

**EHB 1337** - S COMM AMD

By Committee on Local Government, Land Use & Tribal Affairs

**ADOPTED AS AMENDED 04/06/2023**

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

3 "NEW SECTION. **Sec. 1.** (1) The legislature makes the following  
4 findings:

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

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

13 (c) Localities can start to correct for historic economic and  
14 racial exclusion in single-family zones by opening up these  
15 neighborhoods to more diverse housing types, including accessory  
16 dwelling units, that provide lower cost homes. Increasing housing  
17 options in expensive, high-opportunity neighborhoods will give more  
18 families access to schools, parks, and other public amenities  
19 otherwise accessible to only the wealthy.

20 (d) Accessory dwelling units are frequently rented below market  
21 rate, providing additional affordable housing options for renters.

22 (e) Accessory dwelling units can also help to provide housing for  
23 very low-income households. More than 10 percent of accessory  
24 dwelling units in some areas are occupied by tenants who pay no rent  
25 at all; among these tenants are grandparents, adult children, family  
26 members with disabilities, friends going through life transitions,  
27 and community members in need. Accessory dwelling units meet the  
28 needs of these people who might otherwise require subsidized housing  
29 space and resources.

30 (f) Accessory dwelling units can meet the needs of Washington's  
31 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 (g) Homeowners who add an accessory dwelling unit may benefit  
7 from added income and an increased sense of security.

8 (h) Accessory dwelling units provide environmental benefits. On  
9 average they are more energy efficient than single detached houses,  
10 and they incentivize adaptive reuse of existing homes and materials.

11 (i) Siting accessory dwelling units near transit hubs, employment  
12 centers, and public amenities can help to reduce greenhouse gas  
13 emissions by increasing walkability, shortening household commutes,  
14 and curtailing sprawl.

15 (2) The legislature intends to promote and encourage the creation  
16 of accessory dwelling units as a means to address the need for  
17 additional affordable housing options.

18 **Sec. 2.** RCW 36.70A.696 and 2021 c 306 s 2 are each amended to  
19 read as follows:

20 The definitions in this section apply throughout RCW 36.70A.697  
21 ~~((and)), 36.70A.698, and sections 3 and 4 of this act~~ unless the  
22 context clearly requires otherwise.

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

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

29 (3) "City" means any city, code city, and town located in a  
30 county planning under RCW 36.70A.040.

31 (4) "County" means any county planning under RCW 36.70A.040.

32 (5) "Detached accessory dwelling unit" means an accessory  
33 dwelling unit that consists partly or entirely of a building that is  
34 separate and detached from a single-family housing unit, duplex,  
35 triplex, townhome, or other housing unit and is on the same property.

36 (6) "Dwelling unit" means a residential living unit that provides  
37 complete independent living facilities for one or more persons and  
38 that includes permanent provisions for living, sleeping, eating,  
39 cooking, and sanitation.

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

4           (8) "Major transit stop" means:

5           (a) A stop on a high capacity transportation system funded or  
6 expanded under the provisions of chapter 81.104 RCW;

7           (b) Commuter rail stops;

8           (c) Stops on rail or fixed guideway systems, including  
9 transitways;

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

12           (e) Stops for a bus or other transit mode providing actual fixed  
13 route service at intervals of at least fifteen minutes for at least  
14 five hours during the peak hours of operation on weekdays.

15           ~~((8))~~ (9) "Owner" means any person who has at least 50 percent  
16 ownership in a property on which an accessory dwelling unit is  
17 located.

18           ~~((9))~~ (10) "Principal unit" means the single-family housing  
19 unit, duplex, triplex, townhome, or other housing unit located on the  
20 same lot as an accessory dwelling unit.

21           (11) "Short-term rental" means a lodging use, that is not a hotel  
22 or motel or bed and breakfast, in which a dwelling unit, or portion  
23 thereof, is offered or provided to a guest by a short-term rental  
24 operator for a fee for fewer than 30 consecutive nights.

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

27           (1)(a) Cities and counties planning under this chapter must adopt  
28 or amend by ordinance, and incorporate into their development  
29 regulations, zoning regulations, and other official controls the  
30 requirements of this section and of section 4 of this act, to take  
31 effect six months after the jurisdiction's next periodic  
32 comprehensive plan update required under RCW 36.70A.130.

33           (b) In any city or county that has not adopted or amended  
34 ordinances, regulations, or other official controls as required under  
35 this section, the requirements of this section and section 4 of this  
36 act supersede, preempt, and invalidate any conflicting local  
37 development regulations.

38           (2) Ordinances, development regulations, and other official  
39 controls adopted or amended pursuant to this section and section 4 of

1 this act must only apply in the portions of towns, cities, and  
2 counties that are within urban growth areas designated under this  
3 chapter.

4 (3) Any action taken by a city or county to comply with the  
5 requirements of this section or section 4 of this act is not subject  
6 to legal challenge under this chapter or chapter 43.21C RCW.

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

13 (5) Nothing in this section or in section 4 of this act prohibits  
14 a city or county from:

15 (a) Restricting the use of accessory dwelling units for short-  
16 term rentals;

17 (b) Applying public health, safety, building code, and  
18 environmental permitting requirements to an accessory dwelling unit  
19 that would be applicable to the principal unit, including regulations  
20 to protect ground and surface waters from on-site wastewater;

21 (c) Applying generally applicable development regulations to the  
22 construction of an accessory unit, except when the application of  
23 such regulations would be contrary to this section or to section 4 of  
24 this act;

25 (d) Prohibiting the construction of accessory dwelling units on  
26 lots that are not connected to or served by public sewers; or

27 (e) Prohibiting or restricting the construction of accessory  
28 dwelling units in residential zones with a density of one dwelling  
29 unit per acre or less that are within areas designated as wetlands,  
30 fish and wildlife habitats, flood plains, or geologically hazardous  
31 areas.

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

34 (1) In addition to ordinances, development regulations, and other  
35 official controls adopted or amended to comply with this section and  
36 section 3 of this act, a city or county must comply with all of the  
37 following policies:

38 (a) The city or county may not assess impact fees on the  
39 construction of accessory dwelling units that are greater than 50

1 percent of the impact fees that would be imposed on the principal  
2 unit;

3 (b) The city or county may not require the owner of a lot on  
4 which there is an accessory dwelling unit to reside in or occupy the  
5 accessory dwelling unit or another housing unit on the same lot;

6 (c) The city or county must allow at least two accessory dwelling  
7 units on all lots that are located in all zoning districts within an  
8 urban growth area that allow for single-family homes in the following  
9 configurations:

10 (i) One attached accessory dwelling unit and one detached  
11 accessory dwelling unit;

12 (ii) Two attached accessory dwelling units; or

13 (iii) Two detached accessory dwelling units, which may be  
14 comprised of either one or two detached structures;

15 (d) The city or county must permit accessory dwelling units in  
16 structures detached from the principal unit;

17 (e) The city or county must allow an accessory dwelling unit on  
18 any lot that meets the minimum lot size required for the principal  
19 unit;

20 (f) The city or county may not establish a maximum gross floor  
21 area requirement for accessory dwelling units that is less than 1,000  
22 square feet;

23 (g) The city or county may not establish roof height limits on an  
24 accessory dwelling unit of less than 24 feet, unless the height  
25 limitation that applies to the principal unit is less than 24 feet,  
26 in which case a city or county may not impose roof height limitation  
27 on accessory dwelling units that is less than the height limitation  
28 that applies to the principal unit;

29 (h) A city or county may not impose setback requirements, yard  
30 coverage limits, tree retention mandates, restrictions on entry door  
31 locations, aesthetic requirements, or requirements for design review  
32 for accessory dwelling units that are more restrictive than those for  
33 principal units;

34 (i) A city or county must allow detached accessory dwelling units  
35 to be sited at a lot line if the lot line abuts a public alley,  
36 unless the city or county routinely plows snow on the public alley;

37 (j) A city or county must allow accessory dwelling units to be  
38 converted from existing structures, including but not limited to  
39 detached garages, even if they violate current code requirements for  
40 setbacks or lot coverage;

1 (k) A city or county may not prohibit the sale or other  
2 conveyance of a condominium unit independently of a principal unit  
3 solely on the grounds that the condominium unit was originally built  
4 as an accessory dwelling unit; and

5 (1) A city or county may not require public street improvements  
6 as a condition of permitting accessory dwelling units.

7 (2) When regulating accessory dwelling units, cities and counties  
8 may impose a limit of two accessory dwelling units, in addition to  
9 the principal unit, on a residential lot of 2,000 square feet or  
10 less.

11 (3) The provisions of this section do not apply to lots  
12 designated with critical areas or their buffers as designated in RCW  
13 36.70A.060, or to a watershed serving a reservoir for potable water  
14 if that watershed is or was listed, as of the effective date of this  
15 section, as impaired or threatened under section 303(d) of the  
16 federal clean water act (33 U.S.C. Sec. 1313(d)).

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

19 To encourage the use of accessory dwelling units for long-term  
20 housing, cities and counties may adopt ordinances, development  
21 regulations, and other official controls which waive or defer fees,  
22 including impact fees, defer the payment of taxes, or waive specific  
23 regulations. Cities and counties may only offer such reduced or  
24 deferred fees, deferred taxes, waivers, or other incentives for the  
25 development or construction of accessory dwelling units if:

26 (1) The units are located within an urban growth area; and

27 (2) The units are subject to a program adopted by the city or  
28 county with effective binding commitments or covenants that the units  
29 will be primarily utilized for long-term housing consistent with the  
30 public purpose for this authorization.

31 **Sec. 6.** RCW 43.21C.495 and 2022 c 246 s 3 are each amended to  
32 read as follows:

33 (1) Adoption of ordinances, development regulations and  
34 amendments to such regulations, and other nonproject actions taken by  
35 a city to implement: The actions specified in section 2, chapter 246,  
36 Laws of 2022 unless the adoption of such ordinances, development  
37 regulations and amendments to such regulations, or other nonproject  
38 actions has a probable significant adverse impact on fish habitat;

1 and the increased residential building capacity actions identified in  
2 RCW 36.70A.600(1), with the exception of the action specified in RCW  
3 36.70A.600(1)(f), are not subject to administrative or judicial  
4 appeals under this chapter.

5 (2) Adoption of ordinances, development regulations and  
6 amendments to such regulations, and other nonproject actions taken by  
7 a city or county consistent with the requirements of sections 3 and 4  
8 of this act are not subject to administrative or judicial appeals  
9 under this chapter.

10 **Sec. 7.** RCW 36.70A.280 and 2011 c 360 s 17 are each amended to  
11 read as follows:

12 (1) The growth management hearings board shall hear and determine  
13 only those petitions alleging either:

14 (a) That, except as provided otherwise by this subsection, a  
15 state agency, county, or city planning under this chapter is not in  
16 compliance with the requirements of this chapter, chapter 90.58 RCW  
17 as it relates to the adoption of shoreline master programs or  
18 amendments thereto, or chapter 43.21C RCW as it relates to plans,  
19 development regulations, or amendments, adopted under RCW 36.70A.040  
20 or chapter 90.58 RCW. Nothing in this subsection authorizes the board  
21 to hear petitions alleging noncompliance (~~(with RCW 36.70A.5801)~~)  
22 based on a city or county's actions taken to implement the  
23 requirements of sections 3 and 4 of this act within an urban growth  
24 area;

25 (b) That the (~~twenty~~) 20-year growth management planning  
26 population projections adopted by the office of financial management  
27 pursuant to RCW 43.62.035 should be adjusted;

28 (c) That the approval of a work plan adopted under RCW  
29 36.70A.735(1)(a) is not in compliance with the requirements of the  
30 program established under RCW 36.70A.710;

31 (d) That regulations adopted under RCW 36.70A.735(1)(b) are not  
32 regionally applicable and cannot be adopted, wholly or partially, by  
33 another jurisdiction; or

34 (e) That a department certification under RCW 36.70A.735(1)(c) is  
35 erroneous.

36 (2) A petition may be filed only by: (a) The state, or a county  
37 or city that plans under this chapter; (b) a person who has  
38 participated orally or in writing before the county or city regarding  
39 the matter on which a review is being requested; (c) a person who is

1 certified by the governor within (~~sixty~~) 60 days of filing the  
2 request with the board; or (d) a person qualified pursuant to RCW  
3 34.05.530.

4 (3) For purposes of this section "person" means any individual,  
5 partnership, corporation, association, state agency, governmental  
6 subdivision or unit thereof, or public or private organization or  
7 entity of any character.

8 (4) To establish participation standing under subsection (2)(b)  
9 of this section, a person must show that his or her participation  
10 before the county or city was reasonably related to the person's  
11 issue as presented to the board.

12 (5) When considering a possible adjustment to a growth management  
13 planning population projection prepared by the office of financial  
14 management, the board shall consider the implications of any such  
15 adjustment to the population forecast for the entire state.

16 The rationale for any adjustment that is adopted by the board  
17 must be documented and filed with the office of financial management  
18 within ten working days after adoption.

19 If adjusted by the board, a county growth management planning  
20 population projection shall only be used for the planning purposes  
21 set forth in this chapter and shall be known as the "board adjusted  
22 population projection." None of these changes shall affect the  
23 official state and county population forecasts prepared by the office  
24 of financial management, which shall continue to be used for state  
25 budget and planning purposes.

26 NEW SECTION. **Sec. 8.** A new section is added to chapter 36.70A  
27 RCW to read as follows:

28 (1) By December 31, 2023, the department must revise its  
29 recommendations for encouraging accessory dwelling units to include  
30 the provisions of sections 3 and 4 of this act.

31 (2) During each comprehensive plan review required by RCW  
32 36.70A.130, the department must review local government comprehensive  
33 plans and development regulations for compliance with sections 3 and  
34 4 of this act and the department's recommendations under subsection  
35 (1) of this section.

36 NEW SECTION. **Sec. 9.** A new section is added to chapter 64.34  
37 RCW to read as follows:



1 (1) Except a declaration created to protect public health and  
2 safety, and ground and surface waters from on-site wastewater, a  
3 declaration created after the effective date of this section and  
4 applicable to a property located within an urban growth area may not  
5 impose any restriction or prohibition on the construction,  
6 development, or use on a lot of an accessory dwelling unit that the  
7 city or county in which the urban growth area is located would be  
8 prohibited from imposing under section 4 of this act.

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

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

15 NEW SECTION. **Sec. 10.** A new section is added to chapter 64.32  
16 RCW to read as follows:

17 (1) Except a declaration created to protect public health and  
18 safety, and ground and surface waters from on-site wastewater, a  
19 declaration created after the effective date of this section and  
20 applicable to a property located within an urban growth area may not  
21 impose any restriction or prohibition on the construction,  
22 development, or use on a lot of an accessory dwelling unit that the  
23 city or county in which the urban growth area is located would be  
24 prohibited from imposing under section 4 of this act.

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

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

31 NEW SECTION. **Sec. 11.** A new section is added to chapter 64.38  
32 RCW to read as follows:

33 (1) Except governing documents of associations created to protect  
34 public health and safety, and ground and surface waters from on-site  
35 wastewater, governing documents of associations created after the  
36 effective date of this section and applicable to a property located  
37 within an urban growth area may not impose any restriction or  
38 prohibition on the construction, development, or use on a lot of an

1 accessory dwelling unit that the city or county in which the urban  
2 growth area is located would be prohibited from imposing under  
3 section 4 of this act.

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

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

10 NEW SECTION. **Sec. 12.** A new section is added to chapter 64.90  
11 RCW to read as follows:

12 (1) Except declarations and governing documents of common  
13 interest communities created to protect public health and safety, and  
14 ground and surface waters from on-site wastewater, declarations and  
15 governing documents of common interest communities created after the  
16 effective date of this section and applicable to a property located  
17 within an urban growth area may not impose any restriction or  
18 prohibition on the construction, development, or use on a lot of an  
19 accessory dwelling unit that the city or county in which the urban  
20 growth area is located would be prohibited from imposing under  
21 section 4 of this act.

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

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

28 NEW SECTION. **Sec. 13.** The following acts or parts of acts are  
29 each repealed:

- 30 (1) RCW 35.63.210 (Accessory apartments) and 1993 c 478 s 8;  
31 (2) RCW 35A.63.230 (Accessory apartments) and 1993 c 478 s 9;  
32 (3) RCW 36.70A.400 (Accessory apartments) and 1993 c 478 s 11;  
33 (4) RCW 36.70.677 (Accessory apartments) and 1993 c 478 s 10; and  
34 (5) RCW 43.63A.215 (Accessory apartments—Development and  
35 placement—Local governments) and 1993 c 478 s 7."

**ADOPTED AS AMENDED 04/06/2023**

1        On page 1, line 2 of the title, after "units;" strike the  
2 remainder of the title and insert "amending RCW 36.70A.696,  
3 43.21C.495, and 36.70A.280; adding new sections to chapter 36.70A  
4 RCW; adding a new section to chapter 64.34 RCW; adding a new section  
5 to chapter 64.32 RCW; adding a new section to chapter 64.38 RCW;  
6 adding a new section to chapter 64.90 RCW; creating a new section;  
7 and repealing RCW 35.63.210, 35A.63.230, 36.70A.400, 36.70.677, and  
8 43.63A.215."

EFFECT: (1) Removes the provision that a city or county may not establish a requirement for the provision of off-street parking for ADUs as one of the three of four options a jurisdiction must adopt in accordance with this act. The remaining options are added as mandatory for a jurisdiction to comply with in accordance with this act;

(2) Removes the provision that attached or detached accessory dwelling units may not be considered as contributing to the overall underlying density within the urban growth area of a county for purposes of compliance with the growth management act;

(3) Authorizes cities and counties to impose a limit of two accessory dwelling units, in addition to the principal unit, on a residential lot of 2,000 square feet or less;

(4) Provides that the requirements in Sec. 3 do not apply to lots designated with critical areas or their buffers, or to a watershed serving a reservoir or potable water if that watershed is or was listed as impaired or threatened under the U.S. clean water act;

(5) Removes the provision added to the GMA prohibiting a restrictive covenant or deed restriction from imposing any restriction or prohibition on the construction, development, or use on a lot of an ADU located in a UGA. These provisions are now added under the statutes governing condominiums, homeowners' associations, and common interest communities;

(6) Provides that restrictive covenants or deed restrictions created to protect public health and safety, and ground and surface waters from on-site wastewater may restrict or prohibit the construction, development, or use on a lot of an ADU located in a UGA.

--- END ---