
SENATE BILL 5812

State of Washington

66th Legislature

2019 Regular Session

By Senators Palumbo, Liiias, and Nguyen

Read first time 02/04/19. Referred to Committee on Housing Stability & Affordability.

1 AN ACT Relating to local governments planning and zoning for
2 accessory dwelling units; amending RCW 19.27.060, 82.02.060,
3 35.63.210, 35A.63.230, 36.70.677, and 36.70A.400; adding a new
4 section to chapter 19.27 RCW; adding a new chapter to Title 36 RCW;
5 and 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, duplex, triplex,
34 townhome, or other housing unit.

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

38 (3) "Detached accessory dwelling unit" means an accessory
39 dwelling unit that consists partly or entirely of a building that is

1 separate and detached from a single-family housing unit, duplex,
2 triplex, townhome, or other housing unit.

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

7 (3) " Cities " means all cities, code cities, and towns with a
8 population of two thousand five hundred or more.

9 (4) " Counties " means all counties with a population of fifteen
10 thousand or more.

11 (5) " Gross floor area " means the interior habitable area of a
12 dwelling unit including basements and attics but not including a
13 garage or accessory structure.

14 NEW SECTION. **Sec. 3.** ACCESSORY DWELLING UNIT REGULATIONS
15 REQUIRED. (1) Cities and counties must adopt or amend by ordinance
16 and incorporate into their development regulations, zoning
17 regulations, and other official controls, an authorization for the
18 creation of accessory dwelling units that is consistent with this
19 chapter.

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

24 (3) Cities and counties must implement the requirements of this
25 chapter by July 1, 2020.

26 NEW SECTION. **Sec. 4.** GENERAL REGULATORY REQUIREMENTS.
27 Ordinances, development regulations, and other official controls
28 adopted or amended as required by this chapter:

29 (1)(a) Except as provided in (b) of this subsection, must allow,
30 on all lots located in single-family residential zoning districts and
31 on all lots on which there is a single-family housing unit, duplex,
32 triplex, or townhome, regardless of zoning district: (i) One attached
33 accessory dwelling unit and one detached accessory dwelling unit; or
34 (ii) two attached accessory dwelling units;

35 (b) Must allow one attached accessory dwelling unit on each lot
36 in a single-family residential zoning district if: (i) The lot is
37 located in a jurisdiction where cluster zoning or lot size averaging

1 has been adopted; and (ii) the lot is under three thousand square
2 feet in size;

3 (2) May not impose a minimum lot size requirement for the siting
4 of accessory dwelling units;

5 (3) May not require installation of a new or separate utility
6 connection between an attached accessory dwelling unit and a utility;

7 (4) May not consider attached accessory dwelling units to be new
8 residential uses for the purpose of calculating connection fees or
9 capacity charges for utilities but may charge fees for additional
10 consumption by the attached accessory dwelling unit at a level that
11 is proportionate to that additional consumption;

12 (5) May require a new or separate utility connection directly
13 between a detached accessory dwelling unit and a utility and may
14 subject the connection to a connection fee or capacity charge that
15 must: (a) Be proportionate to the burden of the proposed accessory
16 dwelling unit, based on its size or number of plumbing fixtures, upon
17 the water or sewer system; and (b) not exceed the reasonable cost of
18 providing the service;

19 (6) May not prohibit the sale or other conveyance of a
20 condominium unit solely on the grounds that the unit was originally
21 built as an accessory dwelling unit;

22 (7) May not count residents of accessory dwelling units against
23 any limits on the number of unrelated residents on a single-family
24 lot;

25 (8) May not establish a requirement for the provision of off-
26 street parking for accessory dwelling units;

27 (9) May not require the owner of a lot on which there is an
28 accessory dwelling unit to reside in or occupy the accessory dwelling
29 unit or another housing unit on the same lot; and

30 (10) May not count the gross floor area of an accessory dwelling
31 unit against any floor area ratio limitations that apply to single-
32 family housing units.

33 NEW SECTION. **Sec. 5.** DEVELOPMENT STANDARDS. Ordinances,
34 development regulations, and other official controls adopted or
35 amended as required by this chapter:

36 (1) May not establish a root height limitation on detached
37 accessory dwelling units that is less than twenty-four feet;

38 (2) May not establish a wall height limitation on detached
39 accessory dwelling units that is less than seventeen feet;

1 (3) May not establish a maximum gross floor area for accessory
2 dwelling units that is less than one thousand square feet;

3 (4) May not establish a minimum gross floor area for accessory
4 dwelling units that is greater than one hundred forty square feet;

5 (5) Must establish setback regulations consistent with the
6 following requirements:

7 (a) May not establish setback regulations for accessory dwelling
8 units that are more restrictive than regulations for single-family
9 housing units;

10 (b) Must allow detached accessory dwelling units to be sited at
11 the lot line of the rear yard if the rear yard is adjacent to an
12 alley; and

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

18 (6) May not regulate the location of the entry doors of accessory
19 dwelling units;

20 (7) May not establish a maximum rear yard coverage limit for a
21 detached accessory dwelling unit that is less than sixty percent of
22 the rear yard;

23 (8) May not establish tree retention requirements for accessory
24 dwelling units in addition to any tree retention requirements for
25 single-family housing units; and

26 (9) May not require that the exterior design or appearance of an
27 accessory dwelling unit be similar to the exterior design or
28 appearance of the principal housing unit. Regulations that require
29 similar exterior design or appearance include, but are not limited
30 to, regulations that require an accessory dwelling unit to have
31 similar roof pitch, siding, or windows as the primary housing unit.

32 NEW SECTION. **Sec. 6.** A new section is added to chapter 19.27
33 RCW to read as follows:

34 By April 1, 2020, the building code council shall adopt rules
35 pertaining to accessory dwelling units that are consistent with the
36 definitions and standards in chapter 36.--- RCW (the new chapter
37 created in section 14 of this act).

1 **Sec. 7.** RCW 19.27.060 and 2018 c 302 s 2 are each amended to
2 read as follows:

3 (1) The governing bodies of counties and cities may amend the
4 codes enumerated in RCW 19.27.031 as amended and adopted by the state
5 building code council as they apply within their respective
6 jurisdictions, but the amendments shall not result in a code that is
7 less than the minimum performance standards and objectives contained
8 in the state building code except as provided in subsection (2) of
9 this section.

10 (a) Except as provided in subsection (2) of this section, no
11 amendment to a code enumerated in RCW 19.27.031 as amended and
12 adopted by the state building code council that affects single-family
13 or multifamily residential buildings shall be effective unless the
14 amendment is approved by the building code council under RCW
15 19.27.074(1)(b).

16 (b) Any county or city amendment to a code enumerated in RCW
17 19.27.031 which is approved under RCW 19.27.074(1)(b) shall continue
18 to be effective after any action is taken under RCW 19.27.074(1)(a)
19 without necessity of reapproval under RCW 19.27.074(1)(b) unless the
20 amendment is declared null and void by the council at the time any
21 action is taken under RCW 19.27.074(1)(a) because such action in any
22 way altered the impact of the amendment.

23 (2)(a) Except as provided in (b) of this subsection, the
24 legislative body of a county or city, in exercising the authority
25 provided under subsection (1) of this section to amend the code
26 enumerated in RCW 19.27.031(1)(b), may adopt amendments that
27 eliminate any minimum gross floor area requirement for single-family
28 detached dwellings or that provide a minimum gross floor area
29 requirement below the minimum performance standards and objectives
30 contained in the state building code.

31 (b) Cities and counties, as defined by section 2 of this act,
32 must adopt ordinances, development regulations, and other official
33 controls regarding the minimum gross floor area of accessory dwelling
34 units that are consistent with chapter 36.--- RCW (the new chapter
35 created in section 14 of this act).

36 (3) Except as permitted or provided otherwise under this section,
37 the state building code shall be applicable to all buildings and
38 structures including those owned by the state or by any governmental
39 subdivision or unit of local government.

1 (4) The governing body of each county or city may limit the
2 application of any portion of the state building code to exclude
3 specified classes or types of buildings or structures according to
4 use other than single-family or multifamily residential buildings.
5 However, in no event shall fruits or vegetables of the tree or vine
6 stored in buildings or warehouses constitute combustible stock for
7 the purposes of application of the uniform fire code. A governing
8 body of a county or city may inspect facilities used for temporary
9 storage and processing of agricultural commodities.

10 (5) No provision of the uniform fire code concerning roadways
11 shall be part of the state building code: PROVIDED, That this
12 subsection shall not limit the authority of a county or city to adopt
13 street, road, or access standards.

14 (6) The provisions of the state building code may be preempted by
15 any city or county to the extent that the code provisions relating to
16 the installation or use of sprinklers in jail cells conflict with the
17 secure and humane operation of jails.

18 (7)(a) Effective one year after July 23, 1989, the governing
19 bodies of counties and cities may adopt an ordinance or resolution to
20 exempt from permit requirements certain construction or alteration of
21 either group R, division 3, or group M, division 1 occupancies, or
22 both, as defined in the uniform building code, 1988 edition, for
23 which the total cost of fair market value of the construction or
24 alteration does not exceed fifteen hundred dollars. The permit
25 exemption shall not otherwise exempt the construction or alteration
26 from the substantive standards of the codes enumerated in RCW
27 19.27.031, as amended and maintained by the state building code
28 council under RCW 19.27.070.

29 (b) Prior to July 23, 1989, the state building code council shall
30 adopt by rule, guidelines exempting from permit requirements certain
31 construction and alteration activities under (a) of this subsection.

32 **Sec. 8.** RCW 82.02.060 and 2012 c 200 s 1 are each amended to
33 read as follows:

34 The local ordinance by which impact fees are imposed:

35 (1) Shall include a schedule of impact fees which shall be
36 adopted for each type of development activity that is subject to
37 impact fees, specifying the amount of the impact fee to be imposed
38 for each type of system improvement. The schedule shall be based upon
39 a formula or other method of calculating such impact fees. In

1 determining proportionate share, the formula or other method of
2 calculating impact fees shall incorporate, among other things, the
3 following:

4 (a) The cost of public facilities necessitated by new
5 development;

6 (b) An adjustment to the cost of the public facilities for past
7 or future payments made or reasonably anticipated to be made by new
8 development to pay for particular system improvements in the form of
9 user fees, debt service payments, taxes, or other payments earmarked
10 for or proratable to the particular system improvement;

11 (c) The availability of other means of funding public facility
12 improvements;

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

14 (e) The methods by which public facilities improvements were
15 financed;

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

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

1 an exemption by increasing impact fees unrelated to the exemption. A
2 school district who receives school impact fees must approve any
3 exemption under subsection (2) of this section or this subsection
4 (3);

5 (4) Shall provide a credit for the value of any dedication of
6 land for, improvement to, or new construction of any system
7 improvements provided by the developer, to facilities that are
8 identified in the capital facilities plan and that are required by
9 the county, city, or town as a condition of approving the development
10 activity;

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

15 (6) Shall include a provision for calculating the amount of the
16 fee to be imposed on a particular development that permits
17 consideration of studies and data submitted by the developer to
18 adjust the amount of the fee;

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

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

27 (9) May not establish an impact fee amount for accessory dwelling
28 units, as defined in section 2 of this act, that is greater than
29 fifty percent of the amount set for single-family residences.

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

35 **Sec. 9.** RCW 35.63.210 and 1993 c 478 s 8 are each amended to
36 read as follows:

37 Any (~~local government~~) city or county, as defined in ((RCW
38 ~~43.63A.215~~) section 2 of this act, that is planning under this

1 chapter shall comply with ((~~RCW 43.63A.215(3)~~)) chapter 36.--- RCW
2 (the new chapter created in section 14 of this act).

3 **Sec. 10.** RCW 35A.63.230 and 1993 c 478 s 9 are each amended to
4 read as follows:

5 Any ((~~local government~~)) city or county, as defined in ((~~RCW~~
6 ~~43.63A.215~~)) section 2 of this act, that is planning under this
7 chapter shall comply with ((~~RCW 43.63A.215(3)~~)) chapter 36.--- RCW
8 (the new chapter created in section 14 of this act).

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

11 Any ((~~local government~~)) city or county, as defined in ((~~RCW~~
12 ~~43.63A.215~~)) section 2 of this act, that is planning under this
13 chapter shall comply with ((~~RCW 43.63A.215(3)~~)) chapter 36.--- RCW
14 (the new chapter created in section 14 of this act).

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

17 Any ((~~local government~~)) city or county, as defined in ((~~RCW~~
18 ~~43.63A.215~~)) section 2 of this act, that is planning under this
19 chapter shall comply with ((~~RCW 43.63A.215(3)~~)) chapter 36.--- RCW
20 (the new chapter created in section 14 of this act).

21 NEW SECTION. **Sec. 13.** RCW 43.63A.215 (Accessory apartments—
22 Development and placement—Local governments) and 1993 c 478 s 7 are
23 each repealed.

24 NEW SECTION. **Sec. 14.** Sections 1 through 5 of this act
25 constitute a new chapter in Title 36 RCW.

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