a prohibition or restriction on the construction of ADUs in residential zones with a density of one dwelling unit per acre or less that are within areas designated as wetlands, fish and wildlife habitats, flood plains, or geologically hazardous areas; and
- restrictions on the use of ADUs for short-term rentals.

In addition, a city or county may waive or defer fees, including impact fees, defer the

payment of taxes, or waive specific regulations. A city or county may only offer such incentives for the development or construction of ADUs if the units are located within a UGA and subject to a locally adopted program with effective binding commitments or covenants that the units will be primarily utilized for long-term housing

Any conflicting provisions in local development regulations after the deadline are superseded, preempted, and invalidated. Actions taken to adopt these regulations within a UGA may not be challenged under the Growth Management Act (GMA) or the State Environmental Policy Act. Attached or detached ADUs may not be considered as contributing to the overall underlying density within a UGA boundary of a county for purposes of the GMA.

Declarations or governing documents governing condominiums, homeowners' associations, and common interest communities created after the effective date of the act may not prohibit the construction, development, or use of an ADU within a UGA unless such declarations or governing documents were created to protect public health and safety or to protect ground and surface waters from on-site wastewater. A city or county that issues a permit for the construction of an ADU may not be held civilly liable on the basis that the construction would violate the restrictive covenant or deed restriction created after the effective date of the act.

By December 31, 2023, Commerce must revise its recommendations for encouraging ADUs to include the provisions in this act, and during each required comprehensive plan review, Commerce must review local government comprehensive plans and development regulations for compliance with the recommendations. The provisions requiring cities and counties to incorporate in their regulations the recommendations made by the then Department of Community, Trade, and Economic Development for accessory dwelling apartments are repealed.

Appropriation: None.

Fiscal Note: Available.

Effective Date: 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 state needs as many tools as possible to address our ongoing housing crisis. The accessory dwelling units (ADUs) provide results. They are a proven strategy to add housing units, and there is no better way to increase housing supply quickly. The ADUs are necessary, reasonably-priced housing. Because ADUs are smaller than other homes, they offer affordable housing opportunities. The ADUs also provide opportunities for extended families to live together. The ADUs can be used to house elderly family

members or for caregivers to assist seniors who stay in their own homes. Washington is far behind what other states are doing. California eliminated parking owner occupancy, lot size, and impact fee requirements with strong results. Statewide rules are desperately needed for consistency, instead of the patchwork of local laws that developers have to navigate now. Developers and homeowners face too many obstacles when building ADUs, and this bill remove the most significant barriers.

(Opposed) Counties are the least financially diversified government in the state and are very heavily property tax dependent. Counties cannot take on any more responsibilities with current funding, and this bill would require a costly update to land use regulations. The prescriptive requirements take away local government authority to make land use decisions. Impact fees should not be reduced for ADUs because impact fees are not based on the size of a building.

(Other) The bill needs some technical fixes related to urban growth areas and allowing hearings under the Growth Management Act.

Persons Testifying: (In support) Representative Mia Gregerson, prime sponsor; Cynthia Stewart, League of Women Voters of Washington; Dan Bertolet, Sightline Institute; Troy Schmeil, Sapphire Homes Incorporated; Samar Jha, American Association of Retired Persons; Scott Bonjukian; Ryan Donohue, Habitat for Humanity Seattle-King and Kittitas Counties; Dani Madrone, American Farmland Trust; Angela Rozmyn, Natural and Built Environments; Graham Brown, MyKabin Limited Liability Company; and Matt Hutchins.

(Opposed) Paul Jewell, Washington State Association of Counties; and Carl Schroeder, Association of Washington Cities.

(Other) Bryce Yadon, Futurewise.

Persons Signed In To Testify But Not Testifying: None.