
SENATE BILL 5235

State of Washington

68th Legislature

2023 Regular Session

By Senator Shewmake

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

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

1 are subject to effective binding commitments or covenants that the
2 units will not be regularly offered for short-term rental.

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

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

11 (2) 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 that was created after the
15 effective date of this section and that is contrary to subsection (1)
16 of this section.

--- END ---