
ENGROSSED SUBSTITUTE SENATE BILL 5812

State of Washington

66th Legislature

2019 Regular Session

By Senate Housing Stability & Affordability (originally sponsored by Senators Palumbo, Lias, and Nguyen)

READ FIRST TIME 02/21/19.

1 AN ACT Relating to local governments planning and zoning for
2 accessory dwelling units; amending RCW 82.02.060, 35.63.210,
3 35A.63.230, 36.70.677, and 36.70A.400; adding a new section to
4 chapter 19.27 RCW; adding a new chapter to Title 36 RCW; and
5 repealing RCW 43.63A.215.

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

7 NEW SECTION. **Sec. 1.** FINDINGS AND INTENT. (1) The legislature
8 makes the following findings:

9 (a) Washington state is experiencing a housing affordability
10 crisis. Many communities across the state are in need of more housing
11 options for renters.

12 (b) Accessory dwelling units typically rent below market rate,
13 providing additional affordable housing options for renters.

14 (c) Accessory dwelling units also help to provide housing for
15 very low-income households. More than ten percent of accessory
16 dwelling units in some areas are occupied by tenants who pay no rent
17 at all; among these tenants are grandparents, adult children, family
18 members with disabilities, and friends going through life
19 transitions. Accessory dwelling units meet the needs of these people
20 who might otherwise require subsidized housing space and resources
21 needed by other households.

1 (d) Homeowners who add an accessory dwelling unit to her or his
2 property may benefit from added income and an increased sense of
3 security.

4 (e) Accessory dwelling units can also benefit neighborhoods by
5 expanding rental options near public amenities such as schools,
6 parks, and transit without changing the look and feel of existing
7 neighborhoods.

8 (f) Accessory dwelling units may reduce economic displacement in
9 existing communities by expanding the range of available housing
10 options and prices.

11 (g) Accessory dwelling units are a housing choice that provides
12 environmental benefits. They promote energy conservation compared
13 with average size single-family homes. In addition, the siting of
14 additional accessory dwelling units near transit hubs can help to
15 reduce greenhouse gas emissions.

16 (h) Removing certain regulatory barriers to the construction of
17 accessory dwelling units, such as inflexible design standards and
18 siting restrictions, may substantially reduce construction costs,
19 thereby enabling more homeowners to add accessory dwelling units to
20 their properties. The increased availability of accessory dwelling
21 units will provide benefits to homeowners, renters, the community,
22 and the environment.

23 (2) The legislature intends to promote and encourage the creation
24 of accessory dwelling units as a means to address the need for
25 additional affordable housing options. The legislature encourages
26 local governments to increase the availability of affordable housing
27 by subsidizing accessory dwelling units with local sales tax revenue,
28 as authorized by House Bill No. 1406.

29 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
30 section apply throughout this chapter unless the context clearly
31 requires otherwise.

32 (1) "Accessory dwelling unit" means a dwelling unit located on
33 the same lot as a single-family housing unit.

34 (2) "Attached accessory dwelling unit" means an accessory
35 dwelling unit located within or attached to a single-family housing
36 unit.

37 (3) "Detached accessory dwelling unit" means an accessory
38 dwelling unit that consists partly or entirely of a building that is
39 separate and detached from a single-family housing unit.

1 (4) " Dwelling unit " means a residential living unit that provides
2 complete independent living facilities for one or more persons and
3 that includes permanent provisions for living, sleeping, eating,
4 cooking, and sanitation.

5 (5) " Cities " means, except as provided in section 4(2) of this
6 act, (a) all cities, code cities, and towns with a population of ten
7 thousand or more, and (b) all cities, code cities, and towns with a
8 population of at least two thousand five hundred but less than ten
9 thousand in which any portion of the city, code city, or town lies
10 within the boundaries of a regional transit authority or a transit
11 agency as defined in RCW 81.104.015.

12 (6) " Counties " means all counties with a population of fifteen
13 thousand or more.

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

17 (8) " Single-family housing unit " means a single-family detached
18 house, and excludes a duplex, triplex, townhome, or other housing
19 unit.

20 NEW SECTION. **Sec. 3.** ACCESSORY DWELLING UNIT REGULATIONS

21 REQUIRED. (1) Except as provided in subsection (5) of this section,
22 cities and counties must adopt or amend by ordinance and incorporate
23 into their development regulations, zoning regulations, and other
24 official controls, an authorization for the creation of accessory
25 dwelling units that is consistent with this chapter.

26 (2) Ordinances, development regulations, and other official
27 controls adopted or amended pursuant to this chapter may only apply
28 in the portions of towns, cities, and counties that are within
29 designated urban growth areas.

30 (3) Cities and counties must implement the requirements of this
31 chapter by June 1, 2021. Any city or county that does not comply with
32 this subsection must consider any permit application it receives
33 under this chapter in accordance with this chapter unless it adopts
34 its own ordinance, development regulation, or other official control
35 in accordance with this subsection within sixty days after receipt of
36 the application.

37 (4) Any action taken by a county or city to comply with the
38 requirements of this chapter within its urban growth area boundary is
39 not subject to legal challenge under chapter 36.70A or 43.21C RCW.

1 This subsection is retroactive, as well as prospective, and applies
2 to any legal challenge commenced on or after January 1, 2018.

3 (5) A city that has adopted accessory dwelling unit regulations
4 on or before the effective date of this section, is not subject to
5 the requirements of this chapter but is encouraged to consider
6 adopting the policies of this chapter no later than the date the city
7 is required to complete its next comprehensive review as required in
8 RCW 36.70A.130.

9 NEW SECTION. **Sec. 4.** GENERAL REGULATORY REQUIREMENTS. (1)
10 Ordinances, development regulations, and other official controls
11 adopted or amended as required by this chapter:

12 (a)(i) On lots on which there is a single-family housing unit,
13 except as provided in (a)(ii) of this subsection, must allow either
14 one attached accessory dwelling unit or one detached accessory
15 dwelling unit.

16 (ii) On lots of two thousand five hundred square feet or less on
17 which there is a single-family housing unit: Must allow at least one
18 attached accessory dwelling unit, and may allow at least one detached
19 accessory dwelling unit.

20 (iii) To allow local flexibility, the requirements under this
21 subsection (1)(a) are subject to such regulations, conditions,
22 procedures, and limitations as determined by the local legislative
23 authority except as provided in this section.

24 (iv) Attached or detached accessory dwelling units may not be
25 considered as contributing to the overall underlying density within
26 the urban growth area boundary of a county for purposes of compliance
27 with chapter 36.70A RCW;

28 (b) May not impose a minimum lot size requirement for the siting
29 of accessory dwelling units;

30 (c) May not be inconsistent with water availability requirements,
31 water system plans, small water system management plans, or
32 established policies adopted by cities or counties. Any connection
33 fees or capacity charges for attached or detached accessory dwelling
34 units must be proportionate to the burden of the proposed accessory
35 dwelling unit upon the water or sewer system;

36 (e) Must require an accessory dwelling unit to be accessible to
37 fire department apparatus by way of a public street or approved fire
38 apparatus access;

1 (f) May not count residents of accessory dwelling units against
2 any limits on the number of unrelated residents on a single-family
3 lot;

4 (g) May not establish a requirement for the provision of off-
5 street parking for accessory dwelling units within one-half mile of a
6 transit stop for fixed rail or for bus service that is scheduled at
7 least every fifteen minutes for no less than ten hours per day.
8 Except as provided in this subsection (1)(g), jurisdictions may
9 require up to one additional off-street parking space per lot in
10 which there is at least one accessory dwelling unit; and

11 (h) May not count the gross floor area of an accessory dwelling
12 unit against any floor area ratio limitations that apply to single-
13 family housing units.

14 (2) Any city with a population of one hundred thousand or more
15 may not require the owner of a lot on which there is an accessory
16 dwelling unit to reside in or occupy the accessory dwelling unit or
17 another housing unit on the same lot.

18 NEW SECTION. **Sec. 5.** DEVELOPMENT STANDARDS. (1) Ordinances,
19 development regulations, and other official controls adopted or
20 amended as required by this chapter are encouraged to minimize the
21 impact of these ordinances and regulations on the construction cost
22 of an accessory dwelling unit, and without adopted findings:

23 (a) Should not establish a roof height limitation on detached
24 accessory dwelling units that is less than twenty-four feet;

25 (b) Should not establish a wall height limitation on detached
26 accessory dwelling units that is less than seventeen feet;

27 (c) Should not establish a maximum gross floor area for accessory
28 dwelling units that is less than one thousand square feet;

29 (d) Should not establish a minimum gross floor area for accessory
30 dwelling units that is greater than one hundred forty square feet;
31 and

32 (e) Should not establish setback regulations for accessory
33 dwelling units that are more restrictive than regulations for single-
34 family housing units.

35 (2) Such ordinances, regulations, and controls may exempt
36 designated historical districts that are recognized as such under
37 local ordinance.

1 (3) Cities are encouraged to allow detached accessory dwelling
2 units to be sited at the lot line of the rear yard if the rear yard
3 is adjacent to an alley.

4 NEW SECTION. **Sec. 6.** SHORT-TERM RENTALS. Nothing in this
5 chapter preempts any local jurisdiction from enacting any regulations
6 related to short-term rentals including, but not limited to,
7 development standards, lot size provisions, off-street parking
8 requirements, and tree retention requirements.

9 NEW SECTION. **Sec. 7.** IMPACT FEE REVIEW. Cities and counties
10 must review their impact fees to ensure that any impact fees imposed
11 for accessory dwelling units, in accordance with RCW 82.02.060(9),
12 are commensurate with the actual impact of the accessory dwelling
13 unit and are less than impact fees for single-family housing units.

14 NEW SECTION. **Sec. 8.** A new section is added to chapter 19.27
15 RCW to read as follows:

16 By April 1, 2020, the building code council shall adopt rules
17 pertaining to accessory dwelling units that are consistent with the
18 definitions and standards in chapter 36.--- RCW (the new chapter
19 created in section 15 of this act).

20 **Sec. 9.** RCW 82.02.060 and 2012 c 200 s 1 are each amended to
21 read as follows:

22 The local ordinance by which impact fees are imposed:

23 (1) Shall include a schedule of impact fees which shall be
24 adopted for each type of development activity that is subject to
25 impact fees, specifying the amount of the impact fee to be imposed
26 for each type of system improvement. The schedule shall be based upon
27 a formula or other method of calculating such impact fees. In
28 determining proportionate share, the formula or other method of
29 calculating impact fees shall incorporate, among other things, the
30 following:

31 (a) The cost of public facilities necessitated by new
32 development;

33 (b) An adjustment to the cost of the public facilities for past
34 or future payments made or reasonably anticipated to be made by new
35 development to pay for particular system improvements in the form of

1 user fees, debt service payments, taxes, or other payments earmarked
2 for or proratable to the particular system improvement;

3 (c) The availability of other means of funding public facility
4 improvements;

5 (d) The cost of existing public facilities improvements; and

6 (e) The methods by which public facilities improvements were
7 financed;

8 (2) May provide an exemption for low-income housing, and other
9 development activities with broad public purposes, from these impact
10 fees, provided that the impact fees for such development activity
11 shall be paid from public funds other than impact fee accounts;

12 (3) May provide an exemption from impact fees for low-income
13 housing. Local governments that grant exemptions for low-income
14 housing under this subsection (3) may either: Grant a partial
15 exemption of not more than eighty percent of impact fees, in which
16 case there is no explicit requirement to pay the exempted portion of
17 the fee from public funds other than impact fee accounts; or provide
18 a full waiver, in which case the remaining percentage of the exempted
19 fee must be paid from public funds other than impact fee accounts. An
20 exemption for low-income housing granted under subsection (2) of this
21 section or this subsection (3) must be conditioned upon requiring the
22 developer to record a covenant that, except as provided otherwise by
23 this subsection, prohibits using the property for any purpose other
24 than for low-income housing. At a minimum, the covenant must address
25 price restrictions and household income limits for the low-income
26 housing, and that if the property is converted to a use other than
27 for low-income housing, the property owner must pay the applicable
28 impact fees in effect at the time of conversion. Covenants required
29 by this subsection must be recorded with the applicable county
30 auditor or recording officer. A local government granting an
31 exemption under subsection (2) of this section or this subsection (3)
32 for low-income housing may not collect revenue lost through granting
33 an exemption by increasing impact fees unrelated to the exemption. A
34 school district who receives school impact fees must approve any
35 exemption under subsection (2) of this section or this subsection
36 (3);

37 (4) Shall provide a credit for the value of any dedication of
38 land for, improvement to, or new construction of any system
39 improvements provided by the developer, to facilities that are
40 identified in the capital facilities plan and that are required by

1 the county, city, or town as a condition of approving the development
2 activity;

3 (5) Shall allow the county, city, or town imposing the impact
4 fees to adjust the standard impact fee at the time the fee is imposed
5 to consider unusual circumstances in specific cases to ensure that
6 impact fees are imposed fairly;

7 (6) Shall include a provision for calculating the amount of the
8 fee to be imposed on a particular development that permits
9 consideration of studies and data submitted by the developer to
10 adjust the amount of the fee;

11 (7) Shall establish one or more reasonable service areas within
12 which it shall calculate and impose impact fees for various land use
13 categories per unit of development; and

14 (8) May provide for the imposition of an impact fee for system
15 improvement costs previously incurred by a county, city, or town to
16 the extent that new growth and development will be served by the
17 previously constructed improvements provided such fee shall not be
18 imposed to make up for any system improvement deficiencies.

19 (9) May provide an exemption from impact fees for accessory
20 dwelling units as defined in section 2 of this act, but may not
21 establish a transportation impact fee amount for accessory dwelling
22 units within one-half mile of a transit stop for fixed rail or for
23 bus service that is scheduled at least every fifteen minutes for no
24 less than ten hours per day that is greater than fifty percent of the
25 amount set for single-family residences.

26 For purposes of this section, "low-income housing" means housing
27 with a monthly housing expense, that is no greater than thirty
28 percent of eighty percent of the median family income adjusted for
29 family size, for the county where the project is located, as reported
30 by the United States department of housing and urban development.

31 **Sec. 10.** RCW 35.63.210 and 1993 c 478 s 8 are each amended to
32 read as follows:

33 Any (~~local government~~) city or county, as defined in ((RCW
34 ~~43.63A.215~~)) section 2 of this act, that is planning under this
35 chapter shall comply with ((RCW ~~43.63A.215(3)~~)) chapter 36.--- RCW
36 (the new chapter created in section 15 of this act).

37 **Sec. 11.** RCW 35A.63.230 and 1993 c 478 s 9 are each amended to
38 read as follows:

1 Any (~~local government~~) city or county, as defined in ((RCW
2 ~~43.63A.215~~)) section 2 of this act, that is planning under this
3 chapter shall comply with ((RCW ~~43.63A.215(3)~~)) chapter 36.--- RCW
4 (the new chapter created in section 15 of this act).

5 **Sec. 12.** RCW 36.70.677 and 1993 c 478 s 10 are each amended to
6 read as follows:

7 Any (~~local government~~) city or county, as defined in ((RCW
8 ~~43.63A.215~~)) section 2 of this act, that is planning under this
9 chapter shall comply with ((RCW ~~43.63A.215(3)~~)) chapter 36.--- RCW
10 (the new chapter created in section 15 of this act).

11 **Sec. 13.** RCW 36.70A.400 and 1993 c 478 s 11 are each amended to
12 read as follows:

13 Any (~~local government~~) city or county, as defined in ((RCW
14 ~~43.63A.215~~)) section 2 of this act, that is planning under this
15 chapter shall comply with ((RCW ~~43.63A.215(3)~~)) chapter 36.--- RCW
16 (the new chapter created in section 15 of this act).

17 NEW SECTION. **Sec. 14.** RCW 43.63A.215 (Accessory apartments—
18 Development and placement—Local governments) and 1993 c 478 s 7 are
19 each repealed.

20 NEW SECTION. **Sec. 15.** Sections 1 through 7 of this act
21 constitute a new chapter in Title 36 RCW.

--- END ---