

ESHB 1660 - S COMM AMD

By Committee on Housing & Local Government

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

3 **"Sec. 1.** RCW 36.70A.070 and 2021 c 254 s 2 are each amended to
4 read as follows:

5 The comprehensive plan of a county or city that is required or
6 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,
7 and descriptive text covering objectives, principles, and standards
8 used to develop the comprehensive plan. The plan shall be an
9 internally consistent document and all elements shall be consistent
10 with the future land use map. A comprehensive plan shall be adopted
11 and amended with public participation as provided in RCW 36.70A.140.
12 Each comprehensive plan shall include a plan, scheme, or design for
13 each of the following:

14 (1) A land use element designating the proposed general
15 distribution and general location and extent of the uses of land,
16 where appropriate, for agriculture, timber production, housing,
17 commerce, industry, recreation, open spaces, general aviation
18 airports, public utilities, public facilities, and other land uses.
19 The land use element shall include population densities, building
20 intensities, and estimates of future population growth. The land use
21 element shall provide for protection of the quality and quantity of
22 groundwater used for public water supplies. Wherever possible, the
23 land use element should consider utilizing urban planning approaches
24 that promote physical activity. Where applicable, the land use
25 element shall review drainage, flooding, and stormwater runoff in the
26 area and nearby jurisdictions and provide guidance for corrective
27 actions to mitigate or cleanse those discharges that pollute waters
28 of the state, including Puget Sound or waters entering Puget Sound.

29 (2) A housing element ensuring the vitality and character of
30 established residential neighborhoods that:

31 (a) Includes an inventory and analysis of existing and projected
32 housing needs that identifies the number of housing units necessary

1 to manage projected growth, as provided by the department of
2 commerce, including:

3 (i) Units for moderate, low, very low, and extremely low-income
4 households; and

5 (ii) Emergency housing, emergency shelters, and permanent
6 supportive housing;

7 (b) Includes a statement of goals, policies, objectives, and
8 mandatory provisions for the preservation, improvement, and
9 development of housing, including single-family residences, and
10 within an urban growth area boundary, moderate density housing
11 options including ~~((+,+))~~, but not limited to, duplexes, triplexes,
12 and townhomes;

13 (c) Identifies sufficient capacity of land for housing including,
14 but not limited to, government-assisted housing, housing for
15 moderate, low, very low, and extremely low-income households,
16 manufactured housing, multifamily housing, group homes, foster care
17 facilities, emergency housing, emergency shelters, permanent
18 supportive housing, and within an urban growth area boundary,
19 consideration of duplexes, triplexes, and townhomes;

20 (d) Makes adequate provisions for existing and projected needs of
21 all economic segments of the community, including:

22 (i) Incorporating consideration for low, very low, extremely low,
23 and moderate-income households;

24 (ii) Documenting programs and actions needed to achieve housing
25 availability including gaps in local funding, barriers such as
26 development regulations, and other limitations;

27 (iii) Consideration of housing locations in relation to
28 employment location; and

29 (iv) Consideration ~~((of the role))~~ and utilization of accessory
30 dwelling units in meeting housing needs in compliance with RCW
31 36.70A.698;

32 (e) Identifies local policies and regulations that result in
33 racially disparate impacts, displacement, and exclusion in housing,
34 including:

35 (i) Zoning that may have a discriminatory effect;

36 (ii) Disinvestment; and

37 (iii) Infrastructure availability;

38 (f) Identifies and implements policies and regulations to address
39 and begin to undo racially disparate impacts, displacement, and
40 exclusion in housing caused by local policies, plans, and actions;

1 (g) Identifies areas that may be at higher risk of displacement
2 from market forces that occur with changes to zoning development
3 regulations and capital investments; and

4 (h) Establishes antidisplacement policies, with consideration
5 given to the preservation of historical and cultural communities as
6 well as investments in low, very low, extremely low, and moderate-
7 income housing; equitable development initiatives; inclusionary
8 zoning; community planning requirements; tenant protections; land
9 disposition policies; and consideration of land that may be used for
10 affordable housing.

11 In counties and cities subject to the review and evaluation
12 requirements of RCW 36.70A.215, any revision to the housing element
13 shall include consideration of prior review and evaluation reports
14 and any reasonable measures identified. The housing element should
15 link jurisdictional goals with overall county goals to ensure that
16 the housing element goals are met.

17 (3) A capital facilities plan element consisting of: (a) An
18 inventory of existing capital facilities owned by public entities,
19 showing the locations and capacities of the capital facilities; (b) a
20 forecast of the future needs for such capital facilities; (c) the
21 proposed locations and capacities of expanded or new capital
22 facilities; (d) at least a six-year plan that will finance such
23 capital facilities within projected funding capacities and clearly
24 identifies sources of public money for such purposes; and (e) a
25 requirement to reassess the land use element if probable funding
26 falls short of meeting existing needs and to ensure that the land use
27 element, capital facilities plan element, and financing plan within
28 the capital facilities plan element are coordinated and consistent.
29 Park and recreation facilities shall be included in the capital
30 facilities plan element.

31 (4) A utilities element consisting of the general location,
32 proposed location, and capacity of all existing and proposed
33 utilities, including, but not limited to, electrical lines,
34 telecommunication lines, and natural gas lines.

35 (5) Rural element. Counties shall include a rural element
36 including lands that are not designated for urban growth,
37 agriculture, forest, or mineral resources. The following provisions
38 shall apply to the rural element:

39 (a) Growth management act goals and local circumstances. Because
40 circumstances vary from county to county, in establishing patterns of

1 rural densities and uses, a county may consider local circumstances,
2 but shall develop a written record explaining how the rural element
3 harmonizes the planning goals in RCW 36.70A.020 and meets the
4 requirements of this chapter.

5 (b) Rural development. The rural element shall permit rural
6 development, forestry, and agriculture in rural areas. The rural
7 element shall provide for a variety of rural densities, uses,
8 essential public facilities, and rural governmental services needed
9 to serve the permitted densities and uses. To achieve a variety of
10 rural densities and uses, counties may provide for clustering,
11 density transfer, design guidelines, conservation easements, and
12 other innovative techniques that will accommodate appropriate rural
13 economic advancement, densities, and uses that are not characterized
14 by urban growth and that are consistent with rural character.

15 (c) Measures governing rural development. The rural element shall
16 include measures that apply to rural development and protect the
17 rural character of the area, as established by the county, by:

18 (i) Containing or otherwise controlling rural development;

19 (ii) Assuring visual compatibility of rural development with the
20 surrounding rural area;

21 (iii) Reducing the inappropriate conversion of undeveloped land
22 into sprawling, low-density development in the rural area;

23 (iv) Protecting critical areas, as provided in RCW 36.70A.060,
24 and surface water and groundwater resources; and

25 (v) Protecting against conflicts with the use of agricultural,
26 forest, and mineral resource lands designated under RCW 36.70A.170.

27 (d) Limited areas of more intensive rural development. Subject to
28 the requirements of this subsection and except as otherwise
29 specifically provided in this subsection (5)(d), the rural element
30 may allow for limited areas of more intensive rural development,
31 including necessary public facilities and public services to serve
32 the limited area as follows:

33 (i) Rural development consisting of the infill, development, or
34 redevelopment of existing commercial, industrial, residential, or
35 mixed-use areas, whether characterized as shoreline development,
36 villages, hamlets, rural activity centers, or crossroads
37 developments.

38 (A) A commercial, industrial, residential, shoreline, or mixed-
39 use area are subject to the requirements of (d)(iv) of this

1 subsection, but are not subject to the requirements of (c)(ii) and
2 (iii) of this subsection.

3 (B) Any development or redevelopment other than an industrial
4 area or an industrial use within a mixed-use area or an industrial
5 area under this subsection (5)(d)(i) must be principally designed to
6 serve the existing and projected rural population.

7 (C) Any development or redevelopment in terms of building size,
8 scale, use, or intensity shall be consistent with the character of
9 the existing areas. Development and redevelopment may include changes
10 in use from vacant land or a previously existing use so long as the
11 new use conforms to the requirements of this subsection (5);

12 (ii) The intensification of development on lots containing, or
13 new development of, small-scale recreational or tourist uses,
14 including commercial facilities to serve those recreational or
15 tourist uses, that rely on a rural location and setting, but that do
16 not include new residential development. A small-scale recreation or
17 tourist use is not required to be principally designed to serve the
18 existing and projected rural population. Public services and public
19 facilities shall be limited to those necessary to serve the
20 recreation or tourist use and shall be provided in a manner that does
21 not permit low-density sprawl;

22 (iii) The intensification of development on lots containing
23 isolated nonresidential uses or new development of isolated cottage
24 industries and isolated small-scale businesses that are not
25 principally designed to serve the existing and projected rural
26 population and nonresidential uses, but do provide job opportunities
27 for rural residents. Rural counties may allow the expansion of small-
28 scale businesses as long as those small-scale businesses conform with
29 the rural character of the area as defined by the local government
30 according to RCW 36.70A.030(23). Rural counties may also allow new
31 small-scale businesses to utilize a site previously occupied by an
32 existing business as long as the new small-scale business conforms to
33 the rural character of the area as defined by the local government
34 according to RCW 36.70A.030(23). Public services and public
35 facilities shall be limited to those necessary to serve the isolated
36 nonresidential use and shall be provided in a manner that does not
37 permit low-density sprawl;

38 (iv) A county shall adopt measures to minimize and contain the
39 existing areas or uses of more intensive rural development, as
40 appropriate, authorized under this subsection. Lands included in such

1 existing areas or uses shall not extend beyond the logical outer
2 boundary of the existing area or use, thereby allowing a new pattern
3 of low-density sprawl. Existing areas are those that are clearly
4 identifiable and contained and where there is a logical boundary
5 delineated predominately by the built environment, but that may also
6 include undeveloped lands if limited as provided in this subsection.
7 The county shall establish the logical outer boundary of an area of
8 more intensive rural development. In establishing the logical outer
9 boundary, the county shall address (A) the need to preserve the
10 character of existing natural neighborhoods and communities, (B)
11 physical boundaries, such as bodies of water, streets and highways,
12 and land forms and contours, (C) the prevention of abnormally
13 irregular boundaries, and (D) the ability to provide public
14 facilities and public services in a manner that does not permit low-
15 density sprawl;

16 (v) For purposes of (d) of this subsection, an existing area or
17 existing use is one that was in existence:

18 (A) On July 1, 1990, in a county that was initially required to
19 plan under all of the provisions of this chapter;

20 (B) On the date the county adopted a resolution under RCW
21 36.70A.040(2), in a county that is planning under all of the
22 provisions of this chapter under RCW 36.70A.040(2); or

23 (C) On the date the office of financial management certifies the
24 county's population as provided in RCW 36.70A.040(5), in a county
25 that is planning under all of the provisions of this chapter pursuant
26 to RCW 36.70A.040(5).

27 (e) Exception. This subsection shall not be interpreted to permit
28 in the rural area a major industrial development or a master planned
29 resort unless otherwise specifically permitted under RCW 36.70A.360
30 and 36.70A.365.

31 (6) A transportation element that implements, and is consistent
32 with, the land use element.

33 (a) The transportation element shall include the following
34 subelements:

35 (i) Land use assumptions used in estimating travel;

36 (ii) Estimated traffic impacts to state-owned transportation
37 facilities resulting from land use assumptions to assist the
38 department of transportation in monitoring the performance of state
39 facilities, to plan improvements for the facilities, and to assess

1 the impact of land-use decisions on state-owned transportation
2 facilities;

3 (iii) Facilities and services needs, including:

4 (A) An inventory of air, water, and ground transportation
5 facilities and services, including transit alignments and general
6 aviation airport facilities, to define existing capital facilities
7 and travel levels as a basis for future planning. This inventory must
8 include state-owned transportation facilities within the city or
9 county's jurisdictional boundaries;

10 (B) Level of service standards for all locally owned arterials
11 and transit routes to serve as a gauge to judge performance of the
12 system. These standards should be regionally coordinated;

13 (C) For state-owned transportation facilities, level of service
14 standards for highways, as prescribed in chapters 47.06 and 47.80
15 RCW, to gauge the performance of the system. The purposes of
16 reflecting level of service standards for state highways in the local
17 comprehensive plan are to monitor the performance of the system, to
18 evaluate improvement strategies, and to facilitate coordination
19 between the county's or city's six-year street, road, or transit
20 program and the office of financial management's ten-year investment
21 program. The concurrency requirements of (b) of this subsection do
22 not apply to transportation facilities and services of statewide
23 significance except for counties consisting of islands whose only
24 connection to the mainland are state highways or ferry routes. In
25 these island counties, state highways and ferry route capacity must
26 be a factor in meeting the concurrency requirements in (b) of this
27 subsection;

28 (D) Specific actions and requirements for bringing into
29 compliance locally owned transportation facilities or services that
30 are below an established level of service standard;

31 (E) Forecasts of traffic for at least (~~ten~~) 10 years based on
32 the adopted land use plan to provide information on the location,
33 timing, and capacity needs of future growth;

34 (F) Identification of state and local system needs to meet
35 current and future demands. Identified needs on state-owned
36 transportation facilities must be consistent with the statewide
37 multimodal transportation plan required under chapter 47.06 RCW;

38 (iv) Finance, including:

39 (A) An analysis of funding capability to judge needs against
40 probable funding resources;

1 (B) A multiyear financing plan based on the needs identified in
2 the comprehensive plan, the appropriate parts of which shall serve as
3 the basis for the six-year street, road, or transit program required
4 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW
5 35.58.2795 for public transportation systems. The multiyear financing
6 plan should be coordinated with the (~~ten-year~~) 10-year investment
7 program developed by the office of financial management as required
8 by RCW 47.05.030;

9 (C) If probable funding falls short of meeting identified needs,
10 a discussion of how additional funding will be raised, or how land
11 use assumptions will be reassessed to ensure that level of service
12 standards will be met;

13 (v) Intergovernmental coordination efforts, including an
14 assessment of the impacts of the transportation plan and land use
15 assumptions on the transportation systems of adjacent jurisdictions;

16 (vi) Demand-management strategies;

17 (vii) Pedestrian and bicycle component to include collaborative
18 efforts to identify and designate planned improvements for pedestrian
19 and bicycle facilities and corridors that address and encourage
20 enhanced community access and promote healthy lifestyles.

21 (b) After adoption of the comprehensive plan by jurisdictions
22 required to plan or who choose to plan under RCW 36.70A.040, local
23 jurisdictions must adopt and enforce ordinances which prohibit
24 development approval if the development causes the level of service
25 on a locally owned transportation facility to decline below the
26 standards adopted in the transportation element of the comprehensive
27 plan, unless transportation improvements or strategies to accommodate
28 the impacts of development are made concurrent with the development.
29 These strategies may include increased public transportation service,
30 ride-sharing programs, demand management, and other transportation
31 systems management strategies. For the purposes of this subsection
32 (6), "concurrent with the development" means that improvements or
33 strategies are in place at the time of development, or that a
34 financial commitment is in place to complete the improvements or
35 strategies within six years. If the collection of impact fees is
36 delayed under RCW 82.02.050(3), the six-year period required by this
37 subsection (6)(b) must begin after full payment of all impact fees is
38 due to the county or city.

39 (c) The transportation element described in this subsection (6),
40 the six-year plans required by RCW 35.77.010 for cities, RCW

1 36.81.121 for counties, and RCW 35.58.2795 for public transportation
2 systems, and the ten-year investment program required by RCW
3 47.05.030 for the state, must be consistent.

4 (7) An economic development element establishing local goals,
5 policies, objectives, and provisions for economic growth and vitality
6 and a high quality of life. A city that has chosen to be a
7 residential community is exempt from the economic development element
8 requirement of this subsection.

9 (8) A park and recreation element that implements, and is
10 consistent with, the capital facilities plan element as it relates to
11 park and recreation facilities. The element shall include: (a)
12 Estimates of park and recreation demand for at least a ~~((ten-year))~~
13 10-year period; (b) an evaluation of facilities and service needs;
14 and (c) an evaluation of intergovernmental coordination opportunities
15 to provide regional approaches for meeting park and recreational
16 demand.

17 (9) It is the intent that new or amended elements required after
18 January 1, 2002, be adopted concurrent with the scheduled update
19 provided in RCW 36.70A.130. Requirements to incorporate any such new
20 or amended elements shall be null and void until funds sufficient to
21 cover applicable local government costs are appropriated and
22 distributed by the state at least two years before local government
23 must update comprehensive plans as required in RCW 36.70A.130.

24 **Sec. 2.** RCW 36.70A.697 and 2020 c 217 s 3 are each amended to
25 read as follows:

26 (1) Cities and counties must adopt or amend by ordinance, and
27 incorporate into their development regulations, zoning regulations,
28 and other official controls the requirements of RCW 36.70A.698 to
29 take effect by the time of the city's or county's next comprehensive
30 plan update after July 1, 2021.

31 (2) Beginning ~~((July 1, 2021))~~ after the deadline in subsection
32 (1) of this section, the requirements of RCW 36.70A.698:

33 (a) Apply and take effect in any city or county that has not
34 adopted or amended ordinances, regulations, or other official
35 controls as required under this section; and

36 (b) Supersede, preempt, and invalidate any local development
37 regulations that conflict with RCW 36.70A.698.

1 **Sec. 3.** RCW 36.70A.698 and 2020 c 217 s 4 are each amended to
2 read as follows:

3 ~~(1) ((Except as provided in subsection[s] (2) and (3) of this~~
4 ~~section, through ordinances, development regulations, zoning~~
5 ~~regulations, and other official controls as required under RCW~~
6 ~~36.70A.697, cities)) Cities and counties may not ((require)) prohibit~~
7 ~~the construction of accessory dwelling units within urban growth~~
8 ~~areas.~~

9 (2) When regulating accessory dwelling units, cities and counties
10 may not:

11 (a) Impose a maximum floor area limit on the size of an accessory
12 dwelling unit of less than:

13 (i) Eight hundred fifty square feet for an accessory dwelling
14 unit on a lot with a total square footage of less than 4,500 square
15 feet; or

16 (ii) One thousand three hundred fifty square feet combined
17 between attached and detached accessory dwelling units on a lot with
18 a total square footage of more than 4,500 square feet, except that an
19 attached accessory dwelling unit may be limited to half of the square
20 footage of the principal unit and a county or city may require that
21 public health, safety, building code, and environmental permitting
22 requirements that would be applicable to the principal unit are met
23 prior to the construction of the accessory dwelling unit;

24 (b) Impose any impact fees on the construction or development of
25 an accessory dwelling unit that are greater than 50 percent of the
26 impact fees that would be imposed on a similarly sized principal
27 unit;

28 (c) Impose a limit on accessory dwelling units of fewer than one
29 attached and one detached accessory dwelling unit on a lot zoned for
30 residential use with a total square footage of more than 4,500 square
31 feet, unless the lot is otherwise zoned to allow at least three
32 dwelling units;

33 (d) Impose any prohibition of the sale or other conveyance of a
34 condominium unit independently of a principal unit that is based
35 solely on the grounds that the condominium unit was originally built
36 as an accessory dwelling unit, provided that the condominium unit is
37 served by utilities that are independent of the principal unit;

38 (e) Impose any owner occupancy requirements on any housing or
39 dwelling unit on a lot containing an accessory dwelling unit. A city
40 or county may retain an owner occupancy requirement if:

1 (i) An accessory dwelling unit on the lot is offered or used for
2 short-term rental as defined in RCW 36.70A.696; or

3 (ii) The owner of the accessory dwelling unit accepts an offer
4 from the city or county for the reduction or waiver of the costs or
5 fees that would have normally been imposed on the construction of the
6 accessory dwelling unit. In order to utilize this provision, a city
7 or county must have a general program offering the waiver or
8 reduction of fees and costs associated with accessory dwelling unit
9 construction, with specific additional waiver provisions for units
10 offered at or below 80 percent of the area median income;

11 (f) Require the provision of off-street parking for accessory
12 dwelling units within one-quarter mile of a major transit stop.

13 ~~((2) A city may require the provision of off-street parking for~~
14 ~~an accessory dwelling unit located within one-quarter mile of a major~~
15 ~~transit stop if the city has determined that the accessory dwelling~~
16 ~~unit is in an area with a lack of access to street parking capacity,~~
17 ~~physical space impediments, or other reasons supported by evidence~~
18 ~~that would make on-street parking infeasible for the accessory~~
19 ~~dwelling unit.~~

20 ~~(3) A city that has adopted or substantively amended accessory~~
21 ~~dwelling unit regulations within the four years previous to June 11,~~
22 ~~2020, is not subject to the requirements of this section.))~~

23 (3) Cities and counties may apply generally applicable
24 development regulations to the construction of accessory dwelling
25 units.

26 NEW SECTION. Sec. 4. A new section is added to chapter 64.38
27 RCW to read as follows:

28 (1) Governing documents created after the effective date of this
29 section and applicable to an association located within an urban
30 growth area may not actively or effectively prohibit the
31 construction, development, or use on a lot of an accessory dwelling
32 unit.

33 (2) For the purposes of this section, "urban growth area" has the
34 same meaning as in RCW 36.70A.030.

35 (3) A city or county issuing a permit for the construction of an
36 accessory dwelling unit may not be held civilly liable on the basis
37 that the construction of the accessory dwelling unit would violate
38 governing documents applicable to an association.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 64.90
2 RCW to read as follows:

3 (1) Neither a declaration nor a governing document created after
4 the effective date of this section and applicable to a common
5 interest community located inside an urban growth area may actively
6 or effectively prohibit the construction, development, or use on a
7 lot of an accessory dwelling unit.

8 (2) For the purposes of this section, "urban growth area" has the
9 same meaning as in RCW 36.70A.030.

10 (3) A city or county issuing a permit for the construction of an
11 accessory dwelling unit may not be held civilly liable on the basis
12 that the construction of the accessory dwelling unit would violate
13 declarations or governing documents applicable to a common interest
14 community.

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

17 (1) No restrictive covenant or deed restriction created after the
18 effective date of this section and applicable to a property located
19 within an urban growth area may prohibit the construction,
20 development, or use on a lot of an accessory dwelling unit.

21 (2) For the purposes of this section, "urban growth area" has the
22 same meaning as in RCW 36.70A.030.

23 (3) A city or county issuing a permit for the construction of an
24 accessory dwelling unit may not be held civilly liable on the basis
25 that the construction of the accessory dwelling unit would violate a
26 restrictive covenant or deed restriction.

27 NEW SECTION. **Sec. 7.** A new section is added to chapter 64.34
28 RCW to read as follows:

29 (1) A declaration created after the effective date of this
30 section and applicable to an association located within an urban
31 growth area may not actively or effectively prohibit the
32 construction, development, or use of an accessory dwelling unit.

33 (2) For the purposes of this section, "urban growth area" has the
34 same meaning as in RCW 36.70A.030.

35 (3) A city or county issuing a permit for the construction of an
36 accessory dwelling unit may not be held civilly liable on the basis
37 that the construction of the accessory dwelling unit would violate
38 governing documents applicable to an association.

1 NEW SECTION. **Sec. 8.** A new section is added to chapter 64.32
2 RCW to read as follows:

3 (1) A declaration created after the effective date of this
4 section and applicable to an association of apartment owners located
5 within an urban growth area may not actively or effectively prohibit
6 the construction, development, or use of an accessory dwelling unit.

7 (2) For the purposes of this section, "urban growth area" has the
8 same meaning as in RCW 36.70A.030.

9 (3) A city or county issuing a permit for the construction of an
10 accessory dwelling unit may not be held civilly liable on the basis
11 that the construction of the accessory dwelling unit would violate
12 governing documents applicable to an association of apartment
13 owners."

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By Committee on Housing & Local Government

14 On page 1, line 1 of the title, after "units;" strike the
15 remainder of the title and insert "amending RCW 36.70A.070,
16 36.70A.697, and 36.70A.698; adding a new section to chapter 64.38
17 RCW; adding a new section to chapter 64.90 RCW; adding a new section
18 to chapter 36.70A RCW; adding a new section to chapter 64.34 RCW; and
19 adding a new section to chapter 64.32 RCW."

EFFECT: Clarifies that a city or county issuing a permit for ADU construction may not be held liable if the construction would violate any existing restrictive covenant or deed restriction, or governing documents of a homeowners' association, condominium association, association of apartment owners, or common interest community.

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