
SUBSTITUTE HOUSE BILL 1660

State of Washington

67th Legislature

2022 Regular Session

By House Local Government (originally sponsored by Representatives Shewmake, Ryu, Fitzgibbon, Ramel, Bateman, Gregerson, Goodman, Macri, Peterson, Simmons, Bergquist, Tharinger, Kloba, Pollet, and Ormsby)

READ FIRST TIME 01/25/22.

1 AN ACT Relating to accessory dwelling units; amending RCW
2 36.70A.070, 36.70A.697, and 36.70A.698; adding a new section to
3 chapter 64.38 RCW; adding a new section to chapter 64.90 RCW; adding
4 a new section to chapter 36.70A RCW; and creating a new section.

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

6 **Sec. 1.** RCW 36.70A.070 and 2021 c 254 s 2 are each amended to
7 read as follows:

8 The comprehensive plan of a county or city that is required or
9 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,
10 and descriptive text covering objectives, principles, and standards
11 used to develop the comprehensive plan. The plan shall be an
12 internally consistent document and all elements shall be consistent
13 with the future land use map. A comprehensive plan shall be adopted
14 and amended with public participation as provided in RCW 36.70A.140.
15 Each comprehensive plan shall include a plan, scheme, or design for
16 each of the following:

17 (1) A land use element designating the proposed general
18 distribution and general location and extent of the uses of land,
19 where appropriate, for agriculture, timber production, housing,
20 commerce, industry, recreation, open spaces, general aviation
21 airports, public utilities, public facilities, and other land uses.

1 The land use element shall include population densities, building
2 intensities, and estimates of future population growth. The land use
3 element shall provide for protection of the quality and quantity of
4 groundwater used for public water supplies. Wherever possible, the
5 land use element should consider utilizing urban planning approaches
6 that promote physical activity. Where applicable, the land use
7 element shall review drainage, flooding, and stormwater runoff in the
8 area and nearby jurisdictions and provide guidance for corrective
9 actions to mitigate or cleanse those discharges that pollute waters
10 of the state, including Puget Sound or waters entering Puget Sound.

11 (2) A housing element ensuring the vitality and character of
12 established residential neighborhoods that:

13 (a) Includes an inventory and analysis of existing and projected
14 housing needs that identifies the number of housing units necessary
15 to manage projected growth, as provided by the department of
16 commerce, including:

17 (i) Units for moderate, low, very low, and extremely low-income
18 households; and

19 (ii) Emergency housing, emergency shelters, and permanent
20 supportive housing;

21 (b) Includes a statement of goals, policies, objectives, and
22 mandatory provisions for the preservation, improvement, and
23 development of housing, including single-family residences, and
24 within an urban growth area boundary, moderate density housing
25 options including ~~((+,+))~~, but not limited to, duplexes, triplexes,
26 and townhomes;

27 (c) Identifies sufficient capacity of land for housing including,
28 but not limited to, government-assisted housing, housing for
29 moderate, low, very low, and extremely low-income households,
30 manufactured housing, multifamily housing, group homes, foster care
31 facilities, emergency housing, emergency shelters, permanent
32 supportive housing, and within an urban growth area boundary,
33 consideration of duplexes, triplexes, and townhomes;

34 (d) Allow for the construction of accessory dwelling units within
35 urban growth areas and remove barriers to such construction,
36 including:

37 (i) Removing any maximum floor area limit on the size of an
38 accessory dwelling unit of less than:

1 (A) Eight hundred fifty square feet for an accessory dwelling
2 unit on a lot with a total square footage of less than 4,500 square
3 feet; or

4 (B) One thousand three hundred fifty square feet combined between
5 attached and detached accessory dwelling units on a lot with a total
6 square footage of more than 4,500 square feet, except that an
7 attached accessory dwelling unit may be limited to half of the square
8 footage of the principal unit and a jurisdiction may require that
9 public health, safety, building code, and environmental permitting
10 requirements that would be applicable to the principal unit are met
11 prior to the construction of the accessory dwelling unit;

12 (ii) Removing or reducing any impact fees imposed on the
13 construction or development of an accessory dwelling unit that are
14 greater than 50 percent of the impact fees that would be imposed on a
15 similarly sized principle unit;

16 (iii) Removing any restriction that would limit accessory
17 dwelling units to fewer than one attached and one detached accessory
18 dwelling unit on a lot with a total square footage of more than 4,500
19 square feet in a zoning district that allows for the construction of
20 single-family homes;

21 (iv) Removing any prohibition of the sale or other conveyance of
22 a condominium unit independently of a principal unit that is based
23 solely on the grounds that the condominium unit was originally built
24 as an accessory dwelling unit; and

25 (v) Removing owner occupancy requirements on any housing or
26 dwelling unit on a lot containing an accessory dwelling unit, unless
27 an accessory dwelling unit on the lot is offered or used for short-
28 term rental as defined in RCW 36.70A.696;

29 (e) Makes adequate provisions for existing and projected needs of
30 all economic segments of the community, including:

31 (i) Incorporating consideration for low, very low, extremely low,
32 and moderate-income households;

33 (ii) Documenting programs and actions needed to achieve housing
34 availability including gaps in local funding, barriers such as
35 development regulations, and other limitations; and

36 (iii) Consideration of housing locations in relation to
37 employment location; ((and

38 ~~(iv) Consideration of the role of accessory dwelling units in~~
39 ~~meeting housing needs;~~

1 ~~(e)~~) (f) Identifies local policies and regulations that result
2 in racially disparate impacts, displacement, and exclusion in
3 housing, including:

4 (i) Zoning that may have a discriminatory effect;

5 (ii) Disinvestment; and

6 (iii) Infrastructure availability;

7 ~~((f))~~ (g) Identifies and implements policies and regulations to
8 address and begin to undo racially disparate impacts, displacement,
9 and exclusion in housing caused by local policies, plans, and
10 actions;

11 ~~((g))~~ (h) Identifies areas that may be at higher risk of
12 displacement from market forces that occur with changes to zoning
13 development regulations and capital investments; and

14 ~~((h))~~ (i) Establishes antidisplacement policies, with
15 consideration given to the preservation of historical and cultural
16 communities as well as investments in low, very low, extremely low,
17 and moderate-income housing; equitable development initiatives;
18 inclusionary zoning; community planning requirements; tenant
19 protections; land disposition policies; and consideration of land
20 that may be used for affordable housing.

21 In counties and cities subject to the review and evaluation
22 requirements of RCW 36.70A.215, any revision to the housing element
23 shall include consideration of prior review and evaluation reports
24 and any reasonable measures identified. The housing element should
25 link jurisdictional goals with overall county goals to ensure that
26 the housing element goals are met.

27 (3) A capital facilities plan element consisting of: (a) An
28 inventory of existing capital facilities owned by public entities,
29 showing the locations and capacities of the capital facilities; (b) a
30 forecast of the future needs for such capital facilities; (c) the
31 proposed locations and capacities of expanded or new capital
32 facilities; (d) at least a six-year plan that will finance such
33 capital facilities within projected funding capacities and clearly
34 identifies sources of public money for such purposes; and (e) a
35 requirement to reassess the land use element if probable funding
36 falls short of meeting existing needs and to ensure that the land use
37 element, capital facilities plan element, and financing plan within
38 the capital facilities plan element are coordinated and consistent.
39 Park and recreation facilities shall be included in the capital
40 facilities plan element.

1 (4) A utilities element consisting of the general location,
2 proposed location, and capacity of all existing and proposed
3 utilities, including, but not limited to, electrical lines,
4 telecommunication lines, and natural gas lines.

5 (5) Rural element. Counties shall include a rural element
6 including lands that are not designated for urban growth,
7 agriculture, forest, or mineral resources. The following provisions
8 shall apply to the rural element:

9 (a) Growth management act goals and local circumstances. Because
10 circumstances vary from county to county, in establishing patterns of
11 rural densities and uses, a county may consider local circumstances,
12 but shall develop a written record explaining how the rural element
13 harmonizes the planning goals in RCW 36.70A.020 and meets the
14 requirements of this chapter.

15 (b) Rural development. The rural element shall permit rural
16 development, forestry, and agriculture in rural areas. The rural
17 element shall provide for a variety of rural densities, uses,
18 essential public facilities, and rural governmental services needed
19 to serve the permitted densities and uses. To achieve a variety of
20 rural densities and uses, counties may provide for clustering,
21 density transfer, design guidelines, conservation easements, and
22 other innovative techniques that will accommodate appropriate rural
23 economic advancement, densities, and uses that are not characterized
24 by urban growth and that are consistent with rural character.

25 (c) Measures governing rural development. The rural element shall
26 include measures that apply to rural development and protect the
27 rural character of the area, as established by the county, by:

28 (i) Containing or otherwise controlling rural development;

29 (ii) Assuring visual compatibility of rural development with the
30 surrounding rural area;

31 (iii) Reducing the inappropriate conversion of undeveloped land
32 into sprawling, low-density development in the rural area;

33 (iv) Protecting critical areas, as provided in RCW 36.70A.060,
34 and surface water and groundwater resources; and

35 (v) Protecting against conflicts with the use of agricultural,
36 forest, and mineral resource lands designated under RCW 36.70A.170.

37 (d) Limited areas of more intensive rural development. Subject to
38 the requirements of this subsection and except as otherwise
39 specifically provided in this subsection (5)(d), the rural element
40 may allow for limited areas of more intensive rural development,

1 including necessary public facilities and public services to serve
2 the limited area as follows:

3 (i) Rural development consisting of the infill, development, or
4 redevelopment of existing commercial, industrial, residential, or
5 mixed-use areas, whether characterized as shoreline development,
6 villages, hamlets, rural activity centers, or crossroads
7 developments.

8 (A) A commercial, industrial, residential, shoreline, or mixed-
9 use area are subject to the requirements of (d)(iv) of this
10 subsection, but are not subject to the requirements of (c)(ii) and
11 (iii) of this subsection.

12 (B) Any development or redevelopment other than an industrial
13 area or an industrial use within a mixed-use area or an industrial
14 area under this subsection (5)(d)(i) must be principally designed to
15 serve the existing and projected rural population.

16 (C) Any development or redevelopment in terms of building size,
17 scale, use, or intensity shall be consistent with the character of
18 the existing areas. Development and redevelopment may include changes
19 in use from vacant land or a previously existing use so long as the
20 new use conforms to the requirements of this subsection (5);

21 (ii) The intensification of development on lots containing, or
22 new development of, small-scale recreational or tourist uses,
23 including commercial facilities to serve those recreational or
24 tourist uses, that rely on a rural location and setting, but that do
25 not include new residential development. A small-scale recreation or
26 tourist use is not required to be principally designed to serve the
27 existing and projected rural population. Public services and public
28 facilities shall be limited to those necessary to serve the
29 recreation or tourist use and shall be provided in a manner that does
30 not permit low-density sprawl;

31 (iii) The intensification of development on lots containing
32 isolated nonresidential uses or new development of isolated cottage
33 industries and isolated small-scale businesses that are not
34 principally designed to serve the existing and projected rural
35 population and nonresidential uses, but do provide job opportunities
36 for rural residents. Rural counties may allow the expansion of small-
37 scale businesses as long as those small-scale businesses conform with
38 the rural character of the area as defined by the local government
39 according to RCW 36.70A.030(23). Rural counties may also allow new
40 small-scale businesses to utilize a site previously occupied by an

1 existing business as long as the new small-scale business conforms to
2 the rural character of the area as defined by the local government
3 according to RCW 36.70A.030(23). Public services and public
4 facilities shall be limited to those necessary to serve the isolated
5 nonresidential use and shall be provided in a manner that does not
6 permit low-density sprawl;

7 (iv) A county shall adopt measures to minimize and contain the
8 existing areas or uses of more intensive rural development, as
9 appropriate, authorized under this subsection. Lands included in such
10 existing areas or uses shall not extend beyond the logical outer
11 boundary of the existing area or use, thereby allowing a new pattern
12 of low-density sprawl. Existing areas are those that are clearly
13 identifiable and contained and where there is a logical boundary
14 delineated predominately by the built environment, but that may also
15 include undeveloped lands if limited as provided in this subsection.
16 The county shall establish the logical outer boundary of an area of
17 more intensive rural development. In establishing the logical outer
18 boundary, the county shall address (A) the need to preserve the
19 character of existing natural neighborhoods and communities, (B)
20 physical boundaries, such as bodies of water, streets and highways,
21 and land forms and contours, (C) the prevention of abnormally
22 irregular boundaries, and (D) the ability to provide public
23 facilities and public services in a manner that does not permit low-
24 density sprawl;

25 (v) For purposes of (d) of this subsection, an existing area or
26 existing use is one that was in existence:

27 (A) On July 1, 1990, in a county that was initially required to
28 plan under all of the provisions of this chapter;

29 (B) On the date the county adopted a resolution under RCW
30 36.70A.040(2), in a county that is planning under all of the
31 provisions of this chapter under RCW 36.70A.040(2); or

32 (C) On the date the office of financial management certifies the
33 county's population as provided in RCW 36.70A.040(5), in a county
34 that is planning under all of the provisions of this chapter pursuant
35 to RCW 36.70A.040(5).

36 (e) Exception. This subsection shall not be interpreted to permit
37 in the rural area a major industrial development or a master planned
38 resort unless otherwise specifically permitted under RCW 36.70A.360
39 and 36.70A.365.

1 (6) A transportation element that implements, and is consistent
2 with, the land use element.

3 (a) The transportation element shall include the following
4 subelements:

5 (i) Land use assumptions used in estimating travel;

6 (ii) Estimated traffic impacts to state-owned transportation
7 facilities resulting from land use assumptions to assist the
8 department of transportation in monitoring the performance of state
9 facilities, to plan improvements for the facilities, and to assess
10 the impact of land-use decisions on state-owned transportation
11 facilities;

12 (iii) Facilities and services needs, including:

13 (A) An inventory of air, water, and ground transportation
14 facilities and services, including transit alignments and general
15 aviation airport facilities, to define existing capital facilities
16 and travel levels as a basis for future planning. This inventory must
17 include state-owned transportation facilities within the city or
18 county's jurisdictional boundaries;

19 (B) Level of service standards for all locally owned arterials
20 and transit routes to serve as a gauge to judge performance of the
21 system. These standards should be regionally coordinated;

22 (C) For state-owned transportation facilities, level of service
23 standards for highways, as prescribed in chapters 47.06 and 47.80
24 RCW, to gauge the performance of the system. The purposes of
25 reflecting level of service standards for state highways in the local
26 comprehensive plan are to monitor the performance of the system, to
27 evaluate improvement strategies, and to facilitate coordination
28 between the county's or city's six-year street, road, or transit
29 program and the office of financial management's ten-year investment
30 program. The concurrency requirements of (b) of this subsection do
31 not apply to transportation facilities and services of statewide
32 significance except for counties consisting of islands whose only
33 connection to the mainland are state highways or ferry routes. In
34 these island counties, state highways and ferry route capacity must
35 be a factor in meeting the concurrency requirements in (b) of this
36 subsection;

37 (D) Specific actions and requirements for bringing into
38 compliance locally owned transportation facilities or services that
39 are below an established level of service standard;

1 (E) Forecasts of traffic for at least (~~ten~~) 10 years based on
2 the adopted land use plan to provide information on the location,
3 timing, and capacity needs of future growth;

4 (F) Identification of state and local system needs to meet
5 current and future demands. Identified needs on state-owned
6 transportation facilities must be consistent with the statewide
7 multimodal transportation plan required under chapter 47.06 RCW;

8 (iv) Finance, including:

9 (A) An analysis of funding capability to judge needs against
10 probable funding resources;

11 (B) A multiyear financing plan based on the needs identified in
12 the comprehensive plan, the appropriate parts of which shall serve as
13 the basis for the six-year street, road, or transit program required
14 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW
15 35.58.2795 for public transportation systems. The multiyear financing
16 plan should be coordinated with the (~~ten-year~~) 10-year investment
17 program developed by the office of financial management as required
18 by RCW 47.05.030;

19 (C) If probable funding falls short of meeting identified needs,
20 a discussion of how additional funding will be raised, or how land
21 use assumptions will be reassessed to ensure that level of service
22 standards will be met;

23 (v) Intergovernmental coordination efforts, including an
24 assessment of the impacts of the transportation plan and land use
25 assumptions on the transportation systems of adjacent jurisdictions;

26 (vi) Demand-management strategies;

27 (vii) Pedestrian and bicycle component to include collaborative
28 efforts to identify and designate planned improvements for pedestrian
29 and bicycle facilities and corridors that address and encourage
30 enhanced community access and promote healthy lifestyles.

31 (b) After adoption of the comprehensive plan by jurisdictions
32 required to plan or who choose to plan under RCW 36.70A.040, local
33 jurisdictions must adopt and enforce ordinances which prohibit
34 development approval if the development causes the level of service
35 on a locally owned transportation facility to decline below the
36 standards adopted in the transportation element of the comprehensive
37 plan, unless transportation improvements or strategies to accommodate
38 the impacts of development are made concurrent with the development.
39 These strategies may include increased public transportation service,
40 ride-sharing programs, demand management, and other transportation

1 systems management strategies. For the purposes of this subsection
2 (6), "concurrent with the development" means that improvements or
3 strategies are in place at the time of development, or that a
4 financial commitment is in place to complete the improvements or
5 strategies within six years. If the collection of impact fees is
6 delayed under RCW 82.02.050(3), the six-year period required by this
7 subsection (6)(b) must begin after full payment of all impact fees is
8 due to the county or city.

9 (c) The transportation element described in this subsection (6),
10 the six-year plans required by RCW 35.77.010 for cities, RCW
11 36.81.121 for counties, and RCW 35.58.2795 for public transportation
12 systems, and the ten-year investment program required by RCW
13 47.05.030 for the state, must be consistent.

14 (7) An economic development element establishing local goals,
15 policies, objectives, and provisions for economic growth and vitality
16 and a high quality of life. A city that has chosen to be a
17 residential community is exempt from the economic development element
18 requirement of this subsection.

19 (8) A park and recreation element that implements, and is
20 consistent with, the capital facilities plan element as it relates to
21 park and recreation facilities. The element shall include: (a)
22 Estimates of park and recreation demand for at least a (~~ten-year~~)
23 10-year period; (b) an evaluation of facilities and service needs;
24 and (c) an evaluation of intergovernmental coordination opportunities
25 to provide regional approaches for meeting park and recreational
26 demand.

27 (9) It is the intent that new or amended elements required after
28 January 1, 2002, be adopted concurrent with the scheduled update
29 provided in RCW 36.70A.130. Requirements to incorporate any such new
30 or amended elements shall be null and void until funds sufficient to
31 cover applicable local government costs are appropriated and
32 distributed by the state at least two years before local government
33 must update comprehensive plans as required in RCW 36.70A.130.

34 **Sec. 2.** RCW 36.70A.697 and 2020 c 217 s 3 are each amended to
35 read as follows:

36 (1) Cities must adopt or amend by ordinance, and incorporate into
37 their development regulations, zoning regulations, and other official
38 controls the requirements of RCW 36.70A.698 to take effect by July 1,
39 (~~2021~~) 2023.

1 (2) Beginning July 1, ((2021)) 2023, the requirements of RCW
2 36.70A.698:

3 (a) Apply and take effect in any city that has not adopted or
4 amended ordinances, regulations, or other official controls as
5 required under this section; and

6 (b) Supersede, preempt, and invalidate any local development
7 regulations that conflict with RCW 36.70A.698.

8 **Sec. 3.** RCW 36.70A.698 and 2020 c 217 s 4 are each amended to
9 read as follows:

10 ~~((1) Except as provided in subsection[s] (2) and (3) of this~~
11 ~~section, through ordinances, development regulations, zoning~~
12 ~~regulations, and other official controls as required under RCW~~
13 ~~36.70A.697, cities)) Cities may not require the provision of off-~~
14 ~~street parking for accessory dwelling units within one-quarter mile~~
15 ~~of a major transit stop.~~

16 ~~((2) A city may require the provision of off-street parking for~~
17 ~~an accessory dwelling unit located within one-quarter mile of a major~~
18 ~~transit stop if the city has determined that the accessory dwelling~~
19 ~~unit is in an area with a lack of access to street parking capacity,~~
20 ~~physical space impediments, or other reasons supported by evidence~~
21 ~~that would make on-street parking infeasible for the accessory~~
22 ~~dwelling unit.~~

23 ~~(3) A city that has adopted or substantively amended accessory~~
24 ~~dwelling unit regulations within the four years previous to June 11,~~
25 ~~2020, is not subject to the requirements of this section.))~~

26 NEW SECTION. **Sec. 4.** The legislature finds that accessory
27 dwelling units are housing options that are affordable and practical
28 for diverse communities and groups within Washington. The legislature
29 also finds that these equitable and sustainable housing options are
30 prohibited from being utilized in many communities in Washington
31 because of restrictive covenants and agreements. These covenants and
32 agreements have historically been used to exclude people from
33 communities based on their race, ethnicity, or religion. Even when
34 this was not the intent, these restrictive covenants and agreements
35 have often resulted in discriminatory outcomes. The legislature finds
36 that this has been the case with prohibitions on the construction or
37 use of accessory dwelling units. In order to promote more equitable,
38 inclusive housing options, the legislature finds that it is necessary

1 to prevent the application of certain restrictive covenants and
2 agreements that would prevent the construction or use of accessory
3 dwelling units within an urban growth area. Therefore, it is the
4 intent of the legislature that the policies in RCW 36.70A.070
5 allowing for accessory dwelling units to be constructed and utilized
6 inside of urban growth areas apply throughout the state,
7 notwithstanding restrictive covenants and agreements to the contrary.

8 NEW SECTION. **Sec. 5.** A new section is added to chapter 64.38
9 RCW to read as follows:

10 (1) The governing documents of an association located within an
11 urban growth area may not actively or effectively prohibit the
12 construction, development, or use on a lot of an accessory dwelling
13 unit.

14 (2) For the purposes of this section, "urban growth area" has the
15 same meaning as in RCW 36.70A.030.

16 (3) This section applies retroactively to all governing documents
17 in effect on July 1, 2022. A provision in a governing document in
18 effect on July 1, 2022, or thereafter that is inconsistent with this
19 section is void and unenforceable.

20 (4) The governing documents may include reasonable rules and
21 regulations regarding accessory dwelling units, provided that such
22 rules and regulations do not effectively prevent the construction or
23 use of accessory dwelling units, nor render such construction and use
24 economically impracticable.

25 NEW SECTION. **Sec. 6.** A new section is added to chapter 64.90
26 RCW to read as follows:

27 (1) Neither the declaration nor the governing document of a
28 common interest community located inside an urban growth area may
29 actively or effectively prohibit the construction, development, or
30 use on a lot of an accessory dwelling unit.

31 (2) For the purposes of this section, "urban growth area" has the
32 same meaning as in RCW 36.70A.030.

33 (3) This section applies retroactively to all declarations and
34 governing documents in effect on July 1, 2022. A provision in a
35 declaration or governing document in effect on July 1, 2022, or
36 thereafter that is inconsistent with this section is void and
37 unenforceable.

1 (4) The declaration or governing document may include reasonable
2 rules and regulations regarding accessory dwelling units, provided
3 that such rules and regulations do not effectively prevent the
4 construction or use of accessory dwelling units, nor render such
5 construction and use economically impracticable.

6 NEW SECTION. **Sec. 7.** A new section is added to chapter 36.70A
7 RCW to read as follows:

8 (1) No restrictive covenant or deed restriction applicable to a
9 property located within an urban growth area may prohibit the
10 construction, development, or use on a lot of an accessory dwelling
11 unit.

12 (2) For the purposes of this section, "urban growth area" has the
13 same meaning as in RCW 36.70A.030.

14 (3) This section applies retroactively to all restrictive
15 covenants or deed restrictions in effect on July 1, 2022. Any
16 provision in a restrictive covenant or deed restriction in effect on
17 or after July 1, 2022, that is inconsistent with subsection (1) of
18 this section is unenforceable to the extent of the conflict.

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