
SUBSTITUTE HOUSE BILL 2343

State of Washington

66th Legislature

2020 Regular Session

By House Environment & Energy (originally sponsored by Representatives Fitzgibbon, Frame, Macri, Doglio, Tharinger, and Pollet)

READ FIRST TIME 01/30/20.

1 AN ACT Relating to urban housing supply; amending RCW 36.70A.600,
2 43.21C.495, 36.70A.620, and 43.21C.500; reenacting and amending RCW
3 36.70A.030; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 36.70A.600 and 2019 c 348 s 1 are each amended to
6 read as follows:

7 (1) A city planning pursuant to RCW 36.70A.040 is encouraged to
8 take the following actions in order to increase its residential
9 building capacity:

10 (a) Authorize development in one or more areas of not fewer than
11 five hundred acres that include at least one train station served by
12 commuter rail or light rail with an average of at least fifty
13 residential units per acre that require no more than an average of
14 one on-site parking space per two bedrooms in the portions of
15 multifamily zones that are located within the areas;

16 (b) Authorize development in one or more areas of not fewer than
17 ~~((five))~~ two hundred acres in cities with a population greater than
18 forty thousand or not fewer than ~~((two))~~ one hundred ~~((fifty))~~ acres
19 in cities with a population less than forty thousand that include at
20 least one bus stop served by scheduled bus service of at least four
21 times per hour for twelve or more hours per day with an average of at

1 least twenty-five residential units per acre that require no more
2 than an average of one on-site parking space per two bedrooms in
3 portions of the multifamily zones that are located within the areas;

4 (c) Authorize at least one duplex, triplex, or courtyard
5 apartment on each parcel in one or more zoning districts that permit
6 single-family residences unless a city documents a specific
7 infrastructure of physical constraint that would make this
8 requirement unfeasible for a particular parcel;

9 (d) Authorize a duplex, triplex, or courtyard apartment on one or
10 more parcels for which they are not currently authorized;

11 (e) Authorize cluster zoning or lot size averaging in all zoning
12 districts that permit single-family residences;

13 ~~((e) Authorize attached accessory dwelling units on all parcels
14 containing single-family homes where the lot is at least three
15 thousand two hundred square feet in size, and permit both attached
16 and detached accessory dwelling units on all parcels containing
17 single-family homes, provided lots are at least four thousand three
18 hundred fifty-six square feet in size. Qualifying city ordinances or
19 regulations may not provide for on-site parking requirements, owner
20 occupancy requirements, or square footage limitations below one
21 thousand square feet for the accessory dwelling unit, and must not
22 prohibit the separate rental or sale of accessory dwelling units and
23 the primary residence. Cities must set applicable impact fees at no
24 more than the projected impact of the accessory dwelling unit. To
25 allow local flexibility, other than these factors, accessory dwelling
26 units may be subject to such regulations, conditions, procedures, and
27 limitations as determined by the local legislative authority, and
28 must follow all applicable state and federal laws and local
29 ordinances;))~~

30 (f) Adopt a subarea plan pursuant to RCW 43.21C.420;

31 (g) Adopt a planned action pursuant to RCW 43.21C.440(1)(b)(ii),
32 except that an environmental impact statement pursuant to RCW
33 43.21C.030 is not required for such an action;

34 (h) Adopt increases in categorical exemptions pursuant to RCW
35 43.21C.229 for residential or mixed-use development;

36 (i) Adopt a form-based code in one or more zoning districts that
37 permit residential uses. "Form-based code" means a land development
38 regulation that uses physical form, rather than separation of use, as
39 the organizing principle for the code;

1 (j) Authorize a duplex on each corner lot within all zoning
2 districts that permit single-family residences;

3 (k) Allow for the division or redivision of land into the maximum
4 number of lots through the short subdivision process provided in
5 chapter 58.17 RCW; (~~and~~)

6 (l) Authorize a minimum net density of six dwelling units per
7 acre in all residential zones, where the residential development
8 capacity will increase within the city. For purposes of this
9 subsection, the calculation of net density does not include the
10 square footage of areas that are otherwise prohibited from
11 development, such as critical areas, the area of buffers around
12 critical areas, and the area of roads and similar features;

13 (m) Create one or more zoning districts of medium density in
14 which individual lots may be no larger than three thousand five
15 hundred square feet and single-family residences may be no larger
16 than one thousand two hundred square feet;

17 (n) Authorize accessory dwelling units in one or more zoning
18 districts in which they are currently prohibited;

19 (o) Remove minimum residential parking requirements related to
20 accessory dwelling units;

21 (p) Remove owner occupancy requirements related to accessory
22 dwelling units; and

23 (q) Adopt new square footage requirements related to accessory
24 dwelling units that are less restrictive than existing square footage
25 requirements related to accessory dwelling units.

26 (2) A city planning pursuant to RCW 36.70A.040 may adopt a
27 housing action plan as described in this subsection. The goal of any
28 such housing plan must be to encourage construction of additional
29 affordable and market rate housing in a greater variety of housing
30 types and at prices that are accessible to a greater variety of
31 incomes, including strategies aimed at the for-profit single-family
32 home market. A housing action plan may utilize data compiled pursuant
33 to RCW 36.70A.610. The housing action plan should:

34 (a) Quantify existing and projected housing needs for all income
35 levels, including extremely low-income households, with documentation
36 of housing and household characteristics, and cost-burdened
37 households;

38 (b) Develop strategies to increase the supply of housing, and
39 variety of housing types, needed to serve the housing needs
40 identified in (a) of this subsection;

1 (c) Analyze population and employment trends, with documentation
2 of projections;

3 (d) Consider strategies to minimize displacement of low-income
4 residents resulting from redevelopment;

5 (e) Review and evaluate the current housing element adopted
6 pursuant to RCW 36.70A.070, including an evaluation of success in
7 attaining planned housing types and units, achievement of goals and
8 policies, and implementation of the schedule of programs and actions;

9 (f) Provide for participation and input from community members,
10 community groups, local builders, local realtors, nonprofit housing
11 advocates, and local religious groups; and

12 (g) Include a schedule of programs and actions to implement the
13 recommendations of the housing action plan.

14 (3) If adopted by April 1, ((2021)) 2023, ordinances, amendments
15 to development regulations, and other nonproject actions taken by a
16 city to implement the actions specified in subsection (1) of this
17 section, with the exception of the action specified in subsection
18 (1)(f) of this section, are not subject to administrative or judicial
19 appeal under chapter 43.21C RCW.

20 (4) Any action taken by a city prior to April 1, ((2021)) 2023,
21 to amend their comprehensive plan, or adopt or amend ordinances or
22 development regulations, solely to enact provisions under subsection
23 (1) of this section is not subject to legal challenge under this
24 chapter.

25 (5) In taking action under subsection (1) of this section, cities
26 are encouraged to utilize strategies that increase residential
27 building capacity in areas with frequent transit service and with the
28 transportation and utility infrastructure that supports the
29 additional residential building capacity.

30 (6) A city ((with a population over twenty thousand)) that is
31 planning to take at least two actions under subsection (1) of this
32 section, and that action will occur between July 28, 2019, and April
33 1, 2021, is eligible to apply to the department for planning grant
34 assistance of up to one hundred thousand dollars, subject to the
35 availability of funds appropriated for that purpose. The department
36 shall develop grant criteria to ensure that grant funds awarded are
37 proportionate to the level of effort proposed by a city, and the
38 potential increase in housing supply or regulatory streamlining that
39 could be achieved. Funding may be provided in advance of, and to
40 support, adoption of policies or ordinances consistent with this

1 section. A city can request, and the department may award, more than
2 one hundred thousand dollars for applications that demonstrate
3 extraordinary potential to increase housing supply or regulatory
4 streamlining.

5 (7) A city seeking to develop a housing action plan under
6 subsection (2) of this section is eligible to apply to the department
7 for up to one hundred thousand dollars.

8 (8) The department shall establish grant award amounts under
9 subsections (6) and (7) of this section based on the expected number
10 of cities that will seek grant assistance, to ensure that all cities
11 can receive some level of grant support. If funding capacity allows,
12 the department may consider accepting and funding applications from
13 cities with a population of less than twenty thousand if the actions
14 proposed in the application will create a significant amount of
15 housing capacity or regulatory streamlining and are consistent with
16 the actions in this section.

17 (9) In implementing chapter 348, Laws of 2019, cities are
18 encouraged to prioritize the creation of affordable, inclusive
19 neighborhoods and to consider the risk of residential displacement,
20 particularly in neighborhoods with communities at high risk of
21 displacement.

22 **Sec. 2.** RCW 43.21C.495 and 2019 c 348 s 4 are each amended to
23 read as follows:

24 If adopted by April 1, (~~2021~~) 2023, amendments to development
25 regulations and other nonproject actions taken by a city to implement
26 RCW 36.70A.600 (1) or (4), with the exception of the action specified
27 in RCW 36.70A.600(1)(f), are not subject to administrative or
28 judicial appeals under this chapter.

29 **Sec. 3.** RCW 36.70A.620 and 2019 c 348 s 5 are each amended to
30 read as follows:

31 In counties and cities planning under RCW 36.70A.040, minimum
32 residential parking requirements mandated by municipal zoning
33 ordinances for housing units constructed after July 1, 2019, are
34 subject to the following requirements:

35 (1) For housing units that are affordable to very low-income or
36 extremely low-income individuals and that are located within one-
37 quarter mile of a transit stop that receives transit service at least
38 (~~four~~) two times per hour for twelve or more hours per day, minimum

1 residential parking requirements may be no greater than one parking
2 space per bedroom or .75 space per unit. A city may require a
3 developer to record a covenant that prohibits the rental of a unit
4 subject to this parking restriction for any purpose other than
5 providing for housing for very low-income or extremely low-income
6 individuals. The covenant must address price restrictions and
7 household income limits and policies if the property is converted to
8 a use other than for low-income housing. A city may establish a
9 requirement for the provision of more than one parking space per
10 bedroom or .75 space per unit if the jurisdiction has determined a
11 particular housing unit to be in an area with a lack of access to
12 street parking capacity, physical space impediments, or other reasons
13 supported by evidence that would make on-street parking infeasible
14 for the unit.

15 (2) For housing units that are specifically for seniors or people
16 with disabilities, that are located within one-quarter mile of a
17 transit stop that receives transit service at least four times per
18 hour for twelve or more hours per day, a city may not impose minimum
19 residential parking requirements for the residents of such housing
20 units, subject to the exceptions provided in this subsection. A city
21 may establish parking requirements for staff and visitors of such
22 housing units. A city may establish a requirement for the provision
23 of one or more parking space per bedroom if the jurisdiction has
24 determined a particular housing unit to be in an area with a lack of
25 access to street parking capacity, physical space impediments, or
26 other reasons supported by evidence that would make on-street parking
27 infeasible for the unit. A city may require a developer to record a
28 covenant that prohibits the rental of a unit subject to this parking
29 restriction for any purpose other than providing for housing for
30 seniors or people with disabilities.

31 (3) For market rate multifamily housing units that are located
32 within one-quarter mile of a transit stop that receives transit
33 service from at least one route that provides service at least four
34 times per hour for twelve or more hours per day, minimum residential
35 parking requirements may be no greater than one parking space per
36 bedroom or .75 space per unit. A city or county may establish a
37 requirement for the provision of more than one parking space per
38 bedroom or .75 space per unit if the jurisdiction has determined a
39 particular housing unit to be in an area with a lack of access to
40 street parking capacity, physical space impediments, or other reasons

1 supported by evidence that would make on-street parking infeasible
2 for the unit.

3 **Sec. 4.** RCW 43.21C.500 and 2019 c 348 s 6 are each amended to
4 read as follows:

5 Project actions described in this section that pertain to
6 residential, multifamily, or mixed-use development evaluated under
7 this chapter by a city or town planning under RCW 36.70A.040 are
8 exempt from appeals under this chapter on the basis of the evaluation
9 of or impacts to the following elements of the environment, provided
10 that the appropriate requirements for a particular element of the
11 environment, as set forth in subsections (1) and (2) of this section,
12 are met.

13 (1) Transportation. A project action pertaining to residential,
14 multifamily, or mixed-use development evaluated under this chapter by
15 a city or town planning under RCW 36.70A.040 is exempt from appeals
16 under this chapter on the basis of the evaluation of or impacts to
17 transportation elements of the environment, so long as the project
18 does not present significant adverse impacts to the state-owned
19 transportation system as determined by the department of
20 transportation and the project is:

21 (a) (i) Consistent with a locally adopted transportation plan; or

22 (ii) Consistent with the transportation element of a
23 comprehensive plan; and

24 (b) (i) A project for which traffic or parking impact fees are
25 imposed pursuant to RCW 82.02.050 through 82.02.090; or

26 (ii) A project for which traffic or parking impacts are expressly
27 mitigated by an ordinance, or ordinances, of general application
28 adopted by the city or town.

29 (2) Aesthetics. A project action pertaining to residential,
30 multifamily, or mixed-use development evaluated under this chapter by
31 a city or town planning under RCW 36.70A.040 is exempt from appeals
32 under this chapter on the basis of the evaluation of or impacts to
33 the aesthetics element of the environment, so long as the project is
34 subject to design review pursuant to adopted design review
35 requirements at the local government level. For purposes of this
36 subsection, "design review" means a formally adopted local government
37 process by which projects are reviewed for compliance with design
38 standards for the type of use adopted through local ordinance.

1 (3) For purposes of this section, "impacts to transportation
2 elements of the environment" include impacts to transportation
3 systems; vehicular traffic; waterborne, rail, and air traffic;
4 parking; movement or circulation of people or goods; and traffic
5 hazards.

6 **Sec. 5.** RCW 36.70A.030 and 2019 c 348 s 2 are each reenacted and
7 amended to read as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

10 (1) "Adopt a comprehensive land use plan" means to enact a new
11 comprehensive land use plan or to update an existing comprehensive
12 land use plan.

13 (2) "Affordable housing" means, unless the context clearly
14 indicates otherwise, residential housing whose monthly costs,
15 including utilities other than telephone, do not exceed thirty
16 percent of the monthly income of a household whose income is:

17 (a) For rental housing, sixty percent of the median household
18 income adjusted for household size, for the county where the
19 household is located, as reported by the United States department of
20 housing and urban development; or

21 (b) For owner-occupied housing, eighty percent of the median
22 household income adjusted for household size, for the county where
23 the household is located, as reported by the United States department
24 of housing and urban development.

25 (3) "Agricultural land" means land primarily devoted to the
26 commercial production of horticultural, viticultural, floricultural,
27 dairy, apiary, vegetable, or animal products or of berries, grain,
28 hay, straw, turf, seed, Christmas trees not subject to the excise tax
29 imposed by RCW 84.33.100 through 84.33.140, finfish in upland
30 hatcheries, or livestock, and that has long-term commercial
31 significance for agricultural production.

32 (4) "City" means any city or town, including a code city.

33 (5) "Comprehensive land use plan," "comprehensive plan," or
34 "plan" means a generalized coordinated land use policy statement of
35 the governing body of a county or city that is adopted pursuant to
36 this chapter.

37 (6) "Critical areas" include the following areas and ecosystems:

38 (a) Wetlands; (b) areas with a critical recharging effect on aquifers
39 used for potable water; (c) fish and wildlife habitat conservation

1 areas; (d) frequently flooded areas; and (e) geologically hazardous
2 areas. "Fish and wildlife habitat conservation areas" does not
3 include such artificial features or constructs as irrigation delivery
4 systems, irrigation infrastructure, irrigation canals, or drainage
5 ditches that lie within the boundaries of and are maintained by a
6 port district or an irrigation district or company.

7 (7) "Department" means the department of commerce.

8 (8) "Development regulations" or "regulation" means the controls
9 placed on development or land use activities by a county or city,
10 including, but not limited to, zoning ordinances, critical areas
11 ordinances, shoreline master programs, official controls, planned
12 unit development ordinances, subdivision ordinances, and binding site
13 plan ordinances together with any amendments thereto. A development
14 regulation does not include a decision to approve a project permit
15 application, as defined in RCW 36.70B.020, even though the decision
16 may be expressed in a resolution or ordinance of the legislative body
17 of the county or city.

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

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

39 (11) "Freight rail dependent uses" means buildings and other
40 infrastructure that are used in the fabrication, processing, storage,

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

8 (12) "Geologically hazardous areas" means areas that because of
9 their susceptibility to erosion, sliding, earthquake, or other
10 geological events, are not suited to the siting of commercial,
11 residential, or industrial development consistent with public health
12 or safety concerns.

13 (13) "Long-term commercial significance" includes the growing
14 capacity, productivity, and soil composition of the land for long-
15 term commercial production, in consideration with the land's
16 proximity to population areas, and the possibility of more intense
17 uses of the land.

18 (14) "Low-income household" means a single person, family, or
19 unrelated persons living together whose adjusted income is at or
20 below eighty percent of the median household income adjusted for
21 household size, for the county where the household is located, as
22 reported by the United States department of housing and urban
23 development.

24 (15) "Minerals" include gravel, sand, and valuable metallic
25 substances.

26 (16) "Permanent supportive housing" is subsidized, leased housing
27 with no limit on length of stay(~~(, paired with on-site or off-site~~
28 ~~voluntary services designed to support a person living with a~~
29 ~~disability to be a successful tenant in a housing arrangement,~~
30 ~~improve the resident's health status, and connect residents of the~~
31 ~~housing with community-based health care, treatment, and employment~~
32 ~~services)) that prioritizes people who need comprehensive support
33 services to retain tenancy and utilizes admissions practices designed
34 to use lower barriers to entry than would be typical for other
35 subsidized or unsubsidized rental housing, especially related to
36 rental history, criminal history, and personal behaviors. Permanent
37 supportive housing is paired with on-site or off-site voluntary
38 services designed to support a person living with a complex and
39 disabling behavioral health or physical health condition who was
40 experiencing homelessness or was at imminent risk of homelessness~~

1 prior to moving into housing to retain their housing and be a
2 successful tenant in a housing arrangement, improve the resident's
3 health status, and connect the resident of the housing with
4 community-based health care, treatment, or employment services.
5 Permanent supportive housing is subject to all of the rights and
6 responsibilities defined in chapter 59.18 RCW.

7 (17) "Public facilities" include streets, roads, highways,
8 sidewalks, street and road lighting systems, traffic signals,
9 domestic water systems, storm and sanitary sewer systems, parks and
10 recreational facilities, and schools.

11 (18) "Public services" include fire protection and suppression,
12 law enforcement, public health, education, recreation, environmental
13 protection, and other governmental services.

14 (19) "Recreational land" means land so designated under RCW
15 36.70A.1701 and that, immediately prior to this designation, was
16 designated as agricultural land of long-term commercial significance
17 under RCW 36.70A.170. Recreational land must have playing fields and
18 supporting facilities existing before July 1, 2004, for sports played
19 on grass playing fields.

20 (20) "Rural character" refers to the patterns of land use and
21 development established by a county in the rural element of its
22 comprehensive plan:

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

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

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

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

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

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

35 (g) That are consistent with the protection of natural surface
36 water flows and groundwater and surface water recharge and discharge
37 areas.

38 (21) "Rural development" refers to development outside the urban
39 growth area and outside agricultural, forest, and mineral resource
40 lands designated pursuant to RCW 36.70A.170. Rural development can

1 consist of a variety of uses and residential densities, including
2 clustered residential development, at levels that are consistent with
3 the preservation of rural character and the requirements of the rural
4 element. Rural development does not refer to agriculture or forestry
5 activities that may be conducted in rural areas.

6 (22) "Rural governmental services" or "rural services" include
7 those public services and public facilities historically and
8 typically delivered at an intensity usually found in rural areas, and
9 may include domestic water systems, fire and police protection
10 services, transportation and public transit services, and other
11 public utilities associated with rural development and normally not
12 associated with urban areas. Rural services do not include storm or
13 sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

14 (23) "Short line railroad" means those railroad lines designated
15 class II or class III by the United States surface transportation
16 board.

17 (24) "Urban governmental services" or "urban services" include
18 those public services and public facilities at an intensity
19 historically and typically provided in cities, specifically including
20 storm and sanitary sewer systems, domestic water systems, street
21 cleaning services, fire and police protection services, public
22 transit services, and other public utilities associated with urban
23 areas and normally not associated with rural areas.

24 (25) "Urban growth" refers to growth that makes intensive use of
25 land for the location of buildings, structures, and impermeable
26 surfaces to such a degree as to be incompatible with the primary use
27 of land for the production of food, other agricultural products, or
28 fiber, or the extraction of mineral resources, rural uses, rural
29 development, and natural resource lands designated pursuant to RCW
30 36.70A.170. A pattern of more intensive rural development, as
31 provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed
32 to spread over wide areas, urban growth typically requires urban
33 governmental services. "Characterized by urban growth" refers to land
34 having urban growth located on it, or to land located in relationship
35 to an area with urban growth on it as to be appropriate for urban
36 growth.

37 (26) "Urban growth areas" means those areas designated by a
38 county pursuant to RCW 36.70A.110.

39 (27) "Very low-income household" means a single person, family,
40 or unrelated persons living together whose adjusted income is at or

1 below fifty percent of the median household income adjusted for
2 household size, for the county where the household is located, as
3 reported by the United States department of housing and urban
4 development.

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

20 NEW SECTION. **Sec. 6.** The department of ecology shall remove
21 parking as an element of the environment within WAC 197-11-444 and as
22 a component of the environmental checklist within WAC 197-11-960, as
23 those sections existed on the effective date of this section, the
24 next time that the department amends rules implementing this chapter
25 after the effective date of this section.

--- END ---