
SUBSTITUTE SENATE BILL 5812

State of Washington

66th Legislature

2019 Regular Session

By Senate Housing Stability & Affordability (originally sponsored by Senators Palumbo, Lias, and Nguyen)

READ FIRST TIME 02/21/19.

1 AN ACT Relating to local governments planning and zoning for
2 accessory dwelling units; amending RCW 19.27.060, 82.02.060,
3 35.63.210, 35A.63.230, 36.70.677, and 36.70A.400; adding a new
4 section to chapter 19.27 RCW; adding a new chapter to Title 36 RCW;
5 and repealing RCW 43.63A.215.

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

7 NEW SECTION. **Sec. 1.** FINDINGS AND INTENT. (1) The legislature
8 makes the following findings:

9 (a) Washington state is experiencing a housing affordability
10 crisis. Many communities across the state are in need of more housing
11 options for renters.

12 (b) Accessory dwelling units typically rent below market rate,
13 providing additional affordable housing options for renters.

14 (c) Accessory dwelling units also help to provide housing for
15 very low-income households. More than ten percent of accessory
16 dwelling units in some areas are occupied by tenants who pay no rent
17 at all; among these tenants are grandparents, adult children, family
18 members with disabilities, and friends going through life
19 transitions. Accessory dwelling units meet the needs of these people
20 who might otherwise require subsidized housing space and resources
21 needed by other households.

1 (d) Homeowners who add an accessory dwelling unit to her or his
2 property may benefit from added income and an increased sense of
3 security.

4 (e) Accessory dwelling units can also benefit neighborhoods by
5 expanding rental options near public amenities such as schools,
6 parks, and transit without changing the look and feel of existing
7 neighborhoods.

8 (f) Accessory dwelling units may reduce economic displacement in
9 existing communities by expanding the range of available housing
10 options and prices.

11 (g) Accessory dwelling units are a housing choice that provides
12 environmental benefits. They promote energy conservation compared
13 with average size single-family homes. In addition, the siting of
14 additional accessory dwelling units near transit hubs can help to
15 reduce greenhouse gas emissions.

16 (h) Removing certain regulatory barriers to the construction of
17 accessory dwelling units, such as inflexible design standards and
18 siting restrictions, may substantially reduce construction costs,
19 thereby enabling more homeowners to add accessory dwelling units to
20 their properties. The increased availability of accessory dwelling
21 units will provide benefits to homeowners, renters, the community,
22 and the environment.

23 (2) The legislature intends to promote and encourage the creation
24 of accessory dwelling units as a means to address the need for
25 additional affordable housing options. The legislature encourages
26 local governments to increase the availability of affordable housing
27 by subsidizing accessory dwelling units with local sales tax revenue,
28 as authorized by House Bill No. 1406.

29 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
30 section apply throughout this chapter unless the context clearly
31 requires otherwise.

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

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

38 (3) "Detached accessory dwelling unit" means an accessory
39 dwelling unit that consists partly or entirely of a building that is

1 separate and detached from a single-family housing unit, duplex,
2 triplex, townhome, or other housing unit.

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

7 (5) " Cities " means, except as provided in section 4(2) of this
8 act, (a) all cities, code cities, and towns with a population of ten
9 thousand or more, and (b) all cities, code cities, and towns with a
10 population of at least two thousand five hundred but less than ten
11 thousand in which any portion of the city, code city, or town lies
12 within a transit service district.

13 (6) " Counties " means all counties with a population of fifteen
14 thousand or more.

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

18 NEW SECTION. **Sec. 3.** ACCESSORY DWELLING UNIT REGULATIONS

19 REQUIRED. (1) Cities and counties must adopt or amend by ordinance
20 and incorporate into their development regulations, zoning
21 regulations, and other official controls, an authorization for the
22 creation of accessory dwelling units that is consistent with this
23 chapter.

24 (2) Ordinances, development regulations, and other official
25 controls adopted or amended pursuant to this chapter may only apply
26 in the portions of towns, cities, and counties that are within
27 designated urban growth areas.

28 (3) Cities and counties must implement the requirements of this
29 chapter by June 1, 2021. Any city or county that does not comply with
30 this subsection must consider any permit application it receives
31 under this chapter in accordance with this chapter unless it adopts
32 its own ordinance, development regulation, or other official control
33 in accordance with this subsection within sixty days after receipt of
34 the application.

35 (4) Any county that takes action necessary to meet the
36 requirements of this chapter is held harmless from any appeals
37 brought under chapter 36.70A or 43.21C RCW.

1 NEW SECTION. **Sec. 4.** GENERAL REGULATORY REQUIREMENTS. (1)

2 Ordinances, development regulations, and other official controls
3 adopted or amended as required by this chapter:

4 (a)(i) Except as provided in (a)(ii) of this subsection, must
5 allow, on all lots located in single-family residential zoning
6 districts and on all lots on which there is a single-family housing
7 unit, duplex, triplex, or townhome, regardless of zoning district:

8 (A) One attached accessory dwelling unit and one detached accessory
9 dwelling unit; or (B) two attached accessory dwelling units. Such
10 units may not be considered as contributing to the overall underlying
11 density within the county for purposes of compliance with chapter
12 36.70A RCW;

13 (ii) Must allow one attached accessory dwelling unit on each lot
14 in a single-family residential zoning district if: (A) The lot is
15 located in a jurisdiction where cluster zoning or lot size averaging
16 has been adopted; and (B) the lot is under three thousand square feet
17 in size;

18 (b) May not impose a minimum lot size requirement for the siting
19 of accessory dwelling units;

20 (c) May only require installation of a new or separate utility
21 connection between an attached accessory dwelling unit and a utility
22 after a finding that the site-specific technical, environmental, or
23 financial considerations warrant a separation of utility connections
24 for accessory dwelling units from preexisting structures;

25 (d) May not consider attached accessory dwelling units to be new
26 residential uses for the purpose of calculating connection fees or
27 capacity charges for utilities. Any connection fees or capacity
28 charges must (i) be proportionate to the burden of the proposed
29 accessory dwelling unit, based on its size or number of plumbing
30 fixtures, upon the water or sewer system and (ii) not exceed the
31 reasonable cost of providing the service;

32 (e) May require a new or separate utility connection directly
33 between a detached accessory dwelling unit and a utility and may
34 subject the connection to a connection fee or capacity charge that
35 must: (i) Be proportionate to the burden of the proposed accessory
36 dwelling unit, based on its size or number of plumbing fixtures, upon
37 the water or sewer system; and (ii) not exceed the reasonable cost of
38 providing the service;

1 (f) May not prohibit the sale or other conveyance of a
2 condominium unit solely on the grounds that the unit was originally
3 built as an accessory dwelling unit;

4 (g) May not count residents of accessory dwelling units against
5 any limits on the number of unrelated residents on a single-family
6 lot;

7 (h) May not establish a requirement for the provision of off-
8 street parking for accessory dwelling units within one-half mile of a
9 transit stop, park, school, hospital, community center, or area
10 designated for commercial use, mixed use, or multifamily housing.
11 Except as provided in this subsection (1)(h), jurisdictions may
12 require up to one additional off-street parking space per lot in
13 which there is at least one accessory dwelling unit; and

14 (i) May not count the gross floor area of an accessory dwelling
15 unit against any floor area ratio limitations that apply to single-
16 family housing units.

17 (2) Any city with a population of one hundred thousand or more
18 may not require the owner of a lot on which there is an accessory
19 dwelling unit to reside in or occupy the accessory dwelling unit or
20 another housing unit on the same lot.

21 NEW SECTION. **Sec. 5.** DEVELOPMENT STANDARDS. (1) Ordinances,
22 development regulations, and other official controls adopted or
23 amended as required by this chapter:

24 (a) Should not establish a roof height limitation on detached
25 accessory dwelling units that is less than twenty-four feet;

26 (b) Should not establish a wall height limitation on detached
27 accessory dwelling units that is less than seventeen feet;

28 (c) Should not establish a maximum gross floor area for accessory
29 dwelling units that is less than one thousand square feet;

30 (d) Should not establish a minimum gross floor area for accessory
31 dwelling units that is greater than one hundred forty square feet;

32 (e) May not establish setback regulations for accessory dwelling
33 units that are more restrictive than regulations for single-family
34 housing units; and

35 (f) May not establish tree retention requirements for accessory
36 dwelling units in addition to any tree retention requirements for
37 single-family housing units.

1 (2) Cities are encouraged to allow detached accessory dwelling
2 units to be sited at the lot line of the rear yard if the rear yard
3 is adjacent to an alley.

4 NEW SECTION. **Sec. 6.** A new section is added to chapter 19.27
5 RCW to read as follows:

6 By April 1, 2020, the building code council shall adopt rules
7 pertaining to accessory dwelling units that are consistent with the
8 definitions and standards in chapter 36.--- RCW (the new chapter
9 created in section 14 of this act).

10 **Sec. 7.** RCW 19.27.060 and 2018 c 302 s 2 are each amended to
11 read as follows:

12 (1) The governing bodies of counties and cities may amend the
13 codes enumerated in RCW 19.27.031 as amended and adopted by the state
14 building code council as they apply within their respective
15 jurisdictions, but the amendments shall not result in a code that is
16 less than the minimum performance standards and objectives contained
17 in the state building code except as provided in subsection (2) of
18 this section.

19 (a) Except as provided in subsection (2) of this section, no
20 amendment to a code enumerated in RCW 19.27.031 as amended and
21 adopted by the state building code council that affects single-family
22 or multifamily residential buildings shall be effective unless the
23 amendment is approved by the building code council under RCW
24 19.27.074(1)(b).

25 (b) Any county or city amendment to a code enumerated in RCW
26 19.27.031 which is approved under RCW 19.27.074(1)(b) shall continue
27 to be effective after any action is taken under RCW 19.27.074(1)(a)
28 without necessity of reapproval under RCW 19.27.074(1)(b) unless the
29 amendment is declared null and void by the council at the time any
30 action is taken under RCW 19.27.074(1)(a) because such action in any
31 way altered the impact of the amendment.

32 (2)(a) Except as provided in (b) of this subsection, the
33 legislative body of a county or city, in exercising the authority
34 provided under subsection (1) of this section to amend the code
35 enumerated in RCW 19.27.031(1)(b), may adopt amendments that
36 eliminate any minimum gross floor area requirement for single-family
37 detached dwellings or that provide a minimum gross floor area

1 requirement below the minimum performance standards and objectives
2 contained in the state building code.

3 (b) Cities and counties, as defined by section 2 of this act,
4 must adopt ordinances, development regulations, and other official
5 controls regarding the minimum gross floor area of accessory dwelling
6 units that are consistent with chapter 36.--- RCW (the new chapter
7 created in section 14 of this act).

8 (3) Except as permitted or provided otherwise under this section,
9 the state building code shall be applicable to all buildings and
10 structures including those owned by the state or by any governmental
11 subdivision or unit of local government.

12 (4) The governing body of each county or city may limit the
13 application of any portion of the state building code to exclude
14 specified classes or types of buildings or structures according to
15 use other than single-family or multifamily residential buildings.
16 However, in no event shall fruits or vegetables of the tree or vine
17 stored in buildings or warehouses constitute combustible stock for
18 the purposes of application of the uniform fire code. A governing
19 body of a county or city may inspect facilities used for temporary
20 storage and processing of agricultural commodities.

21 (5) No provision of the uniform fire code concerning roadways
22 shall be part of the state building code: PROVIDED, That this
23 subsection shall not limit the authority of a county or city to adopt
24 street, road, or access standards.

25 (6) The provisions of the state building code may be preempted by
26 any city or county to the extent that the code provisions relating to
27 the installation or use of sprinklers in jail cells conflict with the
28 secure and humane operation of jails.

29 (7)(a) Effective one year after July 23, 1989, the governing
30 bodies of counties and cities may adopt an ordinance or resolution to
31 exempt from permit requirements certain construction or alteration of
32 either group R, division 3, or group M, division 1 occupancies, or
33 both, as defined in the uniform building code, 1988 edition, for
34 which the total cost of fair market value of the construction or
35 alteration does not exceed fifteen hundred dollars. The permit
36 exemption shall not otherwise exempt the construction or alteration
37 from the substantive standards of the codes enumerated in RCW
38 19.27.031, as amended and maintained by the state building code
39 council under RCW 19.27.070.

1 (b) Prior to July 23, 1989, the state building code council shall
2 adopt by rule, guidelines exempting from permit requirements certain
3 construction and alteration activities under (a) of this subsection.

4 **Sec. 8.** RCW 82.02.060 and 2012 c 200 s 1 are each amended to
5 read as follows:

6 The local ordinance by which impact fees are imposed:

7 (1) Shall include a schedule of impact fees which shall be
8 adopted for each type of development activity that is subject to
9 impact fees, specifying the amount of the impact fee to be imposed
10 for each type of system improvement. The schedule shall be based upon
11 a formula or other method of calculating such impact fees. In
12 determining proportionate share, the formula or other method of
13 calculating impact fees shall incorporate, among other things, the
14 following:

15 (a) The cost of public facilities necessitated by new
16 development;

17 (b) An adjustment to the cost of the public facilities for past
18 or future payments made or reasonably anticipated to be made by new
19 development to pay for particular system improvements in the form of
20 user fees, debt service payments, taxes, or other payments earmarked
21 for or proratable to the particular system improvement;

22 (c) The availability of other means of funding public facility
23 improvements;

24 (d) The cost of existing public facilities improvements; and

25 (e) The methods by which public facilities improvements were
26 financed;

27 (2) May provide an exemption for low-income housing, and other
28 development activities with broad public purposes, from these impact
29 fees, provided that the impact fees for such development activity
30 shall be paid from public funds other than impact fee accounts;

31 (3) May provide an exemption from impact fees for low-income
32 housing. Local governments that grant exemptions for low-income
33 housing under this subsection (3) may either: Grant a partial
34 exemption of not more than eighty percent of impact fees, in which
35 case there is no explicit requirement to pay the exempted portion of
36 the fee from public funds other than impact fee accounts; or provide
37 a full waiver, in which case the remaining percentage of the exempted
38 fee must be paid from public funds other than impact fee accounts. An
39 exemption for low-income housing granted under subsection (2) of this

1 section or this subsection (3) must be conditioned upon requiring the
2 developer to record a covenant that, except as provided otherwise by
3 this subsection, prohibits using the property for any purpose other
4 than for low-income housing. At a minimum, the covenant must address
5 price restrictions and household income limits for the low-income
6 housing, and that if the property is converted to a use other than
7 for low-income housing, the property owner must pay the applicable
8 impact fees in effect at the time of conversion. Covenants required
9 by this subsection must be recorded with the applicable county
10 auditor or recording officer. A local government granting an
11 exemption under subsection (2) of this section or this subsection (3)
12 for low-income housing may not collect revenue lost through granting
13 an exemption by increasing impact fees unrelated to the exemption. A
14 school district who receives school impact fees must approve any
15 exemption under subsection (2) of this section or this subsection
16 (3);

17 (4) Shall provide a credit for the value of any dedication of
18 land for, improvement to, or new construction of any system
19 improvements provided by the developer, to facilities that are
20 identified in the capital facilities plan and that are required by
21 the county, city, or town as a condition of approving the development
22 activity;

23 (5) Shall allow the county, city, or town imposing the impact
24 fees to adjust the standard impact fee at the time the fee is imposed
25 to consider unusual circumstances in specific cases to ensure that
26 impact fees are imposed fairly;

27 (6) Shall include a provision for calculating the amount of the
28 fee to be imposed on a particular development that permits
29 consideration of studies and data submitted by the developer to
30 adjust the amount of the fee;

31 (7) Shall establish one or more reasonable service areas within
32 which it shall calculate and impose impact fees for various land use
33 categories per unit of development; and

34 (8) May provide for the imposition of an impact fee for system
35 improvement costs previously incurred by a county, city, or town to
36 the extent that new growth and development will be served by the
37 previously constructed improvements provided such fee shall not be
38 imposed to make up for any system improvement deficiencies.

1 (9) May not establish an impact fee amount for accessory dwelling
2 units, as defined in section 2 of this act, that is greater than
3 fifty percent of the amount set for single-family residences.

4 For purposes of this section, "low-income housing" means housing
5 with a monthly housing expense, that is no greater than thirty
6 percent of eighty percent of the median family income adjusted for
7 family size, for the county where the project is located, as reported
8 by the United States department of housing and urban development.

9 **Sec. 9.** RCW 35.63.210 and 1993 c 478 s 8 are each amended to
10 read as follows:

11 Any (~~local government~~) city or county, as defined in ((RCW
12 ~~43.63A.215~~)) section 2 of this act, that is planning under this
13 chapter shall comply with ((RCW ~~43.63A.215(3)~~)) chapter 36.--- RCW
14 (the new chapter created in section 14 of this act).

15 **Sec. 10.** RCW 35A.63.230 and 1993 c 478 s 9 are each amended to
16 read as follows:

17 Any (~~local government~~) city or county, as defined in ((RCW
18 ~~43.63A.215~~)) section 2 of this act, that is planning under this
19 chapter shall comply with ((RCW ~~43.63A.215(3)~~)) chapter 36.--- RCW
20 (the new chapter created in section 14 of this act).

21 **Sec. 11.** RCW 36.70.677 and 1993 c 478 s 10 are each amended to
22 read as follows:

23 Any (~~local government~~) city or county, as defined in ((RCW
24 ~~43.63A.215~~)) section 2 of this act, that is planning under this
25 chapter shall comply with ((RCW ~~43.63A.215(3)~~)) chapter 36.--- RCW
26 (the new chapter created in section 14 of this act).

27 **Sec. 12.** RCW 36.70A.400 and 1993 c 478 s 11 are each amended to
28 read as follows:

29 Any (~~local government~~) city or county, as defined in ((RCW
30 ~~43.63A.215~~)) section 2 of this act, that is planning under this
31 chapter shall comply with ((RCW ~~43.63A.215(3)~~)) chapter 36.--- RCW
32 (the new chapter created in section 14 of this act).

33 NEW SECTION. **Sec. 13.** RCW 43.63A.215 (Accessory apartments—
34 Development and placement—Local governments) and 1993 c 478 s 7 are
35 each repealed.

1 NEW SECTION. **Sec. 14.** Sections 1 through 5 of this act
2 constitute a new chapter in Title 36 RCW.

--- **END** ---