

E2SHB 1923 - S AMD  
By Senator Kuderer

ADOPTED AND ENGROSSED 4/13/19

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 36.70A  
4 RCW to read as follows:

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

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

14 (b) Authorize development in one or more areas of not fewer than  
15 five hundred acres in cities with a population greater than forty  
16 thousand or not fewer than two hundred fifty acres in cities with a  
17 population less than forty thousand that include at least one bus  
18 stop served by scheduled bus service of at least four times per hour  
19 for twelve or more hours per day with an average of at least twenty-  
20 five residential units per acre that require no more than an average  
21 of one on-site parking space per two bedrooms in portions of the  
22 multifamily zones that are located within the areas;

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

28 (d) Authorize cluster zoning or lot size averaging in all zoning  
29 districts that permit single-family residences;

30 (e) Authorize attached accessory dwelling units on all parcels  
31 containing single-family homes where the lot is at least three  
32 thousand two hundred square feet in size, and permit both attached

1 and detached accessory dwelling units on all parcels containing  
2 single-family homes, provided lots are at least four thousand three  
3 hundred fifty-six square feet in size. Qualifying city ordinances or  
4 regulations may not provide for on-site parking requirements, owner  
5 occupancy requirements, or square footage limitations below one  
6 thousand square feet for the accessory dwelling unit, and must not  
7 prohibit the separate rental or sale of accessory dwelling units and  
8 the primary residence. Cities must set applicable impact fees at no  
9 more than the projected impact of the accessory dwelling unit. To  
10 allow local flexibility, other than these factors, accessory dwelling  
11 units may be subject to such regulations, conditions, procedures, and  
12 limitations as determined by the local legislative authority, and  
13 must follow all applicable state and federal laws and local  
14 ordinances;

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

16 (g) Adopt a planned action pursuant to RCW 43.21C.440(1)(b)(ii),  
17 except that an environmental impact statement pursuant to RCW  
18 43.21C.030 is not required for such an action;

19 (h) Adopt increases in categorical exemptions pursuant to RCW  
20 43.21C.229 for residential or mixed-use development;

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

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

27 (k) Allow for the division or redivision of land into the maximum  
28 number of lots through the short subdivision process provided in  
29 chapter 58.17 RCW; and

30 (l) Authorize a minimum net density of six dwelling units per  
31 acre in all residential zones, where the residential development  
32 capacity will increase within the city.

33 (2) A city planning pursuant to RCW 36.70A.040 may adopt a  
34 housing action plan as described in this subsection. The goal of any  
35 such housing plan must be to encourage construction of additional  
36 affordable and market rate housing in a greater variety of housing  
37 types and at prices that are accessible to a greater variety of  
38 incomes, including strategies aimed at the for-profit single-family  
39 home market. A housing action plan may utilize data compiled pursuant  
40 to section 3 of this act. The housing action plan should:

1 (a) Quantify existing and projected housing needs for all income  
2 levels, including extremely low-income households, with documentation  
3 of housing and household characteristics, and cost-burdened  
4 households;

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

8 (c) Analyze population and employment trends, with documentation  
9 of projections;

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

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

16 (f) Provide for participation and input from community members,  
17 community groups, local builders, local realtors, nonprofit housing  
18 advocates, and local religious groups; and

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

21 (3) If adopted by April 1, 2021, ordinances, amendments to  
22 development regulations, and other nonproject actions taken by a city  
23 to implement the actions specified in subsection (1) of this section,  
24 with the exception of the action specified in subsection (1)(f) of  
25 this section, are not subject to administrative or judicial appeal  
26 under chapter 43.21C RCW.

27 (4) Any action taken by a city prior to April 1, 2021, to amend  
28 their comprehensive plan solely to include actions taken under  
29 subsection (1) of this section is not subject to legal challenge  
30 under this chapter.

31 (5) In taking action under subsection (1) of this section, cities  
32 are encouraged to utilize strategies that increase residential  
33 building capacity in areas with frequent transit service and with the  
34 transportation and utility infrastructure that supports the  
35 additional residential building capacity.

36 (6) A city with a population over twenty thousand that is  
37 planning to take at least two actions under subsection (1) of this  
38 section, and that action will occur between the effective date of  
39 this section and April 1, 2021, is eligible to apply to the  
40 department for planning grant assistance of up to one hundred

1 thousand dollars, subject to the availability of funds appropriated  
2 for that purpose. The department shall develop grant criteria to  
3 ensure that grant funds awarded are proportionate to the level of  
4 effort proposed by a city, and the potential increase in housing  
5 supply or regulatory streamlining that could be achieved. Funding may  
6 be provided in advance of, and to support, adoption of policies or  
7 ordinances consistent with this section. A city can request, and the  
8 department may award, more than one hundred thousand dollars for  
9 applications that demonstrate extraordinary potential to increase  
10 housing supply or regulatory streamlining.

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

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

23 (9) In implementing this act, cities are encouraged to prioritize  
24 the creation of affordable, inclusive neighborhoods and to consider  
25 the risk of residential displacement, particularly in neighborhoods  
26 with communities at high risk of displacement.

27 **Sec. 2.** RCW 36.70A.030 and 2017 3rd sp.s. c 18 s 2 are each  
28 amended to read as follows:

29 Unless the context clearly requires otherwise, the definitions in  
30 this section apply throughout this chapter.

31 (1) "Adopt a comprehensive land use plan" means to enact a new  
32 comprehensive land use plan or to update an existing comprehensive  
33 land use plan.

34 (2) "Agricultural land" means land primarily devoted to the  
35 commercial production of horticultural, viticultural, floricultural,  
36 dairy, apiary, vegetable, or animal products or of berries, grain,  
37 hay, straw, turf, seed, Christmas trees not subject to the excise tax  
38 imposed by RCW 84.33.100 through 84.33.140, finfish in upland

1 hatcheries, or livestock, and that has long-term commercial  
2 significance for agricultural production.

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

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

8 (5) "Critical areas" include the following areas and ecosystems:

9 (a) Wetlands; (b) areas with a critical recharging effect on aquifers  
10 used for potable water; (c) fish and wildlife habitat conservation  
11 areas; (d) frequently flooded areas; and (e) geologically hazardous  
12 areas. "Fish and wildlife habitat conservation areas" does not  
13 include such artificial features or constructs as irrigation delivery  
14 systems, irrigation infrastructure, irrigation canals, or drainage  
15 ditches that lie within the boundaries of and are maintained by a  
16 port district or an irrigation district or company.

17 (6) "Department" means the department of commerce.

18 (7) "Development regulations" or "regulation" means the controls  
19 placed on development or land use activities by a county or city,  
20 including, but not limited to, zoning ordinances, critical areas  
21 ordinances, shoreline master programs, official controls, planned  
22 unit development ordinances, subdivision ordinances, and binding site  
23 plan ordinances together with any amendments thereto. A development  
24 regulation does not include a decision to approve a project permit  
25 application, as defined in RCW 36.70B.020, even though the decision  
26 may be expressed in a resolution or ordinance of the legislative body  
27 of the county or city.

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

1 facilities and services conducive to conversion of forestland to  
2 other uses.

3 (9) "Freight rail dependent uses" means buildings and other  
4 infrastructure that are used in the fabrication, processing, storage,  
5 and transport of goods where the use is dependent on and makes use of  
6 an adjacent short line railroad. Such facilities are both urban and  
7 rural development for purposes of this chapter. "Freight rail  
8 dependent uses" does not include buildings and other infrastructure  
9 that are used in the fabrication, processing, storage, and transport  
10 of coal, liquefied natural gas, or "crude oil" as defined in RCW  
11 90.56.010.

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

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

22 (12) "Minerals" include gravel, sand, and valuable metallic  
23 substances.

24 (13) "Public facilities" include streets, roads, highways,  
25 sidewalks, street and road lighting systems, traffic signals,  
26 domestic water systems, storm and sanitary sewer systems, parks and  
27 recreational facilities, and schools.

28 (14) "Public services" include fire protection and suppression,  
29 law enforcement, public health, education, recreation, environmental  
30 protection, and other governmental services.

31 (15) "Recreational land" means land so designated under RCW  
32 36.70A.1701 and that, immediately prior to this designation, was  
33 designated as agricultural land of long-term commercial significance  
34 under RCW 36.70A.170. Recreational land must have playing fields and  
35 supporting facilities existing before July 1, 2004, for sports played  
36 on grass playing fields.

37 (16) "Rural character" refers to the patterns of land use and  
38 development established by a county in the rural element of its  
39 comprehensive plan:

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

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

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

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

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

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

13 (g) That are consistent with the protection of natural surface  
14 water flows and groundwater and surface water recharge and discharge  
15 areas.

16 (17) "Rural development" refers to development outside the urban  
17 growth area and outside agricultural, forest, and mineral resource  
18 lands designated pursuant to RCW 36.70A.170. Rural development can  
19 consist of a variety of uses and residential densities, including  
20 clustered residential development, at levels that are consistent with  
21 the preservation of rural character and the requirements of the rural  
22 element. Rural development does not refer to agriculture or forestry  
23 activities that may be conducted in rural areas.

24 (18) "Rural governmental services" or "rural services" include  
25 those public services and public facilities historically and  
26 typically delivered at an intensity usually found in rural areas, and  
27 may include domestic water systems, fire and police protection  
28 services, transportation and public transit services, and other  
29 public utilities associated with rural development and normally not  
30 associated with urban areas. Rural services do not include storm or  
31 sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

32 (19) "Short line railroad" means those railroad lines designated  
33 class II or class III by the United States surface transportation  
34 board.

35 (20) "Urban governmental services" or "urban services" include  
36 those public services and public facilities at an intensity  
37 historically and typically provided in cities, specifically including  
38 storm and sanitary sewer systems, domestic water systems, street  
39 cleaning services, fire and police protection services, public

1 transit services, and other public utilities associated with urban  
2 areas and normally not associated with rural areas.

3 (21) "Urban growth" refers to growth that makes intensive use of  
4 land for the location of buildings, structures, and impermeable  
5 surfaces to such a degree as to be incompatible with the primary use  
6 of land for the production of food, other agricultural products, or  
7 fiber, or the extraction of mineral resources, rural uses, rural  
8 development, and natural resource lands designated pursuant to RCW  
9 36.70A.170. A pattern of more intensive rural development, as  
10 provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed  
11 to spread over wide areas, urban growth typically requires urban  
12 governmental services. "Characterized by urban growth" refers to land  
13 having urban growth located on it, or to land located in relationship  
14 to an area with urban growth on it as to be appropriate for urban  
15 growth.

16 (22) "Urban growth areas" means those areas designated by a  
17 county pursuant to RCW 36.70A.110.

18 (23) "Wetland" or "wetlands" means areas that are inundated or  
19 saturated by surface water or groundwater at a frequency and duration  
20 sufficient to support, and that under normal circumstances do  
21 support, a prevalence of vegetation typically adapted for life in  
22 saturated soil conditions. Wetlands generally include swamps,  
23 marshes, bogs, and similar areas. Wetlands do not include those  
24 artificial wetlands intentionally created from nonwetland sites,  
25 including, but not limited to, irrigation and drainage ditches,  
26 grass-lined swales, canals, detention facilities, wastewater  
27 treatment facilities, farm ponds, and landscape amenities, or those  
28 wetlands created after July 1, 1990, that were unintentionally  
29 created as a result of the construction of a road, street, or  
30 highway. Wetlands may include those artificial wetlands intentionally  
31 created from nonwetland areas created to mitigate conversion of  
32 wetlands.

33 (24) "Affordable housing" means, unless the context clearly  
34 indicates otherwise, residential housing whose monthly costs,  
35 including utilities other than telephone, do not exceed thirty  
36 percent of the monthly income of a household whose income is:

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



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

5 (25) "Extremely low-income household" means a single person,  
6 family, or unrelated persons living together whose adjusted income is  
7 at or below thirty percent of the median household income adjusted  
8 for household size, for the county where the household is located, as  
9 reported by the United States department of housing and urban  
10 development.

11 (26) "Low-income household" means a single person, family, or  
12 unrelated persons living together whose adjusted income is at or  
13 below eighty percent of the median household income adjusted for  
14 household size, for the county where the household is located, as  
15 reported by the United States department of housing and urban  
16 development.

17 (27) "Permanent supportive housing" is subsidized, leased housing  
18 with no limit on length of stay, paired with on-site or off-site  
19 voluntary services designed to support a person living with a  
20 disability to be a successful tenant in a housing arrangement,  
21 improve the resident's health status, and connect residents of the  
22 housing with community-based health care, treatment, and employment  
23 services.

24 (28) "Very low-income household" means a single person, family,  
25 or unrelated persons living together whose adjusted income is at or  
26 below fifty percent of the median household income adjusted for  
27 household size, for the county where the household is located, as  
28 reported by the United States department of housing and urban  
29 development.

30 NEW SECTION. Sec. 3. A new section is added to chapter 36.70A  
31 RCW to read as follows:

32 The Washington center for real estate research at the University  
33 of Washington shall produce a report every two years that compiles  
34 housing supply and affordability metrics for each city planning under  
35 RCW 36.70A.040 with a population of ten thousand or more. The initial  
36 report, completed by October 15, 2020, must be a compilation of  
37 objective criteria relating to development regulations, zoning,  
38 income, housing and rental prices, housing affordability programs,  
39 and other metrics relevant to assessing housing supply and

1 affordability for all income segments, including the percentage of  
2 cost-burdened households, of each city subject to the report required  
3 by this section. The report completed by October 15, 2022, must also  
4 include data relating to actions taken by cities under this act. The  
5 report completed by October 15, 2024, must also include relevant data  
6 relating to buildable lands reports prepared under RCW 36.70A.215,  
7 where applicable, and updates to comprehensive plans under this  
8 chapter. The Washington center for real estate research shall  
9 collaborate with the Washington housing finance commission and the  
10 office of financial management to develop the metrics compiled in the  
11 report. The report must be submitted, consistent with RCW 43.01.036,  
12 to the standing committees of the legislature with jurisdiction over  
13 housing issues and this chapter.

14 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.21C  
15 RCW to read as follows:

16 If adopted by April 1, 2021, amendments to development  
17 regulations and other nonproject actions taken by a city to implement  
18 section 1 (1) or (4) of this act, with the exception of the action  
19 specified in section 1(1)(f) of this act, are not subject to  
20 administrative or judicial appeals under this chapter.

21 NEW SECTION. **Sec. 5.** A new section is added to chapter 36.70A  
22 RCW to read as follows:

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

27 (1) For housing units that are affordable to very low-income or  
28 extremely low-income individuals and that are located within one-  
29 quarter mile of a transit stop that receives transit service at least  
30 four times per hour for twelve or more hours per day, minimum  
31 residential parking requirements may be no greater than one parking  
32 space per bedroom or .75 space per unit. A city may require a  
33 developer to record a covenant that prohibits the rental of a unit  
34 subject to this parking restriction for any purpose other than  
35 providing for housing for very low-income or extremely low-income  
36 individuals. The covenant must address price restrictions and  
37 household income limits and policies if the property is converted to  
38 a use other than for low-income housing. A city may establish a

1 requirement for the provision of more than one parking space per  
2 bedroom or .75 space per unit if the jurisdiction has determined a  
3 particular housing unit to be in an area with a lack of access to  
4 street parking capacity, physical space impediments, or other reasons  
5 supported by evidence that would make on-street parking infeasible  
6 for the unit.

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

23 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.21C  
24 RCW to read as follows:

25 (1) A project action pertaining to residential, multifamily, or  
26 mixed use development evaluated under this chapter by a city or town  
27 planning under RCW 36.70A.040 is exempt from appeals under this  
28 chapter on the basis of the evaluation of or impacts to  
29 transportation elements of the environment, so long as the project  
30 does not present significant adverse impacts to the state-owned  
31 transportation system as determined by the department of  
32 transportation and the project is:

33 (a) (i) Consistent with a locally adopted transportation plan; or  
34 (ii) Consistent with the transportation element of a  
35 comprehensive plan; and

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

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

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

9 **Sec. 7.** RCW 43.21C.420 and 2010 c 153 s 2 are each amended to  
10 read as follows:

11 (1) Cities with a population greater than five thousand, in  
12 accordance with their existing comprehensive planning and development  
13 regulation authority under chapter 36.70A RCW, and in accordance with  
14 this section, may adopt optional elements of their comprehensive  
15 plans and optional development regulations that apply within  
16 specified subareas of the cities, that are either:

17 (a) Areas designated as mixed-use or urban centers in a land use  
18 or transportation plan adopted by a regional transportation planning  
19 organization; or

20 (b) Areas within one-half mile of a major transit stop that are  
21 zoned to have an average minimum density of fifteen dwelling units or  
22 more per gross acre.

23 (2) Cities located on the east side of the Cascade mountains and  
24 located in a county with a population of two hundred thirty thousand  
25 or less, in accordance with their existing comprehensive planning and  
26 development regulation authority under chapter 36.70A RCW, and in  
27 accordance with this section, may adopt optional elements of their  
28 comprehensive plans and optional development regulations that apply  
29 within the mixed-use or urban centers. The optional elements of their  
30 comprehensive plans and optional development regulations must enhance  
31 pedestrian, bicycle, transit, or other nonvehicular transportation  
32 methods.

33 (3) A major transit stop is defined as:

34 (a) A stop on a high capacity transportation service funded or  
35 expanded under the provisions of chapter 81.104 RCW;

36 (b) Commuter rail stops;

37 (c) Stops on rail or fixed guideway systems, including  
38 transitways;

1 (d) Stops on bus rapid transit routes or routes that run on high  
2 occupancy vehicle lanes; or

3 (e) Stops for a bus or other transit mode providing fixed route  
4 service at intervals of at least thirty minutes during the peak hours  
5 of operation.

6 (4) (a) A city that elects to adopt such an optional comprehensive  
7 plan element and optional development regulations shall prepare a  
8 nonproject environmental impact statement, pursuant to RCW  
9 43.21C.030, assessing and disclosing the probable significant adverse  
10 environmental impacts of the optional comprehensive plan element and  
11 development regulations and of future development that is consistent  
12 with the plan and regulations.

13 (b) At least one community meeting must be held on the proposed  
14 subarea plan before the scoping notice for such a nonproject  
15 environmental impact statement is issued. Notice of scoping for such  
16 a nonproject environmental impact statement and notice of the  
17 community meeting required by this section must be mailed to all  
18 property owners of record within the subarea to be studied, to all  
19 property owners within one hundred fifty feet of the boundaries of  
20 such a subarea, to all affected federally recognized tribal  
21 governments whose ceded area is within one-half mile of the  
22 boundaries of the subarea, and to agencies with jurisdiction over the  
23 future development anticipated within the subarea.

24 ~~(c) ((In cities with over five hundred thousand residents, notice~~  
25 ~~of scoping for such a nonproject environmental impact statement and~~  
26 ~~notice of the community meeting required by this section must be~~  
27 ~~mailed to all small businesses as defined in RCW 19.85.020, and to~~  
28 ~~all community preservation and development authorities established~~  
29 ~~under chapter 43.167 RCW, located within the subarea to be studied or~~  
30 ~~within one hundred fifty feet of the boundaries of such subarea. The~~  
31 ~~process for community involvement must have the goal of fair~~  
32 ~~treatment and meaningful involvement of all people with respect to~~  
33 ~~the development and implementation of the subarea planning process.~~

34 ~~(d))~~ The notice of the community meeting must include general  
35 illustrations and descriptions of buildings generally representative  
36 of the maximum building envelope that will be allowed under the  
37 proposed plan and indicate that future appeals of proposed  
38 developments that are consistent with the plan will be limited.  
39 Notice of the community meeting must include signs located on major  
40 travel routes in the subarea. If the building envelope increases

1 during the process, another notice complying with the requirements of  
2 this section must be issued before the next public involvement  
3 opportunity.

4 ~~((e))~~ (d) Any person that has standing to appeal the adoption  
5 of this subarea plan or the implementing regulations under RCW  
6 36.70A.280 has standing to bring an appeal of the nonproject  
7 environmental impact statement required by this subsection.

8 ~~((f) Cities with over five hundred thousand residents shall  
9 prepare a study that accompanies or is appended to the nonproject  
10 environmental impact statement, but must not be part of that  
11 statement, that analyzes the extent to which the proposed subarea  
12 plan may result in the displacement or fragmentation of existing  
13 businesses, existing residents, including people living with poverty,  
14 families with children, and intergenerational households, or cultural  
15 groups within the proposed subarea plan. The city shall also discuss  
16 the results of the analysis at the community meeting.~~

17 ~~(g))~~ (e) As an incentive for development authorized under this  
18 section, a city shall consider establishing a transfer of development  
19 rights program in consultation with the county where the city is  
20 located, that conserves county-designated agricultural and forestland  
21 of long-term commercial significance. If the city decides not to  
22 establish a transfer of development rights program, the city must  
23 state in the record the reasons for not adopting the program. The  
24 city's decision not to establish a transfer of development rights  
25 program is not subject to appeal. Nothing in this subsection (4)  
26 ~~((g))~~ (e) may be used as a basis to challenge the optional  
27 comprehensive plan or subarea plan policies authorized under this  
28 section.

29 (5) (a) Until July 1, ~~((2018))~~ 2029, a proposed development that  
30 meets the criteria of (b) of this subsection may not be challenged in  
31 administrative or judicial appeals for noncompliance with this  
32 chapter as long as a complete application for such a development that  
33 vests the application or would later lead to vested status under city  
34 or state law is submitted to the city within a time frame established  
35 by the city, but not to exceed the following time frames:

36 (i) Nineteen years from the date of issuance of the final  
37 environmental impact statement, for projects that are consistent with  
38 an optional element adopted by a city as of the effective date of  
39 this section; or

1 (ii) Ten years from the date of issuance of the final  
2 environmental impact statement, for projects that are consistent with  
3 an optional element adopted by a city after the effective date of  
4 this section.

5 (b) A proposed development may not be challenged, consistent with  
6 the timelines established in (a) of this subsection, so long as the  
7 development:

8 (i) Is consistent with the optional comprehensive plan or subarea  
9 plan policies and development regulations adopted under subsection  
10 (1) or (2) of this section;

11 (ii) Sets aside or requires the occupancy of at least ten percent  
12 of the dwelling units, or a greater percentage as determined by city  
13 development regulations, within the development for low-income  
14 households at a sale price or rental amount that is considered  
15 affordable by a city's housing programs. This subsection (5)(b)(ii)  
16 applies only to projects that are consistent with an optional element  
17 adopted by a city pursuant to this section after the effective date  
18 of this section; and ((that))

19 (iii) Is environmentally reviewed under subsection (4) of this  
20 section ((may not be challenged in administrative or judicial appeals  
21 for noncompliance with this chapter as long as a complete application  
22 for such a development that vests the application or would later lead  
23 to vested status under city or state law is submitted to the city  
24 within a time frame established by the city, but not to exceed ten  
25 years from the date of issuance of the final environmental impact  
26 statement)).

27 ((b)) (c) After July 1, ((2018)) 2029, the immunity from  
28 appeals under this chapter of any application that vests or will vest  
29 under this subsection or the ability to vest under this subsection is  
30 still valid, provided that the final subarea environmental impact  
31 statement is issued by July 1, ((2018)) 2029. After July 1, ((2018))  
32 2029, a city may continue to collect reimbursement fees under  
33 subsection (6) of this section for the proportionate share of a  
34 subarea environmental impact statement issued prior to July 1,  
35 ((2018)) 2029.

36 (6) It is recognized that a city that prepares a nonproject  
37 environmental impact statement under subsection (4) of this section  
38 must endure a substantial financial burden. A city may recover or  
39 apply for a grant or loan to prospectively cover its reasonable  
40 expenses of preparation of a nonproject environmental impact

1 statement prepared under subsection (4) of this section through  
2 access to financial assistance under RCW 36.70A.490 or funding from  
3 private sources. In addition, a city is authorized to recover a  
4 portion of its reasonable expenses of preparation of such a  
5 nonproject environmental impact statement by the assessment of  
6 reasonable and proportionate fees upon subsequent development that is  
7 consistent with the plan and development regulations adopted under  
8 subsection (5) of this section, as long as the development makes use  
9 of and benefits (~~(from)~~) from, as described in subsection (5) of  
10 this section, (~~(from)~~) the nonproject environmental impact statement  
11 prepared by the city. Any assessment fees collected from subsequent  
12 development may be used to reimburse funding received from private  
13 sources. In order to collect such fees, the city must enact an  
14 ordinance that sets forth objective standards for determining how the  
15 fees to be imposed upon each development will be proportionate to the  
16 impacts of each development and to the benefits accruing to each  
17 development from the nonproject environmental impact statement. Any  
18 disagreement about the reasonableness or amount of the fees imposed  
19 upon a development may not be the basis for delay in issuance of a  
20 project permit for that development. The fee assessed by the city may  
21 be paid with the written stipulation "paid under protest" and if the  
22 city provides for an administrative appeal of its decision on the  
23 project for which the fees are imposed, any dispute about the amount  
24 of the fees must be resolved in the same administrative appeal  
25 process.

26 (7) If a proposed development is inconsistent with the optional  
27 comprehensive plan or subarea plan policies and development  
28 regulations adopted under subsection (1) of this section, the city  
29 shall require additional environmental review in accordance with this  
30 chapter.

31 **Sec. 8.** RCW 36.70A.490 and 2012 1st sp.s. c 1 s 309 are each  
32 amended to read as follows:

33 The growth management planning and environmental review fund is  
34 hereby established in the state treasury. Moneys may be placed in the  
35 fund from the proceeds of bond sales, tax revenues, budget transfers,  
36 federal appropriations, gifts, or any other lawful source. Moneys in  
37 the fund may be spent only after appropriation. Moneys in the fund  
38 shall be used to make grants or loans to local governments for the  
39 purposes set forth in RCW 43.21C.240, 43.21C.031, (~~(or)~~) 36.70A.500,



1 section 1 of this act, for costs associated with section 3 of this  
2 act, and to cover costs associated with the adoption of optional  
3 elements of comprehensive plans consistent with RCW 43.21C.420. Any  
4 payment of either principal or interest, or both, derived from loans  
5 made from this fund must be deposited into the fund.

6 NEW SECTION. Sec. 9. A new section is added to chapter 35.21  
7 RCW to read as follows:

8 A city may not prohibit permanent supportive housing in areas  
9 where multifamily housing is permitted.

10 NEW SECTION. Sec. 10. A new section is added to chapter 35A.21  
11 RCW to read as follows:

12 A code city may not prohibit permanent supportive housing in  
13 areas where multifamily housing is permitted.

14 NEW SECTION. Sec. 11. A new section is added to chapter 36.22  
15 RCW to read as follows:

16 (1) Except as provided in subsection (2) of this section, a  
17 surcharge of two dollars and fifty cents shall be charged by the  
18 county auditor for each document recorded, which will be in addition  
19 to any other charge or surcharge allowed by law. The auditor shall  
20 remit the funds to the state treasurer to be deposited and used as  
21 follows:

22 (a) Through June 30, 2024, funds must be deposited into the  
23 growth management planning and environmental review fund created in  
24 RCW 36.70A.490 to be used first for grants for costs associated with  
25 section 1 of this act and for costs associated with section 3 of this  
26 act, and thereafter for any allowable use of the fund.

27 (b) Beginning July 1, 2024, sufficient funds must be deposited  
28 into the growth management planning and environmental review fund  
29 created in RCW 36.70A.490 for costs associated with section 3 of this  
30 act, and the remainder deposited into the home security fund account  
31 created in RCW 43.185C.060 to be used for maintenance and operation  
32 costs of: (i) Permanent supportive housing and (ii) affordable  
33 housing for very low-income and extremely low-income households.  
34 Funds may only be expended in cities that have taken action under  
35 section 1 of this act.

36 (2) The surcharge imposed in this section does not apply to: (a)  
37 Assignments or substitutions of previously recorded deeds of trust;

1 (b) documents recording a birth, marriage, divorce, or death; (c) any  
2 recorded documents otherwise exempted from a recording fee or  
3 additional surcharges under state law; (d) marriage licenses issued  
4 by the county auditor; or (e) documents recording a federal, state,  
5 county, or city lien or satisfaction of lien.

6 (3) For purposes of this section, the terms "permanent supportive  
7 housing," "affordable housing," "very low-income households," and  
8 "extremely low-income households" have the same meaning as provided  
9 in RCW 36.70A.030.

10 NEW SECTION. **Sec. 12.** Section 11 of this act is necessary for  
11 the immediate preservation of the public peace, health, or safety, or  
12 support of the state government and its existing public institutions,  
13 and takes effect July 1, 2019."

**E2SHB 1923** - S AMD  
By Senator Kuderer

**ADOPTED 4/13/19**

14 On page 1, line 2 of the title, after "capacity;" strike the  
15 remainder of the title and insert "amending RCW 36.70A.030,  
16 43.21C.420, and 36.70A.490; adding new sections to chapter 36.70A  
17 RCW; adding new sections to chapter 43.21C RCW; adding a new section  
18 to chapter 35.21 RCW; adding a new section to chapter 35A.21 RCW;  
19 adding a new section to chapter 36.22 RCW; providing an effective  
20 date; and declaring an emergency."

--- END ---