
SUBSTITUTE HOUSE BILL 2570

State of Washington

66th Legislature

2020 Regular Session

By House Environment & Energy (originally sponsored by Representatives Gregerson, Barkis, Ryu, Goodman, Peterson, Fitzgibbon, Walsh, Thai, Corry, Macri, Robinson, Gildon, Doglio, Jenkin, Hudgins, Hoff, Frame, Lekanoff, Kloba, Leavitt, Irwin, Bergquist, Davis, Walen, Tharinger, Cody, and Ormsby)

READ FIRST TIME 02/07/20.

1 AN ACT Relating to managing growth by planning and zoning for
2 accessory dwelling units; amending RCW 43.21C.495, 35.63.210,
3 35A.63.230, 36.70A.400, 43.63A.215, and 36.70.677; adding new
4 sections to chapter 36.70A RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature makes the following
7 findings:

8 (a) The growth management act directs certain cities within urban
9 growth areas to allow accessory dwelling units. However, excessive
10 regulatory and design barriers often limit production in many cities
11 where accessory dwelling units are allowed.

12 (b) Accessory dwelling units provide environmental benefits. They
13 promote energy efficiency compared with average size single-detached
14 houses, and incentivize adaptive reuse of existing homes and
15 materials.

16 (c) Siting accessory dwelling units near transit hubs and near
17 public amenities can help to reduce greenhouse gas emissions by
18 increasing walkability, shortening household commutes, and limiting
19 sprawl.

20 (d) Accessory dwelling units can meet the needs of Washington's
21 growing senior population, making it possible for this population to

1 age in their communities by offering senior-friendly housing, which
2 prioritizes physical accessibility, in walkable communities near
3 amenities essential to successful aging in place, including transit
4 and grocery stores, without requiring costly renovations of existing
5 housing stock.

6 (e) Washington state is experiencing a housing affordability
7 crisis. Many communities across the state are in need of more housing
8 for renters, across the income spectrum.

9 (f) Many cities dedicate the majority of residentially zoned land
10 to single-detached houses that are increasingly financially out of
11 reach for many households. Due to their smaller size, accessory
12 dwelling units can provide a more affordable housing option in those
13 single-family zones.

14 (g) Accessory dwelling units are frequently rented below market
15 rate, providing additional affordable housing options for renters.

16 (h) Accessory dwelling units are often occupied by tenants who
17 pay no rent at all; among these tenants are grandparents, adult
18 children, family members with disabilities, friends going through
19 life transitions, and community members in need. Accessory dwelling
20 units meet the needs of these people who might otherwise require
21 subsidized housing space and resources needed by other households.

22 (i) Homeowners who add an accessory dwelling unit to her or his
23 property may benefit from added income and an increased sense of
24 security.

25 (j) Removing certain regulatory barriers to the construction of
26 accessory dwelling units may substantially reduce construction costs,
27 thereby enabling more homeowners to add accessory dwelling units to
28 their properties. The increased availability of accessory dwelling
29 units will provide benefits to homeowners, renters, the community,
30 and the environment.

31 (2) The legislature intends to promote and encourage the creation
32 of accessory dwelling units as a means to address the need for
33 additional affordable housing options. The legislature encourages
34 local governments to increase the availability of affordable housing
35 by subsidizing accessory dwelling units with local sales tax revenue,
36 as authorized by chapter 338, Laws of 2019.

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

1 The definitions in this section apply throughout sections 3, 4,
2 and 5 of this act unless the context clearly requires otherwise.

3 (1) "Accessory dwelling unit" means a dwelling unit located on
4 the same lot as a single-family housing unit, duplex, triplex,
5 townhome, or other housing unit.

6 (2) "Attached accessory dwelling unit" means an accessory
7 dwelling unit located within or attached to a single-family housing
8 unit, duplex, triplex, townhome, or other housing unit.

9 (3) "Covered cities" means all cities, code cities, and towns
10 located in a county planning under RCW 36.70A.040 and that had a
11 population of at least two thousand five hundred, as determined by
12 the office of financial management.

13 (4) "Covered counties" means all counties planning under
14 36.70A.040 that have a population of at least fifteen thousand, as
15 determined by the office of financial management.

16 (5) "Detached accessory dwelling unit" means an accessory
17 dwelling unit that consists partly or entirely of a building that is
18 separate and detached from a single-family housing unit, duplex,
19 triplex, townhome, or other housing unit.

20 (6) "Dwelling unit" means a residential living unit that provides
21 complete independent living facilities for one or more persons and
22 that includes permanent provisions for living, sleeping, eating,
23 cooking, and sanitation.

24 (7) "Gross floor area" means the interior habitable area of a
25 dwelling unit including basements and attics but not including a
26 garage or accessory structure.

27 (8)(a) "Short-term rental" means a lodging use, that is not a
28 hotel or motel or bed and breakfast, in which a dwelling unit, or
29 portion thereof, is offered or provided to a guest by a short-
30 term rental operator for a fee for fewer than thirty consecutive
31 nights.

32 (b) "Short-term rental" does not include any of the following:

33 (i) A dwelling unit that is occupied by the owner for at least
34 six months during the calendar year and in which fewer than three
35 rooms are rented at any time;

36 (ii) A dwelling unit, or portion thereof, that is used by the
37 same person for thirty or more consecutive nights; or

38 (iii) A dwelling unit, or portion thereof, that is operated by an
39 organization or government entity that is registered as a charitable
40 organization with the secretary of state, state of Washington, or

1 classified by the federal internal revenue service as a public
2 charity or a private foundation, and provides temporary housing to
3 individuals who are being treated for trauma, injury, or disease, or
4 their family members.

5 NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70A
6 RCW to read as follows:

7 (1) Covered cities and covered counties must adopt or amend by
8 ordinance and incorporate into their development regulations, zoning
9 regulations, and other official controls, an authorization for the
10 creation of accessory dwelling units that is consistent with this
11 section and section 4 of this act.

12 (2) Ordinances, development regulations, and other official
13 controls adopted or amended pursuant to this section and sections 4
14 and 5 of this act are only required to apply in the portions of
15 towns, cities, and counties that are within urban growth areas
16 designated under this chapter.

17 (3) Attached or detached accessory dwelling units may not be
18 considered as contributing to the overall underlying density within
19 the urban growth area boundary of a county for purposes of compliance
20 with this chapter.

21 (4)(a) Any action taken by a covered city or covered county to
22 comply with the requirements of this section and section 4 of this
23 act, or to implement the options specified in section 5 of this act
24 within its urban growth area boundary is not subject to legal
25 challenge under this chapter or chapter 43.21C RCW.

26 (b) A covered city or covered county that does not comply with
27 the requirements of this section and section 4 of this act is subject
28 to legal challenge under this chapter.

29 (5)(a)(i) Covered cities that had a population of at least two
30 thousand five hundred and counties that had a population of at least
31 fifteen thousand as of April 1, 2019, must adopt ordinances,
32 regulations, or other official controls to implement the requirements
33 of section 4 of this act that take effect by July 1, 2021.

34 (ii) A city or county that becomes a covered city or county as a
35 result of population growth must adopt ordinances, regulations, or
36 other official controls to implement the requirements of section 4 of
37 this act that take effect no later than twelve months after a
38 determination by the office of financial management that the city in
39 a county planning under RCW 36.70A.040 has a population of two

1 thousand five hundred or a county planning under RCW 36.70A.040 has a
2 population that exceeds fifteen thousand.

3 (b) Beginning July 1, 2021, the requirements of section 4 of this
4 act:

5 (i) Apply and take effect in any covered city or covered county
6 that has not adopted ordinances, regulations, or other official
7 controls as required by this section; and

8 (ii) Supersede, preempt, and invalidate any local development
9 regulations that conflict with the provisions of section 4 of this
10 act.

11 (6) Nothing in this section or section 4 or 5 of this act
12 requires or authorizes a city or county to authorize the construction
13 of an accessory dwelling unit in a location where development is
14 restricted under other laws, rules, or ordinances as a result of
15 physical proximity to on-site sewage system infrastructure, critical
16 areas, or other unsuitable physical characteristics of a property.

17 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70A
18 RCW to read as follows:

19 Through ordinances, development regulations, and other official
20 controls adopted or amended as required by section 3 of this act,
21 covered cities and covered counties:

22 (1) Must allow at least one accessory dwelling unit on all lots
23 that are located in all zoning districts that allow for single-family
24 homes; the accessory dwelling units allowed under this subsection (1)
25 may be either attached accessory dwelling units or detached accessory
26 dwelling units; if the unit is a detached accessory dwelling unit,
27 the lot must be at least three thousand five-hundred square feet;

28 (2)(a) Except as provided in (b) of this subsection, may not
29 establish a requirement for the provision of off-street parking for
30 accessory dwelling units;

31 (b) May require one additional parking spot on lots with
32 accessory dwelling units located on a property located no closer than
33 one-half mile to a major transit stop as defined in RCW 43.21C.420(3)
34 if the city or county determines that the particular housing unit is
35 in an area with a lack of access to street parking capacity, physical
36 space impediments, or other reasons supported by evidence that would
37 make on-street parking infeasible for the units;

38 (3) May not require the owner of a lot on which there is an
39 accessory dwelling unit to reside in or occupy the accessory dwelling

1 unit or another housing unit on the same lot unless the owner owns
2 more than five accessory dwelling units within the same county or the
3 accessory dwelling unit is used as a short-term rental, and may not
4 require a period of continuous ownership before permitting
5 construction of an accessory dwelling unit on a lot;

6 (4) May not charge permitting and plan review fees under chapter
7 19.27 RCW for accessory dwelling units that exceed fifty percent of
8 the fees charged for single-family residences;

9 (5) May not establish an impact fee amount for accessory dwelling
10 units that is greater than fifty percent of the amount set for
11 single-family residences; and

12 (6) May only authorize charges that:

13 (a) Are proportionate to the burden of the proposed accessory
14 dwelling unit, based on its size or number of plumbing fixtures, upon
15 the water or sewer system;

16 (b) Do not exceed the reasonable cost of providing the service;
17 and

18 (c) Are not inconsistent with water availability requirements,
19 water system plans, small water system management plans, or
20 established policies adopted by the water or sewer utility provider.

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

23 Covered cities and counties are encouraged, but not required, to
24 adopt ordinances, development regulations, and other official
25 controls that:

26 (1) Do not require impact fees under chapter 82.02 RCW for
27 accessory dwelling units;

28 (2) Do not establish tree retention requirements for accessory
29 dwelling units that are in addition to any tree retention
30 requirements for single-family housing units;

31 (3) Do not prohibit the sale or other conveyance of a condominium
32 unit solely on the grounds that the unit was originally built as an
33 accessory dwelling unit;

34 (4) Require an accessory dwelling unit to be accessible to fire
35 department apparatus by way of a public street or approved fire
36 apparatus access;

37 (5) Do not establish a minimum gross floor area requirement for
38 accessory dwelling units that is greater than two hundred square
39 feet;

1 (6) Do not establish a limit for the percent of the rear yard
2 that an accessory dwelling unit may cover that is less than sixty
3 percent of the rear yard;

4 (7) Do not establish setback regulations that are more
5 restrictive than for single-family housing units;

6 (8) Do not require that the exterior design or appearance of an
7 accessory dwelling unit be similar to the exterior design or
8 appearance of the principal housing unit, including through
9 regulations that require an accessory dwelling unit to have similar
10 roof pitch, siding, or windows as the primary housing unit;

11 (9) Do not count the gross floor area of an accessory dwelling
12 unit against any floor area ratio limitations that apply to single-
13 family or other primary housing units;

14 (10) Allow detached accessory dwelling units to be sited within
15 five feet of a lot line if there is written approval from the
16 property owner with whom the lot line is shared on file in the
17 jurisdiction in which the detached accessory dwelling unit is
18 located;

19 (11) Do not regulate the location of the entry doors of accessory
20 dwelling units;

21 (12) Allow at least two accessory dwelling units on all lots on
22 which there is a single-family housing unit, duplex, triplex,
23 fourplex, rowhouse, townhome, or apartment building, regardless of
24 zoning district; the two accessory dwelling units may be in any of
25 the following configurations:

26 (a) One attached accessory dwelling unit and one detached
27 accessory dwelling unit;

28 (b) Two attached accessory dwelling units; or

29 (c) Two detached accessory dwelling units, which may be comprised
30 of either one or two detached structures;

31 (13) Do not establish a maximum gross floor area requirement for
32 accessory dwelling units that is less than one thousand square feet;

33 (14) Do not establish a roof height limitation on accessory
34 dwelling units of less than twenty-four feet;

35 (15) Adopt model accessory dwelling unit architectural plans that
36 are preapproved for public use under some or all local building and
37 environmental permitting requirements;

38 (16) Allow detached accessory dwelling units to be sited at the
39 lot line of the rear yard if the rear yard is adjacent to an alley;
40 and

1 (17) Are identical to all or some of the model ordinances
2 developed by the department of commerce under RCW 43.63A.215 after
3 July 1, 2022.

4 **Sec. 6.** RCW 43.21C.495 and 2019 c 348 s 4 are each amended to
5 read as follows:

6 (1) If adopted by April 1, 2021, amendments to development
7 regulations and other nonproject actions taken by a city to implement
8 RCW 36.70A.600 (1) or (4), with the exception of the action specified
9 in RCW 36.70A.600(1)(f), are not subject to administrative or
10 judicial appeals under this chapter.

11 (2) Amendments to development regulations and other nonproject
12 actions taken by a covered city or county consistent with the
13 requirements of sections 3 and 4 of this act or to achieve the
14 options encouraged in section 5 of this act are not subject to
15 administrative or judicial appeals under this chapter.

16 **Sec. 7.** RCW 35.63.210 and 1993 c 478 s 8 are each amended to
17 read as follows:

18 Any (~~local government~~) covered city or covered county, as
19 defined in (~~RCW 43.63A.215~~) section 2 of this act, that is planning
20 under this chapter shall comply with (~~RCW 43.63A.215(3)~~) sections 3
21 and 4 of this act.

22 **Sec. 8.** RCW 35A.63.230 and 1993 c 478 s 9 are each amended to
23 read as follows:

24 Any (~~local government~~) covered city or covered county, as
25 defined in (~~RCW 43.63A.215~~) section 2 of this act, that is planning
26 under this chapter shall comply with (~~RCW 43.63A.215(3)~~) sections 3
27 and 4 of this act.

28 **Sec. 9.** RCW 36.70A.400 and 1993 c 478 s 11 are each amended to
29 read as follows:

30 Any (~~local government~~) covered city or county, as defined in
31 (~~RCW 43.63A.215~~) section 2 of this act, that is planning under this
32 chapter shall comply with (~~RCW 43.63A.215(3)~~) sections 3 and 4 of
33 this act.

34 **Sec. 10.** RCW 43.63A.215 and 1993 c 478 s 7 are each amended to
35 read as follows:

1 (1) The department shall, in consultation with the affordable
2 housing advisory board created in RCW 43.185B.020, report to the
3 legislature on the development and placement of accessory apartments.
4 The department shall produce a written report by December 15, 1993,
5 which:

6 (a) Identifies local governments that allow the siting of
7 accessory apartments in areas zoned for single-family residential
8 use; and

9 (b) Makes recommendations to the legislature designed to
10 encourage the development and placement of accessory apartments in
11 areas zoned for single-family residential use.

12 (2) The recommendations made under subsection (1) of this section
13 shall not take effect before ninety days following adjournment of the
14 1994 regular legislative session.

15 (3) (~~Unless provided otherwise by the legislature, by December~~
16 ~~31, 1994, local~~) Local governments shall incorporate in their
17 development regulations, zoning regulations, or official controls the
18 recommendations contained in subsection (1) of this section. The
19 accessory apartment provisions shall be part of the local
20 government's development regulation, zoning regulation, or official
21 control. To allow local flexibility, the recommendations shall be
22 subject to such regulations, conditions, procedures, and limitations
23 as determined by the local legislative authority.

24 (4) By December 15, 2021, the department of commerce must update
25 the model accessory dwelling unit ordinance recommendations required
26 under this section and published in January 1994. Upon publication,
27 the updated model ordinance recommendations supersede the
28 recommendations published in January 1994, for purposes of subsection
29 (3) of this section. The recommendations made under this subsection
30 shall not take effect before May 1, 2022.

31 (5) As used in this section, "local government" means (~~(~~

32 ~~(a) A city or code city with a population that exceeds twenty~~
33 ~~thousand;~~

34 ~~(b) A county that is required to or has elected to plan under the~~
35 ~~state growth management act; and~~

36 ~~(c) A county with a population that exceeds one hundred twenty-~~
37 ~~five thousand)) a covered city or covered county as defined in
38 section 2 of this act.~~

1 **Sec. 11.** RCW 36.70.677 and 1993 c 478 s 10 are each amended to
2 read as follows:

3 Any local government, as defined in RCW 43.63A.215, that is
4 planning under this chapter shall comply with RCW 43.63A.215 (3) and
5 (4).

6 NEW SECTION. **Sec. 12.** A new section is added to chapter 36.70A
7 RCW to read as follows:

8 Nothing in this act modifies or limits any rights or interests
9 legally recorded in the governing documents of associations subject
10 to chapter 64.32, 64.34, 64.38, or 64.90 RCW.

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