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**SUBSTITUTE SENATE BILL 5235**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senate Local Government, Land Use & Tribal Affairs (originally sponsored by Senators Shewmake, Frame, Lovelett, Nguyen, Pedersen, and Salomon)

READ FIRST TIME 02/10/23.

1 AN ACT Relating to accessory dwelling units; amending RCW  
2 36.70A.696, 36.70A.697, and 36.70A.698; reenacting and amending RCW  
3 36.70A.070; adding new sections to chapter 36.70A RCW; and creating a  
4 new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that there is a  
7 shortage of affordable housing units available for home ownership or  
8 long-term rental within most urban growth areas of the state. This  
9 lack of affordable housing forces many residents to spend more than  
10 30 percent of their household income on housing, greatly increasing  
11 housing insecurity and contributing to the state's crisis of  
12 unacceptable numbers of persons experiencing homelessness. Increasing  
13 the availability of accessory dwelling units, also referred to as  
14 "ADUs," may increase opportunities for people to age in their own  
15 home and increase multigenerational family ties along with offering  
16 opportunities to reduce intergenerational poverty by increasing home  
17 ownership. The legislature finds that accessory dwelling units can be  
18 one way to add affordable long-term housing and to provide a needed  
19 increase in housing density within urban growth areas with benefits  
20 to reducing fossil fuel use and other contributions to climate change  
21 due to housing and transportation patterns. The legislature seeks to

1 encourage accessory dwelling unit availability as a modest housing  
2 option by streamlining local government regulations that may  
3 unintentionally make accessory dwelling units less economical. Since  
4 residents in a region may be choosing between cities, it is important  
5 to acknowledge that one city cannot build affordability on its own.  
6 An expansion in supply of affordable housing in a small city, but not  
7 neighboring cities, may satisfy some of the demand for affordable  
8 housing, but without a regional strategy, small cities will not be  
9 able to build affordability on their own. Statewide action is needed.  
10 Furthermore, the legislature finds that research from several cities  
11 shows that when accessory dwelling units are built or that are  
12 converted and offered for short-term rental for tourists and business  
13 visitors, they may not improve housing affordability. Therefore, it  
14 is the intent of the legislature to meet these important policy goals  
15 by increasing the availability of accessory dwelling units as modest  
16 housing options, limiting the restrictions that can be imposed on the  
17 development and use of accessory dwelling units within urban growth  
18 areas, and authorizing local governments to adopt programs to  
19 incentivize or reduce local government-imposed cost or time related  
20 obstacles to the development of accessory dwelling units when the  
21 accessory dwelling units will be utilized for long-term housing.

22 **Sec. 2.** RCW 36.70A.070 and 2022 c 246 s 2 and 2022 c 220 s 1 are  
23 each reenacted and amended to read as follows:

24 The comprehensive plan of a county or city that is required or  
25 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,  
26 and descriptive text covering objectives, principles, and standards  
27 used to develop the comprehensive plan. The plan shall be an  
28 internally consistent document and all elements shall be consistent  
29 with the future land use map. A comprehensive plan shall be adopted  
30 and amended with public participation as provided in RCW 36.70A.140.  
31 Each comprehensive plan shall include a plan, scheme, or design for  
32 each of the following:

33 (1) A land use element designating the proposed general  
34 distribution and general location and extent of the uses of land,  
35 where appropriate, for agriculture, timber production, housing,  
36 commerce, industry, recreation, open spaces, general aviation  
37 airports, public utilities, public facilities, and other land uses.  
38 The land use element shall include population densities, building  
39 intensities, and estimates of future population growth. The land use

1 element shall provide for protection of the quality and quantity of  
2 groundwater used for public water supplies. Wherever possible, the  
3 land use element should consider utilizing urban planning approaches  
4 that promote physical activity. Where applicable, the land use  
5 element shall review drainage, flooding, and stormwater runoff in the  
6 area and nearby jurisdictions and provide guidance for corrective  
7 actions to mitigate or cleanse those discharges that pollute waters  
8 of the state, including Puget Sound or waters entering Puget Sound.

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

11 (a) Includes an inventory and analysis of existing and projected  
12 housing needs that identifies the number of housing units necessary  
13 to manage projected growth, as provided by the department of  
14 commerce, including:

15 (i) Units for moderate, low, very low, and extremely low-income  
16 households; and

17 (ii) Emergency housing, emergency shelters, and permanent  
18 supportive housing;

19 (b) Includes a statement of goals, policies, objectives, and  
20 mandatory provisions for the preservation, improvement, and  
21 development of housing, including single-family residences, and  
22 within an urban growth area boundary, moderate density housing  
23 options including, but not limited to, duplexes, triplexes, and  
24 townhomes;

25 (c) Identifies sufficient capacity of land for housing including,  
26 but not limited to, government-assisted housing, housing for  
27 moderate, low, very low, and extremely low-income households,  
28 manufactured housing, multifamily housing, group homes, foster care  
29 facilities, emergency housing, emergency shelters, permanent  
30 supportive housing, and within an urban growth area boundary,  
31 consideration of duplexes, triplexes, and townhomes;

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

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

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

39 (iii) Consideration of housing locations in relation to  
40 employment location; and

1 (iv) Consideration (~~of the role~~) and utilization of accessory  
2 dwelling units in meeting housing needs in compliance with RCW  
3 36.70A.698;

4 (e) Identifies local policies and regulations that result in  
5 racially disparate impacts, displacement, and exclusion in housing,  
6 including:

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

8 (ii) Disinvestment; and

9 (iii) Infrastructure availability;

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

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

16 (h) Establishes antidisplacement policies, with consideration  
17 given to the preservation of historical and cultural communities as  
18 well as investments in low, very low, extremely low, and moderate-  
19 income housing; equitable development initiatives; inclusionary  
20 zoning; community planning requirements; tenant protections; land  
21 disposition policies; and consideration of land that may be used for  
22 affordable housing.

23 In counties and cities subject to the review and evaluation  
24 requirements of RCW 36.70A.215, any revision to the housing element  
25 shall include consideration of prior review and evaluation reports  
26 and any reasonable measures identified. The housing element should  
27 link jurisdictional goals with overall county goals to ensure that  
28 the housing element goals are met.

29 The adoption of ordinances, development regulations and  
30 amendments to such regulations, and other nonproject actions taken by  
31 a city that is required or chooses to plan under RCW 36.70A.040 that  
32 increase housing capacity, increase housing affordability, and  
33 mitigate displacement as required under this subsection (2) and that  
34 apply outside of critical areas are not subject to administrative or  
35 judicial appeal under chapter 43.21C RCW unless the adoption of such  
36 ordinances, development regulations and amendments to such  
37 regulations, or other nonproject actions has a probable significant  
38 adverse impact on fish habitat.

39 (3) A capital facilities plan element consisting of: (a) An  
40 inventory of existing capital facilities owned by public entities,

1 showing the locations and capacities of the capital facilities; (b) a  
2 forecast of the future needs for such capital facilities; (c) the  
3 proposed locations and capacities of expanded or new capital  
4 facilities; (d) at least a six-year plan that will finance such  
5 capital facilities within projected funding capacities and clearly  
6 identifies sources of public money for such purposes; and (e) a  
7 requirement to reassess the land use element if probable funding  
8 falls short of meeting existing needs and to ensure that the land use  
9 element, capital facilities plan element, and financing plan within  
10 the capital facilities plan element are coordinated and consistent.  
11 Park and recreation facilities shall be included in the capital  
12 facilities plan element.

13 (4) A utilities element consisting of the general location,  
14 proposed location, and capacity of all existing and proposed  
15 utilities((~~r~~)) including, but not limited to, electrical lines,  
16 telecommunication lines, and natural gas lines.

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

21 (a) Growth management act goals and local circumstances. Because  
22 circumstances vary from county to county, in establishing patterns of  
23 rural densities and uses, a county may consider local circumstances,  
24 but shall develop a written record explaining how the rural element  
25 harmonizes the planning goals in RCW 36.70A.020 and meets the  
26 requirements of this chapter.

27 (b) Rural development. The rural element shall permit rural  
28 development, forestry, and agriculture in rural areas. The rural  
29 element shall provide for a variety of rural densities, uses,  
30 essential public facilities, and rural governmental services needed  
31 to serve the permitted densities and uses. To achieve a variety of  
32 rural densities and uses, counties may provide for clustering,  
33 density transfer, design guidelines, conservation easements, and  
34 other innovative techniques that will accommodate appropriate rural  
35 economic advancement, densities, and uses that are not characterized  
36 by urban growth and that are consistent with rural character.

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

40 (i) Containing or otherwise controlling rural development;

1 (ii) Assuring visual compatibility of rural development with the  
2 surrounding rural area;

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

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

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

9 (d) Limited areas of more intensive rural development. Subject to  
10 the requirements of this subsection and except as otherwise  
11 specifically provided in this subsection (5)(d), the rural element  
12 may allow for limited areas of more intensive rural development,  
13 including necessary public facilities and public services to serve  
14 the limited area as follows:

15 (i) Rural development consisting of the infill, development, or  
16 redevelopment of existing commercial, industrial, residential, or  
17 mixed-use areas, whether characterized as shoreline development,  
18 villages, hamlets, rural activity centers, or crossroads  
19 developments.

20 (A) A commercial, industrial, residential, shoreline, or mixed-  
21 use area are subject to the requirements of (d)(iv) of this  
22 subsection, but are not subject to the requirements of (c)(ii) and  
23 (iii) of this subsection.

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

28 (C) Any development or redevelopment in terms of building size,  
29 scale, use, or intensity may be permitted subject to confirmation  
30 from all existing providers of public facilities and public services  
31 of sufficient capacity of existing public facilities and public  
32 services to serve any new or additional demand from the new  
33 development or redevelopment. Development and redevelopment may  
34 include changes in use from vacant land or a previously existing use  
35 so long as the new use conforms to the requirements of this  
36 subsection (5) and is consistent with the local character. Any  
37 commercial development or redevelopment within a mixed-use area must  
38 be principally designed to serve the existing and projected rural  
39 population and must meet the following requirements:

1 (I) Any included retail or food service space must not exceed the  
2 footprint of previously occupied space or 5,000 square feet,  
3 whichever is greater, for the same or similar use; and

4 (II) Any included retail or food service space must not exceed  
5 2,500 square feet for a new use;

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

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

32 (iv) A county shall adopt measures to minimize and contain the  
33 existing areas of more intensive rural development, as appropriate,  
34 authorized under this subsection. Lands included in such existing  
35 areas shall not extend beyond the logical outer boundary of the  
36 existing area, thereby allowing a new pattern of low-density sprawl.  
37 Existing areas are those that are clearly identifiable and contained  
38 and where there is a logical boundary delineated predominately by the  
39 built environment, but that may also include undeveloped lands if  
40 limited as provided in this subsection. The county shall establish

1 the logical outer boundary of an area of more intensive rural  
2 development. In establishing the logical outer boundary, the county  
3 shall address (A) the need to preserve the character of existing  
4 natural neighborhoods and communities, (B) physical boundaries, such  
5 as bodies of water, streets and highways, and land forms and  
6 contours, (C) the prevention of abnormally irregular boundaries, and  
7 (D) the ability to provide public facilities and public services in a  
8 manner that does not permit low-density sprawl;

9 (v) For purposes of this subsection (5)(d), an existing area or  
10 existing use is one that was in existence:

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

13 (B) On the date the county adopted a resolution under RCW  
14 36.70A.040(2), in a county that is planning under all of the  
15 provisions of this chapter under RCW 36.70A.040(2); or

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

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

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

26 (a) The transportation element shall include the following  
27 subelements:

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

29 (ii) Estimated traffic impacts to state-owned transportation  
30 facilities resulting from land use assumptions to assist the  
31 department of transportation in monitoring the performance of state  
32 facilities, to plan improvements for the facilities, and to assess  
33 the impact of land-use decisions on state-owned transportation  
34 facilities;

35 (iii) Facilities and services needs, including:

36 (A) An inventory of air, water, and ground transportation  
37 facilities and services, including transit alignments and general  
38 aviation airport facilities, to define existing capital facilities  
39 and travel levels as a basis for future planning. This inventory must



1 include state-owned transportation facilities within the city or  
2 county's jurisdictional boundaries;

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

6 (C) For state-owned transportation facilities, level of service  
7 standards for highways, as prescribed in chapters 47.06 and 47.80  
8 RCW, to gauge the performance of the system. The purposes of  
9 reflecting level of service standards for state highways in the local  
10 comprehensive plan are to monitor the performance of the system, to  
11 evaluate improvement strategies, and to facilitate coordination  
12 between the county's or city's six-year street, road, or transit  
13 program and the office of financial management's (~~ten-year~~) 10-year  
14 investment program. The concurrency requirements of (b) of this  
15 subsection do not apply to transportation facilities and services of  
16 statewide significance except for counties consisting of islands  
17 whose only connection to the mainland are state highways or ferry  
18 routes. In these island counties, state highways and ferry route  
19 capacity must be a factor in meeting the concurrency requirements in  
20 (b) of this subsection;

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

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

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

31 (iv) Finance, including:

32 (A) An analysis of funding capability to judge needs against  
33 probable funding resources;

34 (B) A multiyear financing plan based on the needs identified in  
35 the comprehensive plan, the appropriate parts of which shall serve as  
36 the basis for the six-year street, road, or transit program required  
37 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW  
38 35.58.2795 for public transportation systems. The multiyear financing  
39 plan should be coordinated with the (~~ten-year~~) 10-year investment

1 program developed by the office of financial management as required  
2 by RCW 47.05.030;

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

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

10 (vi) Demand-management strategies;

11 (vii) Pedestrian and bicycle component to include collaborative  
12 efforts to identify and designate planned improvements for pedestrian  
13 and bicycle facilities and corridors that address and encourage  
14 enhanced community access and promote healthy lifestyles.

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

33 (c) The transportation element described in this subsection (6),  
34 the six-year plans required by RCW 35.77.010 for cities, RCW  
35 36.81.121 for counties, and RCW 35.58.2795 for public transportation  
36 systems, and the (~~ten-year~~) 10-year investment program required by  
37 RCW 47.05.030 for the state, must be consistent.

38 (7) An economic development element establishing local goals,  
39 policies, objectives, and provisions for economic growth and vitality  
40 and a high quality of life. A city that has chosen to be a

1 residential community is exempt from the economic development element  
2 requirement of this subsection.

3 (8) A park and recreation element that implements, and is  
4 consistent with, the capital facilities plan element as it relates to  
5 park and recreation facilities. The element shall include: (a)  
6 Estimates of park and recreation demand for at least a (~~ten-year~~)  
7 10-year period; (b) an evaluation of facilities and service needs;  
8 and (c) an evaluation of intergovernmental coordination opportunities  
9 to provide regional approaches for meeting park and recreational  
10 demand.

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

18 **Sec. 3.** 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 unless the context clearly requires otherwise.

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

25 (2) "Attached accessory dwelling unit" means an accessory  
26 dwelling unit located within or attached to a single-family housing  
27 unit, duplex, triplex, townhome, or other housing unit. An attached  
28 accessory dwelling unit must have a substantial portion of its  
29 footprint within the other housing unit, and must share structural  
30 elements with the other unit.

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

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

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

38 (6) "Dwelling unit" means a residential living unit that provides  
39 complete independent living facilities for one or more persons and

1 that includes permanent provisions for living, sleeping, eating,  
2 cooking, and sanitation.

3 (7) "Major transit stop" means:

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

6 (b) Commuter rail stops;

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

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

11 (e) Stops for a bus or other transit mode providing actual fixed  
12 route service at intervals of ~~((at least fifteen))~~ no greater than 15  
13 minutes for at least five hours during the peak hours of operation on  
14 weekdays.

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

22 **Sec. 4.** RCW 36.70A.697 and 2020 c 217 s 3 are each amended to  
23 read as follows:

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

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

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

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

36 **Sec. 5.** RCW 36.70A.698 and 2020 c 217 s 4 are each amended to  
37 read as follows:

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

7       (2) When regulating accessory dwelling units, cities and counties  
8 may not:

9       (a) Impose a limit on accessory dwelling units of fewer than one  
10 attached and one detached accessory dwelling unit on a lot zoned for  
11 residential use with a total square footage of more than 4,500 square  
12 feet, unless the lot is otherwise zoned to allow:

13       (i) At least two dwelling units, in which case at least one  
14 additional attached or detached accessory dwelling unit must be  
15 allowed;

16       (ii) At least three dwelling units;

17       (b) Impose a limit on accessory dwelling units of fewer than one  
18 attached or one detached accessory dwelling unit on a lot zoned for  
19 residential use with a total square footage of less than 4,500 square  
20 feet, unless the lot is otherwise zoned to allow at least two  
21 dwelling units;

22       (c) Impose any prohibition of the sale or other conveyance of a  
23 condominium unit independently of a principal unit that is based  
24 solely on the grounds that the condominium unit was originally built  
25 as an accessory dwelling unit, provided that the condominium unit is  
26 served by utilities that are independent of the principal unit;

27       (d) Impose any owner occupancy requirements on any housing or  
28 dwelling unit on a lot containing an accessory dwelling unit. A city  
29 or county may retain an owner occupancy requirement if:

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

32       (ii) The city or county administers a general program, begun  
33 prior to December 31, 2022, offering the waiver or reduction of  
34 impact fees and costs associated with accessory dwelling unit  
35 construction, if the units are offered at or below 80 percent of the  
36 area median income;

37       (e) Require the provision of off-street parking for accessory  
38 dwelling units within one-quarter mile of a major transit stop,  
39 except that a city or county may require the provision of off-street  
40 parking for such an accessory dwelling unit if the city or county

1 makes a determination, supported by evidence, that the accessory  
2 dwelling unit is in an area that would make on-street parking  
3 infeasible or unsafe for the accessory dwelling unit; or

4 (f) Apply other development regulations to the construction of  
5 accessory dwelling units that are more restrictive than regulations  
6 on single-family or other residential developments.

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

14 ~~(3) A city that has adopted or substantively amended accessory~~  
15 ~~dwelling unit regulations within the four years previous to June 11,~~  
16 ~~2020, is not subject to the requirements of this section.)~~

17 (3) Regulations that may be applied to accessory dwelling units  
18 by cities and counties include:

19 (a) Generally applicable development regulations;

20 (b) Public health, safety, building code, and environmental  
21 permitting requirements, including regulations to protect ground and  
22 surface waters from on-site wastewater, that would be applicable to a  
23 principal unit;

24 (c) A prohibition on the construction of accessory dwelling units  
25 on lots that are not connected to or served by public sewers;

26 (d) A prohibition or restriction on the construction of accessory  
27 dwelling units in residential zones with a density of one dwelling  
28 unit per acre or less that are within areas designated as wetlands,  
29 fish and wildlife habitats, floodplains, or geologically hazardous  
30 areas.

31 (4) This section and section 4 of this act apply only within  
32 urban growth areas required by this chapter.

33 NEW SECTION. Sec. 6. A new section is added to chapter 36.70A  
34 RCW to read as follows:

35 To encourage the use of accessory dwelling units for long-term  
36 housing, cities and counties may adopt ordinances, development  
37 regulations, and other official controls which waive or defer fees,  
38 including impact fees; defer the payment of taxes; or waive specific  
39 regulations. Cities and counties may only offer such reduced or

1 deferred fees, deferred taxes, waivers, or other incentives for the  
2 development or construction of accessory dwelling units if such units  
3 are subject to effective binding commitments or covenants that the  
4 units will not be regularly offered for short-term rental.

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

7 (1) No restrictive covenant or deed restriction created after the  
8 effective date of this section and applicable to a property located  
9 within an urban growth area may impose any restriction or prohibition  
10 on the construction, development, or use on a lot of an accessory  
11 dwelling unit that the city or county in which the urban growth area  
12 is located would be prohibited from imposing under RCW 36.70A.698.

13 (2) A city or county issuing a permit for the construction of an  
14 accessory dwelling unit may not be held civilly liable on the basis  
15 that the construction of the accessory dwelling unit would violate a  
16 restrictive covenant or deed restriction that was created after the  
17 effective date of this section and that is contrary to subsection (1)  
18 of this section.

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