
HOUSE BILL 1306

State of Washington**53rd Legislature****1993 Regular Session****By Representative Franklin**

Read first time 01/22/93. Referred to Committee on Trade, Economic Development & Housing.

1 AN ACT Relating to creation of state-wide affordable housing;
2 adding new sections to chapter 35.63 RCW; adding new sections to
3 chapter 35A.63 RCW; adding new sections to chapter 36.70 RCW; adding
4 new sections to chapter 36.70A RCW; and creating new sections.

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

6 NEW SECTION. **Sec. 1.** This act may be known and cited as the
7 affordable housing act.

8 NEW SECTION. **Sec. 2.** (1) The legislature finds and declares that
9 there is a tremendous unmet need for new housing to shelter
10 Washington's population. The unmet housing needs will be further
11 aggravated by the severe cutbacks in federal housing programs.

12 (2) The legislature finds and declares that our existing housing
13 resources are vastly underutilized due in large part to the changes in
14 social patterns. The improved utilization of this state's existing
15 housing resources offers an innovative and cost-effective solution to
16 this housing crisis.

1 (3) The legislature finds and declares that the state has a role in
2 increasing the utilization of our housing resources and in reducing the
3 barriers to the provision of affordable housing.

4 (4) The legislature finds and declares that there are many benefits
5 associated with the creation of second-family residential units on
6 existing single-family lots, which include:

7 (a) Providing a cost-effective means of serving development through
8 the use of existing infrastructures, as contrasted to requiring the
9 construction of new costly infrastructures to serve development in
10 undeveloped areas; and

11 (b) Providing relatively affordable housing for low and moderate-
12 income households without public subsidy.

13 **NEW SECTION.** **Sec. 3.** A new section is added to chapter 35.63 RCW
14 to read as follows:

15 Each city may issue a zoning variance, special use permit, or
16 conditional use permit for a dwelling unit to be constructed, or which
17 is attached to or detached from, a primary residence on a parcel zoned
18 for a single-family residence, if the dwelling unit is intended for the
19 sole occupancy of one adult or two adult persons one of whom is sixty
20 years of age or over, and the area of floor space of the attached
21 dwelling unit does not exceed thirty percent of the existing living
22 area or the area of the floor space of the detached dwelling unit does
23 not exceed one thousand two hundred square feet.

24 **NEW SECTION.** **Sec. 4.** A new section is added to chapter 35.63 RCW
25 to read as follows:

26 (1) Each city may, by ordinance, provide for the creation of second
27 units in single-family and multifamily residential zones consistent
28 with all of the following provisions:

29 (a) Areas may be designated within the jurisdiction of each city
30 where second units may be permitted;

31 (b) The designation of areas may be based on criteria, which may
32 include, but are not limited to, the adequacy of water and sewer
33 services and the impact of second units on traffic flow;

34 (c) Each city may find that second units do not exceed the
35 allowable density for the lot upon which the second unit is located,
36 and that second units are a residential use that is consistent with
37 the existing general plan and zoning designation for the lot;

1 (d) The second units created shall not be considered in the
2 application of any local ordinance, policy, or program to limit
3 residential growth; and

4 (e) Each city may establish a process for the issuance of a
5 conditional use permit for second units. Before a city designates
6 areas within the city where second units may be permitted, it shall
7 provide neighborhood groups an opportunity to submit a neighborhood
8 plan that addresses how the impacts of second units on parking and
9 other matters may be mitigated. The city shall assist neighborhood
10 groups with the development of the plan when possible.

11 (2) When a city with a population of at least twenty thousand which
12 has not adopted an ordinance governing second units in accordance with
13 subsection (1) of this section receives its first application on or
14 after July 1, 1994, for a conditional use permit pursuant to this
15 subsection, it shall accept the application and approve or disapprove
16 the application pursuant to this subsection unless it adopts an
17 ordinance in accordance with subsection (1) of this section within one
18 hundred twenty days after receiving the application. Each city shall
19 grant a special use or a conditional use permit for the creation of a
20 second unit if the second unit complies with all of the following:

21 (a) The unit is not intended for sale and may be rented;
22 (b) The lot is zoned for single-family or multifamily use;
23 (c) The lot contains an existing single-family dwelling;
24 (d) The second unit is either attached to the existing dwelling and
25 located within the living area of the existing dwelling or detached
26 from the existing dwelling and located on the same lot as the existing
27 dwelling;

28 (e) Any increase in the floor area of an attached second unit shall
29 not exceed thirty percent of the existing living area;

30 (f) The total area of floor space for a detached second unit shall
31 not exceed one thousand two hundred square feet;

32 (g) Any construction shall conform to height, setback, lot
33 coverage, architectural review, site plan review, fees, charges, and
34 other zoning requirements generally applicable to residential
35 construction in the zone in which the property is located;

36 (h) Local building code requirements which apply to detached
37 dwellings, as appropriate;

38 (i) Approval by the local health officer where a private sewage
39 disposal system is being used, if required.

1 A city is not required to grant special use or conditional use
2 permits under this section for failing to adopt an ordinance
3 authorizing the siting of secondary units if the city makes a finding
4 that adequate affordable housing exists within the city, or that
5 adequate affordable housing will be provided through increased
6 densities or other means.

7 (3)(a) Subsection (2) of this section establishes the maximum
8 standards that local agencies shall use to evaluate proposed second
9 units on lots zoned for residential use which contain an existing
10 single-family dwelling. No additional standards, other than those
11 provided in subsection (1) or (2) of this section, shall be utilized or
12 imposed, except that a city may require an applicant for a permit
13 issued pursuant to subsection (2) of this section to be an owner-
14 occupant.

15 (b) This subsection does not limit the authority of local agencies
16 to adopt less restrictive requirements for the creation of second
17 units.

18 (c) No changes in zoning ordinances or other ordinances or any
19 changes in the general plan shall be required to implement this
20 subsection. Any local agency may amend its zoning ordinance or general
21 plan to incorporate the policies, procedures, or other provisions
22 applicable to the creation of second units if these provisions are
23 consistent with the limitations of this subsection.

24 (d) A second unit which conforms to the requirements of this
25 subsection shall not be considered to exceed the allowable density for
26 the lot upon which it is located, and shall be deemed to be a
27 residential use which is consistent with the existing general plan and
28 zoning designations for the lot. The second units shall not be
29 considered in the application of any local ordinance, policy, or
30 program to limit residential growth.

31 (e) A city shall not adopt an ordinance which totally precludes
32 second units within single-family and multifamily zoned areas unless
33 the ordinance contains findings acknowledging that the ordinance may
34 limit housing opportunities of the region and further contains findings
35 that specific adverse impacts on the public health, safety, and welfare
36 that would result from allowing second units within single-family and
37 multifamily zoned areas justify adopting the ordinance.

1 **NEW SECTION.** **Sec. 5.** A new section is added to chapter 35A.63 RCW
2 to read as follows:

3 Each code city may issue a zoning variance, special use permit, or
4 conditional use permit for a dwelling unit to be constructed, or which
5 is attached to or detached from, a primary residence on a parcel zoned
6 for a single-family residence, if the dwelling unit is intended for the
7 sole occupancy of one adult or two adult persons one of whom is sixty
8 years of age or over, and the area of floor space of the attached
9 dwelling unit does not exceed thirty percent of the existing living
10 area or the area of the floor space of the detached dwelling unit does
11 not exceed one thousand two hundred square feet.

12 **NEW SECTION.** **Sec. 6.** A new section is added to chapter 35A.63 RCW
13 to read as follows:

14 (1) Each code city may, by ordinance, provide for the creation of
15 second units in single-family and multifamily residential zones
16 consistent with all of the following provisions:

17 (a) Areas may be designated within the jurisdiction of each code
18 city where second units may be permitted;

19 (b) The designation of areas may be based on criteria, which may
20 include, but are not limited to, the adequacy of water and sewer
21 services and the impact of second units on traffic flow;

22 (c) Each code city may find that second units do not exceed the
23 allowable density for the lot upon which the second unit is located,
24 and that second units are a residential use that is consistent with
25 the existing general plan and zoning designation for the lot;

26 (d) The second units created shall not be considered in the
27 application of any local ordinance, policy, or program to limit
28 residential growth; and

29 (e) Each code city may establish a process for the issuance of a
30 conditional use permit for second units. Before a city designates
31 areas within the city where second units may be permitted, it shall
32 provide neighborhood groups an opportunity to submit a neighborhood
33 plan that addresses how the impacts of second units on parking and
34 other matters may be mitigated. The city shall assist neighborhood
35 groups with the development of the plan when possible.

36 (2) When a code city with a population of at least twenty thousand
37 which has not adopted an ordinance governing second units in accordance
38 with subsection (1) of this section receives its first application on

1 or after July 1, 1994, for a conditional use permit pursuant to this
2 subsection, it shall accept the application and approve or disapprove
3 the application pursuant to this subsection unless it adopts an
4 ordinance in accordance with subsection (1) of this section within one
5 hundred twenty days after receiving the application. Each code city
6 shall grant a special use or a conditional use permit for the creation
7 of a second unit if the second unit complies with all of the following:

8 (a) The unit is not intended for sale and may be rented;

9 (b) The lot is zoned for single-family or multifamily use;

10 (c) The lot contains an existing single-family dwelling;

11 (d) The second unit is either attached to the existing dwelling and
12 located within the living area of the existing dwelling or detached
13 from the existing dwelling and located on the same lot as the existing
14 dwelling;

15 (e) Any increase in the floor area of an attached second unit shall
16 not exceed thirty percent of the existing living area;

17 (f) The total area of floor space for a detached second unit shall
18 not exceed one thousand two hundred square feet;

19 (g) Any construction shall conform to height, setback, lot
20 coverage, architectural review, site plan review, fees, charges, and
21 other zoning requirements generally applicable to residential
22 construction in the zone in which the property is located;

23 (h) Local building code requirements which apply to detached
24 dwellings, as appropriate; and

25 (i) Approval by the local health officer where a private sewage
26 disposal system is being used, if required.

27 A city is not required to grant special use or conditional use
28 permits under this section for failing to adopt an ordinance
29 authorizing the siting of secondary units if the city makes a finding
30 that adequate affordable housing exists within the city, or that
31 adequate affordable housing will be provided through increased
32 densities or other means.

33 (3)(a) Subsection (2) of this section establishes the maximum
34 standards that local agencies shall use to evaluate proposed second
35 units on lots zoned for residential use which contain an existing
36 single-family dwelling. No additional standards, other than those
37 provided in subsection (1) or (2) of this section, shall be utilized or
38 imposed, except that a code city may require an applicant for a permit

1 issued pursuant to subsection (2) of this section to be an owner-
2 occupant.

3 (b) This subsection does not limit the authority of local agencies
4 to adopt less restrictive requirements for the creation of second
5 units.

6 (c) No changes in zoning ordinances or other ordinances or any
7 changes in the general plan shall be required to implement this
8 subsection. Any local agency may amend its zoning ordinance or general
9 plan to incorporate the policies, procedures, or other provisions
10 applicable to the creation of second units if these provisions are
11 consistent with the limitations of this subsection.

12 (d) A second unit which conforms to the requirements of this
13 subsection shall not be considered to exceed the allowable density for
14 the lot upon which it is located, and shall be deemed to be a
15 residential use which is consistent with the existing general plan and
16 zoning designations for the lot. The second units shall not be
17 considered in the application of any local ordinance, policy, or
18 program to limit residential growth.

19 (e) A code city shall not adopt an ordinance which totally
20 precludes second units within single-family and multifamily zoned areas
21 unless the ordinance contains findings acknowledging that the ordinance
22 may limit housing opportunities of the region and further contains
23 findings that specific adverse impacts on the public health, safety,
24 and welfare that would result from allowing second units within single-
25 family and multifamily zoned areas justify adopting the ordinance.

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

28 Each county may issue a zoning variance, special use permit, or
29 conditional use permit for a dwelling unit to be constructed, or which
30 is attached to or detached from, a primary residence on a parcel zoned
31 for a single-family residence, if the dwelling unit is intended for the
32 sole occupancy of one adult or two adult persons one of whom is sixty
33 years of age or over, and the area of floor space of the attached
34 dwelling unit does not exceed thirty percent of the existing living
35 area or the area of the floor space of the detached dwelling unit does
36 not exceed one thousand two hundred square feet.

1 NEW SECTION. **Sec. 8.** A new section is added to chapter 36.70 RCW
2 to read as follows:

3 (1) Each county may, by ordinance, provide for the creation of
4 second units in single-family and multifamily residential zones
5 consistent with all of the following provisions:

6 (a) Areas may be designated within the jurisdiction of each county
7 where second units may be permitted;

8 (b) The designation of areas may be based on criteria, which may
9 include, but are not limited to, the adequacy of water and sewer
10 services and the impact of second units on traffic flow;

11 (c) Each county may find that second units do not exceed the
12 allowable density for the lot upon which the second unit is located,
13 and that second units are a residential use that is consistent with the
14 existing general plan and zoning designation for the lot;

15 (d) The second units created shall not be considered in the
16 application of any local ordinance, policy, or program to limit
17 residential growth; and

18 (e) Each county may establish a process for the issuance of a
19 conditional use permit for second units. Before a city designates
20 areas within the county where second units may be permitted, it shall
21 provide neighborhood groups an opportunity to submit a neighborhood
22 plan that addresses how the impacts of second units on parking and
23 other matters may be mitigated. The county shall assist neighborhood
24 groups with the development of the plan when possible.

25 (2) When a county with a population of at least one hundred twenty-
26 five thousand which has not adopted an ordinance governing second units
27 in accordance with subsection (1) of this section receives its first
28 application on or after July 1, 1994, for a conditional use permit
29 pursuant to this subsection, it shall accept the application and
30 approve or disapprove the application pursuant to this subsection
31 unless it adopts an ordinance in accordance with subsection (1) of this
32 section within one hundred twenty days after receiving the application.
33 Each county shall grant a special use or a conditional use permit for
34 the creation of a second unit if the second unit complies with all of
35 the following:

36 (a) The unit is not intended for sale and may be rented;

37 (b) The lot is zoned for single-family or multifamily use;

38 (c) The lot contains an existing single-family dwelling;

1 (d) The second unit is either attached to the existing dwelling and
2 located within the living area of the existing dwelling or detached
3 from the existing dwelling and located on the same lot as the existing
4 dwelling;

5 (e) Any increase in the floor area of an attached second unit shall
6 not exceed thirty percent of the existing living area;

7 (f) The total area of floor space for a detached second unit shall
8 not exceed one thousand two hundred square feet;

9 (g) Any construction shall conform to height, setback, lot
10 coverage, architectural review, site plan review, fees, charges, and
11 other zoning requirements generally applicable to residential
12 construction in the zone in which the property is located;

13 (h) Local building code requirements which apply to detached
14 dwellings, as appropriate; and

15 (i) Approval by the local health officer where a private sewage
16 disposal system is being used, if required.

17 A county is not required to grant special use or conditional use
18 permits under this section for failing to adopt an ordinance
19 authorizing the siting of secondary units if the county makes a finding
20 that adequate affordable housing exists within the county, or that
21 adequate affordable housing will be provided through increased
22 densities or other means.

23 (3)(a) Subsection (2) of this section establishes the maximum
24 standards that local agencies shall use to evaluate proposed second
25 units on lots zoned for residential use which contain an existing
26 single-family dwelling. No additional standards, other than those
27 provided in subsection (1) or (2) of this section, shall be utilized or
28 imposed, except that a county may require an applicant for a permit
29 issued pursuant to subsection (2) of this section to be an owner-
30 occupant.

31 (b) This subsection does not limit the authority of local agencies
32 to adopt less restrictive requirements for the creation of second
33 units.

34 (c) No changes in zoning ordinances or other ordinances or any
35 changes in the general plan shall be required to implement this
36 subsection. Any local agency may amend its zoning ordinance or general
37 plan to incorporate the policies, procedures, or other provisions
38 applicable to the creation of second units if these provisions are
39 consistent with the limitations of this subsection.

1 (d) A second unit which conforms to the requirements of this
2 subsection shall not be considered to exceed the allowable density for
3 the lot upon which it is located, and shall be deemed to be a
4 residential use which is consistent with the existing general plan and
5 zoning designations for the lot. The second units shall not be
6 considered in the application of any local ordinance, policy, or
7 program to limit residential growth.

8 (e) A county shall not adopt an ordinance which totally precludes
9 second units within single-family and multifamily zoned areas unless
10 the ordinance contains findings acknowledging that the ordinance may
11 limit housing opportunities of the region and further contains findings
12 that specific adverse impacts on the public health, safety, and welfare
13 that would result from allowing second units within single-family and
14 multifamily zoned areas justify adopting the ordinance.

15 NEW SECTION. **Sec. 9.** A new section is added to chapter 36.70A RCW
16 to read as follows:

17 Each city and county may issue a zoning variance, special use
18 permit, or conditional use permit for a dwelling unit to be
19 constructed, or which is attached to or detached from, a primary
20 residence on a parcel zoned for a single-family residence, if the
21 dwelling unit is intended for the sole occupancy of one adult or two
22 adult persons one of whom is sixty years of age or over, and the area
23 of floor space of the attached dwelling unit does not exceed thirty
24 percent of the existing living area or the area of the floor space of
25 the detached dwelling unit does not exceed one thousand two hundred
26 square feet.

27 NEW SECTION. **Sec. 10.** A new section is added to chapter 36.70A
28 RCW to read as follows:

29 (1) Each city and county may, by ordinance, provide for the
30 creation of second units in single-family and multifamily residential
31 zones consistent with all of the following provisions:

32 (a) Areas may be designated within the jurisdiction of each city
33 and county where second units may be permitted;

34 (b) The designation of areas may be based on criteria, which may
35 include, but are not limited to, the adequacy of water and sewer
36 services and the impact of second units on traffic flow;

1 (c) Each city and county may find that second units do not exceed
2 the allowable density for the lot upon which the second unit is
3 located, and that second units are a residential use that is
4 consistent with the existing general plan and zoning designation for
5 the lot;

6 (d) The second units created shall not be considered in the
7 application of any local ordinance, policy, or program to limit
8 residential growth; and

9 (e) Each city and county may establish a process for the issuance
10 of a conditional use permit for second units. Before a city or county
11 designates areas within the city or county where second units may be
12 permitted, it shall provide neighborhood groups with an opportunity to
13 submit a neighborhood plan that addresses how the impacts of second
14 units on parking and other matters may be mitigated. The county shall
15 assist neighborhood groups with the development of the plan when
16 possible.

17 (2) When a city with a population of at least twenty thousand or a
18 county with a population of at least one hundred twenty-five thousand
19 which has not adopted an ordinance governing second units in accordance
20 with subsection (1) of this section receives its first application on
21 or after July 1, 1994, for a conditional use permit pursuant to this
22 subsection, it shall accept the application and approve or disapprove
23 the application pursuant to this subsection unless it adopts an
24 ordinance in accordance with subsection (1) of this section within one
25 hundred twenty days after receiving the application. Each city or
26 county shall grant a special use or a conditional use permit for the
27 creation of a second unit if the second unit complies with all of the
28 following:

29 (a) The unit is not intended for sale and may be rented;
30 (b) The lot is zoned for single-family or multifamily use;
31 (c) The lot contains an existing single-family dwelling;
32 (d) The second unit is either attached to the existing dwelling and
33 located within the living area of the existing dwelling or detached
34 from the existing dwelling and located on the same lot as the existing
35 dwelling;

36 (e) Any increase in the floor area of an attached second unit shall
37 not exceed thirty percent of the existing living area;

38 (f) The total area of floor space for a detached second unit shall
39 not exceed one thousand two hundred square feet;

1 (g) Any construction shall conform to height, setback, lot
2 coverage, architectural review, site plan review, fees, charges, and
3 other zoning requirements generally applicable to residential
4 construction in the zone in which the property is located;

5 (h) Local building code requirements which apply to detached
6 dwellings, as appropriate; and

7 (i) Approval by the local health officer where a private sewage
8 disposal system is being used, if required.

9 A city or county is not required to grant special use or
10 conditional use permits under this section for failing to adopt an
11 ordinance authorizing the siting of secondary units if the city or
12 county makes a finding that adequate affordable housing exists within
13 the city or county, or that adequate affordable housing will be
14 provided through increased densities or other means.

15 (3)(a) Subsection (2) of this section establishes the maximum
16 standards that local agencies shall use to evaluate proposed second
17 units on lots zoned for residential use which contain an existing
18 single-family dwelling. No additional standards, other than those
19 provided in subsection (1) or (2) of this section, shall be utilized or
20 imposed, except that a city and county may require an applicant for a
21 permit issued pursuant to subsection (2) of this section to be an
22 owner-occupant.

23 (b) This subsection does not limit the authority of local agencies
24 to adopt less restrictive requirements for the creation of second
25 units.

26 (c) No changes in zoning ordinances or other ordinances or any
27 changes in the general plan shall be required to implement this
28 subsection. Any local agency may amend its zoning ordinance or general
29 plan to incorporate the policies, procedures, or other provisions
30 applicable to the creation of second units if these provisions are
31 consistent with the limitations of this subsection.

32 (d) A second unit which conforms to the requirements of this
33 subsection shall not be considered to exceed the allowable density for
34 the lot upon which it is located, and shall be deemed to be a
35 residential use which is consistent with the existing general plan and
36 zoning designations for the lot. The second units shall not be
37 considered in the application of any local ordinance, policy, or
38 program to limit residential growth.

1 (e) A city or county shall not adopt an ordinance which totally
2 precludes second units within single-family and multifamily zoned areas
3 unless the ordinance contains findings acknowledging that the ordinance
4 may limit housing opportunities of the region and further contains
5 findings that specific adverse impacts on the public health, safety,
6 and welfare that would result from allowing second units within single-
7 family and multifamily zoned areas justify adopting the ordinance.

8 (4) The designation of areas by a city or county where second units
9 may be permitted shall constitute evidence that a city or county is
10 making progress in meeting its fair share affordable housing goals.
11 For purposes of this section, "fair share affordable housing goals"
12 means a goal established pursuant to a regional policy plan process for
13 each city and county that is required or chooses to plan under RCW
14 36.70A.040.

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