

2SHB 1096 - H AMD 160

By Representative Barkis

ADOPTED AS AMENDED 03/06/2025

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

3 "NEW SECTION. **Sec. 1.** The legislature finds that allowing an
4 existing residential lot to be split to create a new residential lot
5 through a simple, administrative process can offer many advantages to
6 both the existing homeowner and to prospective homebuyers. The
7 legislature further finds that administrative lot splitting can
8 provide current owners the opportunity to maintain homeownership in
9 changing life circumstances while facilitating development of middle
10 housing to provide homebuyers, including first-time homebuyers, with
11 more affordable ownership opportunities. The legislature also finds
12 that lot splitting can be combined with the review of a residential
13 building permit application to create a single integrated process
14 benefiting both homeowners and cities. Therefore, it is the intent of
15 the legislature to ease restrictions on, and expand opportunities
16 for, lot splitting in certain cities planning under chapter 36.70A
17 RCW, the growth management act.

18 NEW SECTION. **Sec. 2.** A new section is added to chapter 58.17
19 RCW to read as follows:

20 (1) Cities required to comply with the minimum density
21 requirements under RCW 36.70A.635 shall include in their development
22 regulations a process through which an applicant can seek review and
23 approval of an administrative lot split, which may be combined with
24 concurrent review of a residential building permit to create new
25 middle housing, as defined in RCW 36.70A.030, or single-family
26 housing. The application process for a residential lot to be split
27 may require only an administrative decision, through which the
28 application is reviewed, approved, or denied by the planning director
29 or other designee based on applicable development standards without a
30 predecision public hearing. A new buildable residential lot and
31 residential building permit or permits must be administratively

1 approved and are not subject to administrative appeal if they comply
2 with applicable development standards and the following conditions
3 are met:

4 (a) No more than one newly created lot is created through the
5 administrative lot split;

6 (b) Both the parent lot and the newly created lot meet the
7 minimum lot size allowed under applicable development regulations;

8 (c) The parent lot was not created through the splitting of a
9 residential lot authorized by this section;

10 (d) The parent lot is located in a residential zone and not in an
11 exclusively nonresidential zone including, but not limited to, zones
12 that are exclusively commercial, retail, agricultural, or industrial;

13 (e) The applicable sewer and water purveyors have issued
14 certificates of availability to serve the newly created lot and
15 dwelling units;

16 (f) Access and utility rights are granted or conveyed as
17 necessary on or before recording of the lot split survey to provide
18 access for the maximum number of dwelling units that could be
19 developed on the newly created lot, provided such access rights may
20 be reduced consistent with a city's adopted codes, regulations, or
21 design standards as applicable through review of a subsequent
22 application for a building permit, short subdivision, unit lot
23 subdivision, subdivision application, or short subdivision if less
24 than the maximum number of dwelling units are built on the newly
25 created lot;

26 (g) The planning director or other designee determines that the
27 application follows all applicable development regulations; and

28 (h) The lot split survey has been approved by the planning
29 director or other designee and includes a condition on the face of
30 the survey that further lot splits of the parent lot and newly
31 created lot are not authorized by this section.

32 (2) A proposed lot split may be conditioned upon dedication of
33 right-of-way on the parent lot to the extent such dedication is
34 required under applicable codes, regulations, and design standards
35 for the development, short plat, or subdivision of the parent lot
36 absent an administrative lot split.

37 (3) Development of dwelling units on the newly created lot may be
38 conditioned upon construction of frontage improvements to a right-of-
39 way adjacent to either the parent lot or the newly created lot to the

1 extent required under applicable codes, regulations, and design
2 standards.

3 (4) Any construction on the newly created lot is subject to all
4 existing state and local laws including those specified in this
5 section. Nothing in this section modifies the requirements for
6 approval of residential building permits in chapter 19.27 RCW.

7 (5) A city subject to the requirements of this section may not
8 impose a limit on the total number of dwelling units allowed on the
9 parent lot or newly created lot that is less than the number of
10 dwelling units allowed by the underlying zoning of the parent lot
11 prior to the administrative lot split.

12 (6) Notwithstanding the provisions of this section, lots that are
13 not buildable according to locally adopted development regulations
14 including, but not limited to, critical areas, shorelines,
15 stormwater, setbacks, impervious surface areas, and building coverage
16 standards, are not eligible for a lot split under this section.

17 (7) If a lot split results in a lot of a size that would allow
18 for further land division, the lot is not eligible for a lot split
19 but may be divided under other applicable land subdivision processes.

20 (8) The newly created lot must meet any locally adopted minimum
21 density requirements.

22 (9) Cities are immune from any liability, loss, or other damage
23 suffered by another that is related to the city's approval of a lot
24 split under this act, including if the lot split creates a lot that
25 is later determined to not be buildable.

26 (10) Parent lots and newly created lots approved under this
27 section must have a lot split survey recorded with the county
28 assessor with a notation that future lot splits are not allowed on
29 the lot.

30 (11) Ordinances adopted to comply with this section are not
31 subject to administrative or judicial appeal under chapter 43.21C
32 RCW.

33 (12) The department of commerce must develop guidance for cities
34 in implementing the lot splitting requirements.

35 (13) A city required to comply with the requirements of this
36 section that has its next comprehensive plan update due in 2027,
37 pursuant to RCW 36.70A.130, must adopt or amend by ordinance, and
38 incorporate into its development regulations, zoning regulations, and
39 other official controls, the requirements of this section in its next
40 comprehensive plan update. All other cities required to comply with

1 this section must implement the requirements within two years of the
2 effective date of this section.

3 (14) For the purposes of this section, the following definitions
4 apply unless the context clearly requires otherwise:

5 (a) "Lot split" means the administrative process of dividing an
6 existing lot into two lots for the purpose of sale, lease, or
7 transfer of ownership pursuant to this section.

8 (b) "Lot split survey" means the final survey prepared for filing
9 for record with the county auditor and containing all elements and
10 requirements for a lot split under this section and any local
11 regulations.

12 (c) "Newly created lot" means a lot that was created by a lot
13 split under this section.

14 (d) "Parent lot" means a lot that is subjected to a lot split
15 under this section.

16 **Sec. 3.** RCW 36.70A.635 and 2024 c 152 s 2 are each amended to
17 read as follows:

18 (1) Except as provided in subsection (4) of this section, any
19 city that is required or chooses to plan under RCW 36.70A.040 must
20 provide by ordinance and incorporate into its development
21 regulations, zoning regulations, and other official controls,
22 authorization for the following:

23 (a) For cities with a population of at least 25,000 but less than
24 75,000 based on office of financial management population estimates:

25 (i) The development of at least two units per lot on all lots
26 zoned predominantly for residential use, unless zoning permitting
27 higher densities or intensities applies;

28 (ii) The development of at least four units per lot on all lots
29 zoned predominantly for residential use, unless zoning permitting
30 higher densities or intensities applies, within one-quarter mile
31 walking distance of a major transit stop; and

32 (iii) The development of at least four units per lot on all lots
33 zoned predominantly for residential use, unless zoning permitting
34 higher densities or intensities applies, if at least one unit is
35 affordable housing.

36 (b) For cities with a population of at least 75,000 based on
37 office of financial management population estimates:

1 (i) The development of at least four units per lot on all lots
2 zoned predominantly for residential use, unless zoning permitting
3 higher densities or intensities applies;

4 (ii) The development of at least six units per lot on all lots
5 zoned predominantly for residential use, unless zoning permitting
6 higher densities or intensities applies, within one-quarter mile
7 walking distance of a major transit stop; and

8 (iii) The development of at least six units per lot on all lots
9 zoned predominantly for residential use, unless zoning permitting
10 higher densities or intensities applies, if at least two units are
11 affordable housing.

12 (c) For cities with a population of less than 25,000, that are
13 within a contiguous urban growth area with the largest city in a
14 county with a population of more than 275,000, based on office of
15 financial management population estimates the development of at least
16 two units per lot on all lots zoned predominantly for residential
17 use, unless zoning permitting higher densities or intensities
18 applies.

19 (2)(a) To qualify for the additional units allowed under
20 subsection (1) of this section, the applicant must commit to renting
21 or selling the required number of units as affordable housing. The
22 units must be maintained as affordable for a term of at least 50
23 years, and the property must satisfy that commitment and all required
24 affordability and income eligibility conditions adopted by the local
25 government under this chapter. A city must require the applicant to
26 record a covenant or deed restriction that ensures the continuing
27 rental of units subject to these affordability requirements
28 consistent with the conditions in chapter 84.14 RCW for a period of
29 no less than 50 years. The covenant or deed restriction must also
30 address criteria and policies to maintain public benefit if the
31 property is converted to a use other than which continues to provide
32 for permanently affordable housing.

33 (b) The units dedicated as affordable must be provided in a range
34 of sizes comparable to other units in the development. To the extent
35 practicable, the number of bedrooms in affordable units must be in
36 the same proportion as the number of bedrooms in units within the
37 entire development. The affordable units must generally be
38 distributed throughout the development and have substantially the
39 same functionality as the other units in the development.

1 (c) If a city has enacted a program under RCW 36.70A.540, the
2 terms of that program govern to the extent they vary from the
3 requirements of this subsection.

4 (3) If a city has enacted a program under RCW 36.70A.540,
5 subsection (1) of this section does not preclude the city from
6 requiring any development, including development described in
7 subsection (1) of this section, to provide affordable housing, either
8 on-site or through an in-lieu payment, nor limit the city's ability
9 to expand such a program or modify its requirements.

10 (4)(a) As an alternative to the density requirements in
11 subsection (1) of this section, a city may implement the density
12 requirements in subsection (1) of this section for at least 75
13 percent of lots in the city that are primarily dedicated to single-
14 family detached housing units.

15 (b) The 25 percent of lots for which the requirements of
16 subsection (1) of this section are not implemented must include but
17 are not limited to:

18 (i) Any areas within the city for which the department has
19 certified an extension of the implementation timelines under RCW
20 36.70A.637 due to the risk of displacement;

21 (ii) Any areas within the city for which the department has
22 certified an extension of the implementation timelines under RCW
23 36.70A.638 due to a lack of infrastructure capacity;

24 (iii) Any lots, parcels, and tracts designated with critical
25 areas or their buffers that are exempt from the density requirements
26 as provided in subsection (8) of this section;

27 (iv) Any portion of a city within a one-mile radius of a
28 commercial airport with at least 9,000,000 annual enplanements that
29 is exempt from the parking requirements under subsection (7)(b) of
30 this section; and

31 (v) Any areas subject to sea level rise, increased flooding,
32 susceptible to wildfires, or geological hazards over the next 100
33 years.

34 (c) Unless identified as at higher risk of displacement under RCW
35 36.70A.070(2)(g), the 25 percent of lots for which the requirements
36 of subsection (1) of this section are not implemented may not
37 include:

38 (i) Any areas for which the exclusion would further racially
39 disparate impacts or result in zoning with a discriminatory effect;

1 (ii) Any areas within one-half mile walking distance of a major
2 transit stop; or

3 (iii) Any areas historically covered by a covenant or deed
4 restriction excluding racial minorities from owning property or
5 living in the area, as known to the city at the time of each
6 comprehensive plan update.

7 (5) A city subject to the requirements of subsection (1)(a) or
8 (b) of this section must allow at least six of the nine types of
9 middle housing to achieve the unit density required in subsection (1)
10 of this section. A city may allow accessory dwelling units to achieve
11 the unit density required in subsection (1) of this section. Cities
12 are not required to allow accessory dwelling units or middle housing
13 types beyond the density requirements in subsection (1) of this
14 section. A city must also allow zero lot line short subdivision where
15 the number of lots created is equal to the unit density required in
16 subsection (1) of this section.

17 (6) Any city subject to the requirements of this section:

18 (a) If applying design review for middle housing, only
19 administrative design review shall be required;

20 (b) Except as provided in (a) of this subsection, shall not
21 require through development regulations any standards for middle
22 housing that are more restrictive than those required for detached
23 single-family residences, but may apply any objective development
24 regulations that are required for detached single-family residences,
25 including, but not limited to, set-back, lot coverage, stormwater,
26 clearing, and tree canopy and retention requirements;

27 (c) Shall apply to middle housing the same development permit and
28 environmental review processes that apply to detached single-family
29 residences, unless otherwise required by state law including, but not
30 limited to, shoreline regulations under chapter 90.58 RCW, building
31 codes under chapter 19.27 RCW, energy codes under chapter 19.27A RCW,
32 or electrical codes under chapter 19.28 RCW;

33 (d) Shall not require off-street parking as a condition of
34 permitting development of middle housing within one-half mile walking
35 distance of a major transit stop;

36 (e) Shall not require more than one off-street parking space per
37 unit as a condition of permitting development of middle housing on
38 lots no greater than 6,000 square feet before any zero lot line
39 subdivisions or lot splits;

1 (f) Shall not require more than two off-street parking spaces per
2 unit as a condition of permitting development of middle housing on
3 lots greater than 6,000 square feet before any zero lot line
4 subdivisions or lot splits; and

5 (g) Are not required to achieve the per unit density under
6 chapter 332, Laws of 2023 on lots after subdivision below 1,000
7 square feet unless the city chooses to enact smaller allowable lot
8 sizes.

9 (7) The provisions of subsection (6)(d) through (f) of this
10 section do not apply:

11 (a) If a local government submits to the department an empirical
12 study prepared by a credentialed transportation or land use planning
13 expert that clearly demonstrates, and the department finds and
14 certifies, that the application of the parking limitations of
15 subsection (6)(d) through (f) of this section for middle housing will
16 be significantly less safe for vehicle drivers or passengers,
17 pedestrians, or bicyclists than if the jurisdiction's parking
18 requirements were applied to the same location for the same number of
19 detached houses. The department must develop guidance to assist
20 cities on items to include in the study; or

21 (b) To portions of cities within a one-mile radius of a
22 commercial airport in Washington with at least 9,000,000 annual
23 enplanements.

24 (8) The provisions of this section do not apply to:

25 (a) Portions of a lot, parcel, or tract designated with critical
26 areas designated under RCW 36.70A.170 or their buffers as required by
27 RCW 36.70A.170, except for critical aquifer recharge areas where a
28 single-family detached house is an allowed use provided that any
29 requirements to maintain aquifer recharge are met;

30 (b) Areas designated as sole-source aquifers by the United States
31 environmental protection agency on islands in the Puget Sound;

32 (c) A watershed serving a reservoir for potable water if that
33 watershed is or was listed, as of July 23, 2023, as impaired or
34 threatened under section 303(d) of the federal clean water act (33
35 U.S.C. Sec. 1313(d));

36 (d) Lots that have been designated urban separators by countywide
37 planning policies as of July 23, 2023; or

38 (e) A lot that was created through the splitting of a single
39 residential lot pursuant to section 2 of this act.

1 (9) Nothing in this section prohibits a city from permitting
2 detached single-family residences.

3 (10) Nothing in this section requires a city to issue a building
4 permit if other federal, state, and local requirements for a building
5 permit are not met.

6 (11) A city must comply with the requirements of this section on
7 the latter of:

8 (a) Six months after its next periodic comprehensive plan update
9 required under RCW 36.70A.130 if the city meets the population
10 threshold based on the 2020 office of financial management population
11 data; or

12 (b) 12 months after their next implementation progress report
13 required under RCW 36.70A.130 after a determination by the office of
14 financial management that the city has reached a population threshold
15 established under this section.

16 (12) A city complying with this section and not granted a
17 timeline extension under RCW 36.70A.638 does not have to update its
18 capital facilities plan element required by RCW 36.70A.070(3) to
19 accommodate the increased housing required by chapter 332, Laws of
20 2023 until the first periodic comprehensive plan update required for
21 the city under RCW 36.70A.130(5) that occurs on or after June 30,
22 2034.

23 (13) Until June 30, 2026, for cities subject to a growth target
24 adopted under RCW 36.70A.210 that limit the maximum residential
25 capacity of the jurisdiction, any additional residential capacity
26 required by this section for lots, parcels, and tracts with critical
27 areas or critical area buffers outside of critical areas or their
28 buffers may not be considered an inconsistency with the countywide
29 planning policies, multicounty planning policies, or growth targets
30 adopted under RCW 36.70A.210.

31 NEW SECTION. **Sec. 4.** If specific funding for the purposes of
32 this act, referencing this act by bill or chapter number, is not
33 provided by June 30, 2025, in the omnibus appropriations act, this
34 act is null and void."

35 Correct the title.

EFFECT: (1) Requires cities subject to middle housing minimum
density requirements to establish a process for review and approval
of an administrative lot split, which may be combined with concurrent
Code Rev/MFW:jl原因 9 H-1833.1/25

review of a building permit for new single-family or middle housing, rather than requiring a process for simultaneous review and approval of a lot split and building permit.

(2) Removes the requirement that an applicant for a lot split recommend a displacement mitigation strategy if the lot split would require demolition or alteration of any existing housing that would displace a renter.

(3) Clarifies that a lot split survey must be recorded with the county assessor with a notation that future lot splits are not allowed on the lot.

(4) Specifies that the existing exemption from the middle housing minimum density requirements for a lot that was created through the splitting of a single residential lot applies only to a lot that was split under the new process established in the bill.

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