

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1923

Chapter 348, Laws of 2019

66th Legislature
2019 Regular Session

URBAN RESIDENTIAL BUILDING CAPACITY

EFFECTIVE DATE: July 28, 2019—Except for section 11, which becomes effective July 1, 2019.

Passed by the House April 24, 2019
Yeas 75 Nays 19

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 22, 2019
Yeas 33 Nays 16

CYRUS HABIB

President of the Senate

Approved May 9, 2019 3:12 PM

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 SECOND SUBSTITUTE HOUSE BILL 1923** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 13, 2019

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1923

AS AMENDED BY THE SENATE

Passed Legislature - 2019 Regular Session

State of Washington 66th Legislature 2019 Regular Session

By House Appropriations (originally sponsored by Representatives Fitzgibbon, Macri, Appleton, Doglio, Dolan, Santos, and Frame)

READ FIRST TIME 03/01/19.

1 AN ACT Relating to increasing urban residential building
2 capacity; amending RCW 36.70A.030, 43.21C.420, and 36.70A.490; adding
3 new sections to chapter 36.70A RCW; adding new sections to chapter
4 43.21C RCW; adding a new section to chapter 35.21 RCW; adding a new
5 section to chapter 35A.21 RCW; adding a new section to chapter 36.22
6 RCW; providing an effective date; and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 36.70A
9 RCW to read as follows:

10 (1) A city planning pursuant to RCW 36.70A.040 is encouraged to
11 take the following actions in order to increase its residential
12 building capacity:

13 (a) Authorize development in one or more areas of not fewer than
14 five hundred acres that include at least one train station served by
15 commuter rail or light rail with an average of at least fifty
16 residential units per acre that require no more than an average of
17 one on-site parking space per two bedrooms in the portions of
18 multifamily zones that are located within the areas;

19 (b) Authorize development in one or more areas of not fewer than
20 five hundred acres in cities with a population greater than forty
21 thousand or not fewer than two hundred fifty acres in cities with a

1 population less than forty thousand that include at least one bus
2 stop served by scheduled bus service of at least four times per hour
3 for twelve or more hours per day with an average of at least twenty-
4 five residential units per acre that require no more than an average
5 of one on-site parking space per two bedrooms in portions of the
6 multifamily zones that are located within the areas;

7 (c) Authorize at least one duplex, triplex, or courtyard
8 apartment on each parcel in one or more zoning districts that permit
9 single-family residences unless a city documents a specific
10 infrastructure of physical constraint that would make this
11 requirement unfeasible for a particular parcel;

12 (d) Authorize cluster zoning or lot size averaging in all zoning
13 districts that permit single-family residences;

14 (e) Authorize attached accessory dwelling units on all parcels
15 containing single-family homes where the lot is at least three
16 thousand two hundred square feet in size, and permit both attached
17 and detached accessory dwelling units on all parcels containing
18 single-family homes, provided lots are at least four thousand three
19 hundred fifty-six square feet in size. Qualifying city ordinances or
20 regulations may not provide for on-site parking requirements, owner
21 occupancy requirements, or square footage limitations below one
22 thousand square feet for the accessory dwelling unit, and must not
23 prohibit the separate rental or sale of accessory dwelling units and
24 the primary residence. Cities must set applicable impact fees at no
25 more than the projected impact of the accessory dwelling unit. To
26 allow local flexibility, other than these factors, accessory dwelling
27 units may be subject to such regulations, conditions, procedures, and
28 limitations as determined by the local legislative authority, and
29 must follow all applicable state and federal laws and local
30 ordinances;

31 (f) Adopt a subarea plan pursuant to RCW 43.21C.420;

32 (g) Adopt a planned action pursuant to RCW 43.21C.440(1)(b)(ii),
33 except that an environmental impact statement pursuant to RCW
34 43.21C.030 is not required for such an action;

35 (h) Adopt increases in categorical exemptions pursuant to RCW
36 43.21C.229 for residential or mixed-use development;

37 (i) Adopt a form-based code in one or more zoning districts that
38 permit residential uses. "Form-based code" means a land development
39 regulation that uses physical form, rather than separation of use, as
40 the organizing principle for the code;

1 (j) Authorize a duplex on each corner lot within all zoning
2 districts that permit single-family residences;

3 (k) Allow for the division or redivision of land into the maximum
4 number of lots through the short subdivision process provided in
5 chapter 58.17 RCW; and

6 (l) Authorize a minimum net density of six dwelling units per
7 acre in all residential zones, where the residential development
8 capacity will increase within the city.

9 (2) A city planning pursuant to RCW 36.70A.040 may adopt a
10 housing action plan as described in this subsection. The goal of any
11 such housing plan must be to encourage construction of additional
12 affordable and market rate housing in a greater variety of housing
13 types and at prices that are accessible to a greater variety of
14 incomes, including strategies aimed at the for-profit single-family
15 home market. A housing action plan may utilize data compiled pursuant
16 to section 3 of this act. The housing action plan should:

17 (a) Quantify existing and projected housing needs for all income
18 levels, including extremely low-income households, with documentation
19 of housing and household characteristics, and cost-burdened
20 households;

21 (b) Develop strategies to increase the supply of housing, and
22 variety of housing types, needed to serve the housing needs
23 identified in (a) of this subsection;

24 (c) Analyze population and employment trends, with documentation
25 of projections;

26 (d) Consider strategies to minimize displacement of low-income
27 residents resulting from redevelopment;

28 (e) Review and evaluate the current housing element adopted
29 pursuant to RCW 36.70A.070, including an evaluation of success in
30 attaining planned housing types and units, achievement of goals and
31 policies, and implementation of the schedule of programs and actions;

32 (f) Provide for participation and input from community members,
33 community groups, local builders, local realtors, nonprofit housing
34 advocates, and local religious groups; and

35 (g) Include a schedule of programs and actions to implement the
36 recommendations of the housing action plan.

37 (3) If adopted by April 1, 2021, ordinances, amendments to
38 development regulations, and other nonproject actions taken by a city
39 to implement the actions specified in subsection (1) of this section,
40 with the exception of the action specified in subsection (1)(f) of

1 this section, are not subject to administrative or judicial appeal
2 under chapter 43.21C RCW.

3 (4) Any action taken by a city prior to April 1, 2021, to amend
4 their comprehensive plan, or adopt or amend ordinances or development
5 regulations, solely to enact provisions under subsection (1) of this
6 section is not subject to legal challenge under this chapter.

7 (5) In taking action under subsection (1) of this section, cities
8 are encouraged to utilize strategies that increase residential
9 building capacity in areas with frequent transit service and with the
10 transportation and utility infrastructure that supports the
11 additional residential building capacity.

12 (6) A city with a population over twenty thousand that is
13 planning to take at least two actions under subsection (1) of this
14 section, and that action will occur between the effective date of
15 this section and April 1, 2021, is eligible to apply to the
16 department for planning grant assistance of up to one hundred
17 thousand dollars, subject to the availability of funds appropriated
18 for that purpose. The department shall develop grant criteria to
19 ensure that grant funds awarded are proportionate to the level of
20 effort proposed by a city, and the potential increase in housing
21 supply or regulatory streamlining that could be achieved. Funding may
22 be provided in advance of, and to support, adoption of policies or
23 ordinances consistent with this section. A city can request, and the
24 department may award, more than one hundred thousand dollars for
25 applications that demonstrate extraordinary potential to increase
26 housing supply or regulatory streamlining.

27 (7) A city seeking to develop a housing action plan under
28 subsection (2) of this section is eligible to apply to the department
29 for up to one hundred thousand dollars.

30 (8) The department shall establish grant award amounts under
31 subsections (6) and (7) of this section based on the expected number
32 of cities that will seek grant assistance, to ensure that all cities
33 can receive some level of grant support. If funding capacity allows,
34 the department may consider accepting and funding applications from
35 cities with a population of less than twenty thousand if the actions
36 proposed in the application will create a significant amount of
37 housing capacity or regulatory streamlining and are consistent with
38 the actions in this section.

39 (9) In implementing this act, cities are encouraged to prioritize
40 the creation of affordable, inclusive neighborhoods and to consider

1 the risk of residential displacement, particularly in neighborhoods
2 with communities at high risk of displacement.

3 **Sec. 2.** RCW 36.70A.030 and 2017 3rd sp.s. c 18 s 2 are each
4 amended to read as follows:

5 Unless the context clearly requires otherwise, the definitions in
6 this section apply throughout this chapter.

7 (1) "Adopt a comprehensive land use plan" means to enact a new
8 comprehensive land use plan or to update an existing comprehensive
9 land use plan.

10 (2) "Agricultural land" means land primarily devoted to the
11 commercial production of horticultural, viticultural, floricultural,
12 dairy, apiary, vegetable, or animal products or of berries, grain,
13 hay, straw, turf, seed, Christmas trees not subject to the excise tax
14 imposed by RCW 84.33.100 through 84.33.140, finfish in upland
15 hatcheries, or livestock, and that has long-term commercial
16 significance for agricultural production.

17 (3) "City" means any city or town, including a code city.

18 (4) "Comprehensive land use plan," "comprehensive plan," or
19 "plan" means a generalized coordinated land use policy statement of
20 the governing body of a county or city that is adopted pursuant to
21 this chapter.

22 (5) "Critical areas" include the following areas and ecosystems:
23 (a) Wetlands; (b) areas with a critical recharging effect on aquifers
24 used for potable water; (c) fish and wildlife habitat conservation
25 areas; (d) frequently flooded areas; and (e) geologically hazardous
26 areas. "Fish and wildlife habitat conservation areas" does not
27 include such artificial features or constructs as irrigation delivery
28 systems, irrigation infrastructure, irrigation canals, or drainage
29 ditches that lie within the boundaries of and are maintained by a
30 port district or an irrigation district or company.

31 (6) "Department" means the department of commerce.

32 (7) "Development regulations" or "regulation" means the controls
33 placed on development or land use activities by a county or city,
34 including, but not limited to, zoning ordinances, critical areas
35 ordinances, shoreline master programs, official controls, planned
36 unit development ordinances, subdivision ordinances, and binding site
37 plan ordinances together with any amendments thereto. A development
38 regulation does not include a decision to approve a project permit
39 application, as defined in RCW 36.70B.020, even though the decision