

CERTIFICATION OF ENROLLMENT

**ENGROSSED HOUSE BILL 1337**

Chapter 334, Laws of 2023

(partial veto)

68th Legislature  
2023 Regular Session

GROWTH MANAGEMENT ACT—ACCESSORY DWELLING UNITS—URBAN GROWTH AREAS

EFFECTIVE DATE: July 23, 2023

Passed by the House April 14, 2023  
Yeas 85 Nays 11

LAURIE JINKINS

**Speaker of the House of  
Representatives**

Passed by the Senate April 6, 2023  
Yeas 39 Nays 7

DENNY HECK

**President of the Senate**

Approved May 8, 2023 1:13 PM with the  
exception of section 5, which is  
vetoed.

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the  
House of Representatives of the  
State of Washington, do hereby  
certify that the attached is  
**ENGROSSED HOUSE BILL 1337** as passed  
by the House of Representatives and  
the Senate on the dates hereon set  
forth.

BERNARD DEAN

**Chief Clerk**

FILED

May 10, 2023

**Secretary of State  
State of Washington**

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**ENGROSSED HOUSE BILL 1337**

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AS AMENDED BY THE SENATE

Passed Legislature - 2023 Regular Session

**State of Washington                      68th Legislature                      2023 Regular Session**

**By** Representatives Gregerson, Barkis, Berry, Christian, Duerr, Fitzgibbon, Taylor, Ramel, Reeves, Simmons, Walen, Graham, Bateman, Reed, Lekanoff, Doglio, Tharinger, Cortes, Macri, and Stonier

Read first time 01/16/23. Referred to Committee on Housing.

1            AN ACT Relating to expanding housing options by easing barriers  
2 to the construction and use of accessory dwelling units; amending RCW  
3 36.70A.696, 43.21C.495, and 36.70A.280; adding new sections to  
4 chapter 36.70A RCW; adding a new section to chapter 64.34 RCW; adding  
5 a new section to chapter 64.32 RCW; adding a new section to chapter  
6 64.38 RCW; adding a new section to chapter 64.90 RCW; creating a new  
7 section; and repealing RCW 35.63.210, 35A.63.230, 36.70A.400,  
8 36.70.677, and 43.63A.215.

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

10            NEW SECTION.    **Sec. 1.**    (1) The legislature makes the following  
11 findings:

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

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

20            (c) Localities can start to correct for historic economic and  
21 racial exclusion in single-family zones by opening up these

1 neighborhoods to more diverse housing types, including accessory  
2 dwelling units, that provide lower cost homes. Increasing housing  
3 options in expensive, high-opportunity neighborhoods will give more  
4 families access to schools, parks, and other public amenities  
5 otherwise accessible to only the wealthy.

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

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

16 (f) Accessory dwelling units can meet the needs of Washington's  
17 growing senior population, making it possible for this population to  
18 age in their communities by offering senior-friendly housing, which  
19 prioritizes physical accessibility, in walkable communities near  
20 amenities essential to successful aging in place, including transit  
21 and grocery stores, without requiring costly renovations of existing  
22 housing stock.

23 (g) Homeowners who add an accessory dwelling unit may benefit  
24 from added income and an increased sense of security.

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

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

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

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

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

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

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

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

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

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

14 (6) "Dwelling unit" means a residential living unit that provides  
15 complete independent living facilities for one or more persons and  
16 that includes permanent provisions for living, sleeping, eating,  
17 cooking, and sanitation.

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

21 (8) "Major transit stop" means:

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

24 (b) Commuter rail stops;

25 (c) Stops on rail or fixed guideway systems, including  
26 transitways;

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

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

32 ((+8)) (9) "Owner" means any person who has at least 50 percent  
33 ownership in a property on which an accessory dwelling unit is  
34 located.

35 ((+9)) (10) "Principal unit" means the single-family housing  
36 unit, duplex, triplex, townhome, or other housing unit located on the  
37 same lot as an accessory dwelling unit.

38 (11) "Short-term rental" means a lodging use, that is not a hotel  
39 or motel or bed and breakfast, in which a dwelling unit, or portion

1 thereof, is offered or provided to a guest by a short-term rental  
2 operator for a fee for fewer than 30 consecutive nights.

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

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

11 (b) In any city or county that has not adopted or amended  
12 ordinances, regulations, or other official controls as required under  
13 this section, the requirements of this section and section 4 of this  
14 act supersede, preempt, and invalidate any conflicting local  
15 development regulations.

16 (2) Ordinances, development regulations, and other official  
17 controls adopted or amended pursuant to this section and section 4 of  
18 this act must only apply in the portions of towns, cities, and  
19 counties that are within urban growth areas designated under this  
20 chapter.

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

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

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

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

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

38 (c) Applying generally applicable development regulations to the  
39 construction of an accessory unit, except when the application of

1 such regulations would be contrary to this section or to section 4 of  
2 this act;

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

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

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

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

16 (a) The city or county may not assess impact fees on the  
17 construction of accessory dwelling units that are greater than 50  
18 percent of the impact fees that would be imposed on the principal  
19 unit;

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

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

27 (i) One attached accessory dwelling unit and one detached  
28 accessory dwelling unit;

29 (ii) Two attached accessory dwelling units; or

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

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

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

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

1 (g) The city or county may not establish roof height limits on an  
2 accessory dwelling unit of less than 24 feet, unless the height  
3 limitation that applies to the principal unit is less than 24 feet,  
4 in which case a city or county may not impose roof height limitation  
5 on accessory dwelling units that is less than the height limitation  
6 that applies to the principal unit;

7 (h) A city or county may not impose setback requirements, yard  
8 coverage limits, tree retention mandates, restrictions on entry door  
9 locations, aesthetic requirements, or requirements for design review  
10 for accessory dwelling units that are more restrictive than those for  
11 principal units;

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

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

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

23 (l) A city or county may not require public street improvements  
24 as a condition of permitting accessory dwelling units.

25 (2)(a) A city or county subject to the requirements of this  
26 section may not:

27 (i) Require off-street parking as a condition of permitting  
28 development of accessory dwelling units within one-half mile walking  
29 distance of a major transit stop;

30 (ii) Require more than one off-street parking space per unit as a  
31 condition of permitting development of accessory dwelling units on  
32 lots smaller than 6,000 square feet before any zero lot line  
33 subdivisions or lot splits; and

34 (iii) Require more than two off-street parking spaces per unit as  
35 a condition of permitting development of accessory dwelling units on  
36 lots greater than 6,000 square feet before any zero lot line  
37 subdivisions or lot splits.

38 (b) The provisions of (a) of this subsection do not apply:

39 (i) If a local government submits to the department an empirical  
40 study prepared by a credentialed transportation or land use planning

1 expert that clearly demonstrates, and the department finds and  
2 certifies, that the application of the parking limitations of (a) of  
3 this subsection for accessory dwelling units will be significantly  
4 less safe for vehicle drivers or passengers, pedestrians, or  
5 bicyclists than if the jurisdiction's parking requirements were  
6 applied to the same location for the same number of detached houses.  
7 The department must develop guidance to assist cities and counties on  
8 items to include in the study; or

9 (ii) To portions of cities within a one mile radius of a  
10 commercial airport in Washington with at least 9,000,000 annual  
11 enplanements.

12 (3) When regulating accessory dwelling units, cities and counties  
13 may impose a limit of two accessory dwelling units, in addition to  
14 the principal unit, on a residential lot of 2,000 square feet or  
15 less.

16 (4) The provisions of this section do not apply to lots  
17 designated with critical areas or their buffers as designated in RCW  
18 36.70A.060, or to a watershed serving a reservoir for potable water  
19 if that watershed is or was listed, as of the effective date of this  
20 section, as impaired or threatened under section 303(d) of the  
21 federal clean water act (33 U.S.C. Sec. 1313(d)).

22 **\*NEW SECTION. Sec. 5. A new section is added to chapter 36.70A**  
23 **RCW to read as follows:**

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

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

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

**\*Sec. 5 was vetoed. See message at end of chapter.**

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



1       (1) Adoption of ordinances, development regulations and  
2 amendments to such regulations, and other nonproject actions taken by  
3 a city to implement: The actions specified in section 2, chapter 246,  
4 Laws of 2022 unless the adoption of such ordinances, development  
5 regulations and amendments to such regulations, or other nonproject  
6 actions has a probable significant adverse impact on fish habitat;  
7 and the increased residential building capacity actions identified in  
8 RCW 36.70A.600(1), with the exception of the action specified in RCW  
9 36.70A.600(1)(f), are not subject to administrative or judicial  
10 appeals under this chapter.

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

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

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

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

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

34       (c) That the approval of a work plan adopted under RCW  
35 36.70A.735(1)(a) is not in compliance with the requirements of the  
36 program established under RCW 36.70A.710;

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

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

3 (2) A petition may be filed only by: (a) The state, or a county  
4 or city that plans under this chapter; (b) a person who has  
5 participated orally or in writing before the county or city regarding  
6 the matter on which a review is being requested; (c) a person who is  
7 certified by the governor within (~~sixty~~) 60 days of filing the  
8 request with the board; or (d) a person qualified pursuant to RCW  
9 34.05.530.

10 (3) For purposes of this section "person" means any individual,  
11 partnership, corporation, association, state agency, governmental  
12 subdivision or unit thereof, or public or private organization or  
13 entity of any character.

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

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

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

25 If adjusted by the board, a county growth management planning  
26 population projection shall only be used for the planning purposes  
27 set forth in this chapter and shall be known as the "board adjusted  
28 population projection." None of these changes shall affect the  
29 official state and county population forecasts prepared by the office  
30 of financial management, which shall continue to be used for state  
31 budget and planning purposes.

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

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

37 (2) During each comprehensive plan review required by RCW  
38 36.70A.130, the department must review local government comprehensive  
39 plans and development regulations for compliance with sections 3 and

1 4 of this act and the department's recommendations under subsection  
2 (1) of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (1) RCW 35.63.210 (Accessory apartments) and 1993 c 478 s 8;

37 (2) RCW 35A.63.230 (Accessory apartments) and 1993 c 478 s 9;

38 (3) RCW 36.70A.400 (Accessory apartments) and 1993 c 478 s 11;

1 (4) RCW 36.70.677 (Accessory apartments) and 1993 c 478 s 10; and  
2 (5) RCW 43.63A.215 (Accessory apartments—Development and  
3 placement—Local governments) and 1993 c 478 s 7.

Passed by the House April 14, 2023.

Passed by the Senate April 6, 2023.

Approved by the Governor May 8, 2023, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 10, 2023.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 5, Engrossed House Bill No. 1337 entitled:

"AN ACT Relating to expanding housing options by easing barriers to the construction and use of accessory dwelling units."

Section 5 of the bill gives local governments authority to waive or defer fees, defer payment of taxes, or waive other regulations for the development of accessory dwelling units (ADUs) if specified conditions are met. The specified conditions are that the ADU must be located within an urban growth area, and the ADU must be subject to a locally adopted covenant program ensuring that the ADU will be primarily utilized for long-term housing. Current law allows local governments to waive fees, taxes, and to establish various incentives for the construction of ADUs without requiring the creation of a local covenant program. The administrative costs necessary to administer a new covenant program for ADUs may cause some cities to discontinue current incentive programs.

For these reasons I have vetoed Section 5 of Engrossed House Bill No. 1337.

With the exception of Section 5, Engrossed House Bill No. 1337 is approved."

--- END ---