

SSB 5235 - H COMM AMD  
By Committee on Housing

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

3 "NEW SECTION. **Sec. 1.** The legislature finds that there is a  
4 shortage of affordable housing units available for home ownership or  
5 long-term rental within most urban growth areas of the state. This  
6 lack of affordable housing forces many residents to spend more than  
7 30 percent of their household income on housing, greatly increasing  
8 housing insecurity and contributing to the state's crisis of  
9 unacceptable numbers of persons experiencing homelessness. Increasing  
10 the availability of accessory dwelling units, also referred to as  
11 "ADUs," may increase opportunities for people to age in their own  
12 home and increase multigenerational family ties along with offering  
13 opportunities to reduce intergenerational poverty by increasing home  
14 ownership. The legislature finds that accessory dwelling units can be  
15 one way to add affordable long-term housing and to provide a needed  
16 increase in housing density within urban growth areas with benefits  
17 to reducing fossil fuel use and other contributions to climate change  
18 due to housing and transportation patterns. The legislature seeks to  
19 encourage accessory dwelling unit availability as a modest housing  
20 option by streamlining local government regulations that may  
21 unintentionally make accessory dwelling units less economical. Since  
22 residents in a region may be choosing between cities, it is important  
23 to acknowledge that one city cannot build affordability on its own.  
24 An expansion in supply of affordable housing in a small city, but not  
25 neighboring cities, may satisfy some of the demand for affordable  
26 housing, but without a regional strategy, small cities will not be  
27 able to build affordability on their own. Statewide action is needed.  
28 Furthermore, the legislature finds that research from several cities  
29 shows that when accessory dwelling units are built or that are  
30 converted and offered for short-term rental for tourists and business  
31 visitors, they may not improve housing affordability. Therefore, it  
32 is the intent of the legislature to meet these important policy goals

1 by increasing the availability of accessory dwelling units as modest  
2 housing options, limiting the restrictions that can be imposed on the  
3 development and use of accessory dwelling units within urban growth  
4 areas, and authorizing local governments to adopt programs to  
5 incentivize or reduce local government-imposed cost or time related  
6 obstacles to the development of accessory dwelling units when the  
7 accessory dwelling units will be utilized for long-term housing.

8 **Sec. 2.** RCW 36.70A.070 and 2022 c 246 s 2 and 2022 c 220 s 1 are  
9 each reenacted and amended to read as follows:

10 The comprehensive plan of a county or city that is required or  
11 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,  
12 and descriptive text covering objectives, principles, and standards  
13 used to develop the comprehensive plan. The plan shall be an  
14 internally consistent document and all elements shall be consistent  
15 with the future land use map. A comprehensive plan shall be adopted  
16 and amended with public participation as provided in RCW 36.70A.140.  
17 Each comprehensive plan shall include a plan, scheme, or design for  
18 each of the following:

19 (1) A land use element designating the proposed general  
20 distribution and general location and extent of the uses of land,  
21 where appropriate, for agriculture, timber production, housing,  
22 commerce, industry, recreation, open spaces, general aviation  
23 airports, public utilities, public facilities, and other land uses.  
24 The land use element shall include population densities, building  
25 intensities, and estimates of future population growth. The land use  
26 element shall provide for protection of the quality and quantity of  
27 groundwater used for public water supplies. Wherever possible, the  
28 land use element should consider utilizing urban planning approaches  
29 that promote physical activity. Where applicable, the land use  
30 element shall review drainage, flooding, and stormwater runoff in the  
31 area and nearby jurisdictions and provide guidance for corrective  
32 actions to mitigate or cleanse those discharges that pollute waters  
33 of the state, including Puget Sound or waters entering Puget Sound.

34 (2) A housing element ensuring the vitality and character of  
35 established residential neighborhoods that:

36 (a) Includes an inventory and analysis of existing and projected  
37 housing needs that identifies the number of housing units necessary  
38 to manage projected growth, as provided by the department of  
39 commerce, including:

- 1 (i) Units for moderate, low, very low, and extremely low-income  
2 households; and
- 3 (ii) Emergency housing, emergency shelters, and permanent  
4 supportive housing;
- 5 (b) Includes a statement of goals, policies, objectives, and  
6 mandatory provisions for the preservation, improvement, and  
7 development of housing, including single-family residences, and  
8 within an urban growth area boundary, moderate density housing  
9 options including, but not limited to, duplexes, triplexes, and  
10 townhomes;
- 11 (c) Identifies sufficient capacity of land for housing including,  
12 but not limited to, government-assisted housing, housing for  
13 moderate, low, very low, and extremely low-income households,  
14 manufactured housing, multifamily housing, group homes, foster care  
15 facilities, emergency housing, emergency shelters, permanent  
16 supportive housing, and within an urban growth area boundary,  
17 consideration of duplexes, triplexes, and townhomes;
- 18 (d) Makes adequate provisions for existing and projected needs of  
19 all economic segments of the community, including:
- 20 (i) Incorporating consideration for low, very low, extremely low,  
21 and moderate-income households;
- 22 (ii) Documenting programs and actions needed to achieve housing  
23 availability including gaps in local funding, barriers such as  
24 development regulations, and other limitations;
- 25 (iii) Consideration of housing locations in relation to  
26 employment location; and
- 27 (iv) Consideration (~~of the role~~) and utilization of accessory  
28 dwelling units in meeting housing needs in compliance with RCW  
29 36.70A.698;
- 30 (e) Identifies local policies and regulations that result in  
31 racially disparate impacts, displacement, and exclusion in housing,  
32 including:
- 33 (i) Zoning that may have a discriminatory effect;
- 34 (ii) Disinvestment; and
- 35 (iii) Infrastructure availability;
- 36 (f) Identifies and implements policies and regulations to address  
37 and begin to undo racially disparate impacts, displacement, and  
38 exclusion in housing caused by local policies, plans, and actions;

1 (g) Identifies areas that may be at higher risk of displacement  
2 from market forces that occur with changes to zoning development  
3 regulations and capital investments; and

4 (h) Establishes antidisplacement policies, with consideration  
5 given to the preservation of historical and cultural communities as  
6 well as investments in low, very low, extremely low, and moderate-  
7 income housing; equitable development initiatives; inclusionary  
8 zoning; community planning requirements; tenant protections; land  
9 disposition policies; and consideration of land that may be used for  
10 affordable housing.

11 In counties and cities subject to the review and evaluation  
12 requirements of RCW 36.70A.215, any revision to the housing element  
13 shall include consideration of prior review and evaluation reports  
14 and any reasonable measures identified. The housing element should  
15 link jurisdictional goals with overall county goals to ensure that  
16 the housing element goals are met.

17 The adoption of ordinances, development regulations and  
18 amendments to such regulations, and other nonproject actions taken by  
19 a city that is required or chooses to plan under RCW 36.70A.040 that  
20 increase housing capacity, increase housing affordability, and  
21 mitigate displacement as required under this subsection (2) and that  
22 apply outside of critical areas are not subject to administrative or  
23 judicial appeal under chapter 43.21C RCW unless the adoption of such  
24 ordinances, development regulations and amendments to such  
25 regulations, or other nonproject actions has a probable significant  
26 adverse impact on fish habitat.

27 (3) A capital facilities plan element consisting of: (a) An  
28 inventory of existing capital facilities owned by public entities,  
29 showing the locations and capacities of the capital facilities; (b) a  
30 forecast of the future needs for such capital facilities; (c) the  
31 proposed locations and capacities of expanded or new capital  
32 facilities; (d) at least a six-year plan that will finance such  
33 capital facilities within projected funding capacities and clearly  
34 identifies sources of public money for such purposes; and (e) a  
35 requirement to reassess the land use element if probable funding  
36 falls short of meeting existing needs and to ensure that the land use  
37 element, capital facilities plan element, and financing plan within  
38 the capital facilities plan element are coordinated and consistent.  
39 Park and recreation facilities shall be included in the capital  
40 facilities plan element.

1 (4) A utilities element consisting of the general location,  
2 proposed location, and capacity of all existing and proposed  
3 utilities((~~r~~)) including, but not limited to, electrical lines,  
4 telecommunication lines, and natural gas lines.

5 (5) Rural element. Counties shall include a rural element  
6 including lands that are not designated for urban growth,  
7 agriculture, forest, or mineral resources. The following provisions  
8 shall apply to the rural element:

9 (a) Growth management act goals and local circumstances. Because  
10 circumstances vary from county to county, in establishing patterns of  
11 rural densities and uses, a county may consider local circumstances,  
12 but shall develop a written record explaining how the rural element  
13 harmonizes the planning goals in RCW 36.70A.020 and meets the  
14 requirements of this chapter.

15 (b) Rural development. The rural element shall permit rural  
16 development, forestry, and agriculture in rural areas. The rural  
17 element shall provide for a variety of rural densities, uses,  
18 essential public facilities, and rural governmental services needed  
19 to serve the permitted densities and uses. To achieve a variety of  
20 rural densities and uses, counties may provide for clustering,  
21 density transfer, design guidelines, conservation easements, and  
22 other innovative techniques that will accommodate appropriate rural  
23 economic advancement, densities, and uses that are not characterized  
24 by urban growth and that are consistent with rural character.

25 (c) Measures governing rural development. The rural element shall  
26 include measures that apply to rural development and protect the  
27 rural character of the area, as established by the county, by:

28 (i) Containing or otherwise controlling rural development;

29 (ii) Assuring visual compatibility of rural development with the  
30 surrounding rural area;

31 (iii) Reducing the inappropriate conversion of undeveloped land  
32 into sprawling, low-density development in the rural area;

33 (iv) Protecting critical areas, as provided in RCW 36.70A.060,  
34 and surface water and groundwater resources; and

35 (v) Protecting against conflicts with the use of agricultural,  
36 forest, and mineral resource lands designated under RCW 36.70A.170.

37 (d) Limited areas of more intensive rural development. Subject to  
38 the requirements of this subsection and except as otherwise  
39 specifically provided in this subsection (5)(d), the rural element  
40 may allow for limited areas of more intensive rural development,

1 including necessary public facilities and public services to serve  
2 the limited area as follows:

3 (i) Rural development consisting of the infill, development, or  
4 redevelopment of existing commercial, industrial, residential, or  
5 mixed-use areas, whether characterized as shoreline development,  
6 villages, hamlets, rural activity centers, or crossroads  
7 developments.

8 (A) A commercial, industrial, residential, shoreline, or mixed-  
9 use area are subject to the requirements of (d)(iv) of this  
10 subsection, but are not subject to the requirements of (c)(ii) and  
11 (iii) of this subsection.

12 (B) Any development or redevelopment other than an industrial  
13 area or an industrial use within a mixed-use area or an industrial  
14 area under this subsection (5)(d)(i) must be principally designed to  
15 serve the existing and projected rural population.

16 (C) Any development or redevelopment in terms of building size,  
17 scale, use, or intensity may be permitted subject to confirmation  
18 from all existing providers of public facilities and public services  
19 of sufficient capacity of existing public facilities and public  
20 services to serve any new or additional demand from the new  
21 development or redevelopment. Development and redevelopment may  
22 include changes in use from vacant land or a previously existing use  
23 so long as the new use conforms to the requirements of this  
24 subsection (5) and is consistent with the local character. Any  
25 commercial development or redevelopment within a mixed-use area must  
26 be principally designed to serve the existing and projected rural  
27 population and must meet the following requirements:

28 (I) Any included retail or food service space must not exceed the  
29 footprint of previously occupied space or 5,000 square feet,  
30 whichever is greater, for the same or similar use; and

31 (II) Any included retail or food service space must not exceed  
32 2,500 square feet for a new use;

33 (ii) The intensification of development on lots containing, or  
34 new development of, small-scale recreational or tourist uses,  
35 including commercial facilities to serve those recreational or  
36 tourist uses, that rely on a rural location and setting, but that do  
37 not include new residential development. A small-scale recreation or  
38 tourist use is not required to be principally designed to serve the  
39 existing and projected rural population. Public services and public  
40 facilities shall be limited to those necessary to serve the

1 recreation or tourist use and shall be provided in a manner that does  
2 not permit low-density sprawl;

3 (iii) The intensification of development on lots containing  
4 isolated nonresidential uses or new development of isolated cottage  
5 industries and isolated small-scale businesses that are not  
6 principally designed to serve the existing and projected rural  
7 population and nonresidential uses, but do provide job opportunities  
8 for rural residents. Rural counties may allow the expansion of small-  
9 scale businesses as long as those small-scale businesses conform with  
10 the rural character of the area as defined by the local government  
11 according to RCW 36.70A.030(23). Rural counties may also allow new  
12 small-scale businesses to utilize a site previously occupied by an  
13 existing business as long as the new small-scale business conforms to  
14 the rural character of the area as defined by the local government  
15 according to RCW 36.70A.030(23). Public services and public  
16 facilities shall be limited to those necessary to serve the isolated  
17 nonresidential use and shall be provided in a manner that does not  
18 permit low-density sprawl;

19 (iv) A county shall adopt measures to minimize and contain the  
20 existing areas of more intensive rural development, as appropriate,  
21 authorized under this subsection. Lands included in such existing  
22 areas shall not extend beyond the logical outer boundary of the  
23 existing area, thereby allowing a new pattern of low-density sprawl.  
24 Existing areas are those that are clearly identifiable and contained  
25 and where there is a logical boundary delineated predominately by the  
26 built environment, but that may also include undeveloped lands if  
27 limited as provided in this subsection. The county shall establish  
28 the logical outer boundary of an area of more intensive rural  
29 development. In establishing the logical outer boundary, the county  
30 shall address (A) the need to preserve the character of existing  
31 natural neighborhoods and communities, (B) physical boundaries, such  
32 as bodies of water, streets and highways, and land forms and  
33 contours, (C) the prevention of abnormally irregular boundaries, and  
34 (D) the ability to provide public facilities and public services in a  
35 manner that does not permit low-density sprawl;

36 (v) For purposes of this subsection (5)(d), an existing area or  
37 existing use is one that was in existence:

38 (A) On July 1, 1990, in a county that was initially required to  
39 plan under all of the provisions of this chapter;

1 (B) On the date the county adopted a resolution under RCW  
2 36.70A.040(2), in a county that is planning under all of the  
3 provisions of this chapter under RCW 36.70A.040(2); or

4 (C) On the date the office of financial management certifies the  
5 county's population as provided in RCW 36.70A.040(5), in a county  
6 that is planning under all of the provisions of this chapter pursuant  
7 to RCW 36.70A.040(5).

8 (e) Exception. This subsection shall not be interpreted to permit  
9 in the rural area a major industrial development or a master planned  
10 resort unless otherwise specifically permitted under RCW 36.70A.360  
11 and 36.70A.365.

12 (6) A transportation element that implements, and is consistent  
13 with, the land use element.

14 (a) The transportation element shall include the following  
15 subelements:

16 (i) Land use assumptions used in estimating travel;

17 (ii) Estimated traffic impacts to state-owned transportation  
18 facilities resulting from land use assumptions to assist the  
19 department of transportation in monitoring the performance of state  
20 facilities, to plan improvements for the facilities, and to assess  
21 the impact of land-use decisions on state-owned transportation  
22 facilities;

23 (iii) Facilities and services needs, including:

24 (A) An inventory of air, water, and ground transportation  
25 facilities and services, including transit alignments and general  
26 aviation airport facilities, to define existing capital facilities  
27 and travel levels as a basis for future planning. This inventory must  
28 include state-owned transportation facilities within the city or  
29 county's jurisdictional boundaries;

30 (B) Level of service standards for all locally owned arterials  
31 and transit routes to serve as a gauge to judge performance of the  
32 system. These standards should be regionally coordinated;

33 (C) For state-owned transportation facilities, level of service  
34 standards for highways, as prescribed in chapters 47.06 and 47.80  
35 RCW, to gauge the performance of the system. The purposes of  
36 reflecting level of service standards for state highways in the local  
37 comprehensive plan are to monitor the performance of the system, to  
38 evaluate improvement strategies, and to facilitate coordination  
39 between the county's or city's six-year street, road, or transit  
40 program and the office of financial management's (~~ten-year~~) 10-year



1 investment program. The concurrency requirements of (b) of this  
2 subsection do not apply to transportation facilities and services of  
3 statewide significance except for counties consisting of islands  
4 whose only connection to the mainland are state highways or ferry  
5 routes. In these island counties, state highways and ferry route  
6 capacity must be a factor in meeting the concurrency requirements in  
7 (b) of this subsection;

8 (D) Specific actions and requirements for bringing into  
9 compliance locally owned transportation facilities or services that  
10 are below an established level of service standard;

11 (E) Forecasts of traffic for at least (~~ten~~) 10 years based on  
12 the adopted land use plan to provide information on the location,  
13 timing, and capacity needs of future growth;

14 (F) Identification of state and local system needs to meet  
15 current and future demands. Identified needs on state-owned  
16 transportation facilities must be consistent with the statewide  
17 multimodal transportation plan required under chapter 47.06 RCW;

18 (iv) Finance, including:

19 (A) An analysis of funding capability to judge needs against  
20 probable funding resources;

21 (B) A multiyear financing plan based on the needs identified in  
22 the comprehensive plan, the appropriate parts of which shall serve as  
23 the basis for the six-year street, road, or transit program required  
24 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW  
25 35.58.2795 for public transportation systems. The multiyear financing  
26 plan should be coordinated with the (~~ten-year~~) 10-year investment  
27 program developed by the office of financial management as required  
28 by RCW 47.05.030;

29 (C) If probable funding falls short of meeting identified needs,  
30 a discussion of how additional funding will be raised, or how land  
31 use assumptions will be reassessed to ensure that level of service  
32 standards will be met;

33 (v) Intergovernmental coordination efforts, including an  
34 assessment of the impacts of the transportation plan and land use  
35 assumptions on the transportation systems of adjacent jurisdictions;

36 (vi) Demand-management strategies;

37 (vii) Pedestrian and bicycle component to include collaborative  
38 efforts to identify and designate planned improvements for pedestrian  
39 and bicycle facilities and corridors that address and encourage  
40 enhanced community access and promote healthy lifestyles.

1 (b) After adoption of the comprehensive plan by jurisdictions  
2 required to plan or who choose to plan under RCW 36.70A.040, local  
3 jurisdictions must adopt and enforce ordinances which prohibit  
4 development approval if the development causes the level of service  
5 on a locally owned transportation facility to decline below the  
6 standards adopted in the transportation element of the comprehensive  
7 plan, unless transportation improvements or strategies to accommodate  
8 the impacts of development are made concurrent with the development.  
9 These strategies may include increased public transportation service,  
10 ride-sharing programs, demand management, and other transportation  
11 systems management strategies. For the purposes of this subsection  
12 (6), "concurrent with the development" means that improvements or  
13 strategies are in place at the time of development, or that a  
14 financial commitment is in place to complete the improvements or  
15 strategies within six years. If the collection of impact fees is  
16 delayed under RCW 82.02.050(3), the six-year period required by this  
17 subsection (6)(b) must begin after full payment of all impact fees is  
18 due to the county or city.

19 (c) The transportation element described in this subsection (6),  
20 the six-year plans required by RCW 35.77.010 for cities, RCW  
21 36.81.121 for counties, and RCW 35.58.2795 for public transportation  
22 systems, and the (~~ten-year~~) 10-year investment program required by  
23 RCW 47.05.030 for the state, must be consistent.

24 (7) An economic development element establishing local goals,  
25 policies, objectives, and provisions for economic growth and vitality  
26 and a high quality of life. A city that has chosen to be a  
27 residential community is exempt from the economic development element  
28 requirement of this subsection.

29 (8) A park and recreation element that implements, and is  
30 consistent with, the capital facilities plan element as it relates to  
31 park and recreation facilities. The element shall include: (a)  
32 Estimates of park and recreation demand for at least a (~~ten-year~~)  
33 10-year period; (b) an evaluation of facilities and service needs;  
34 and (c) an evaluation of intergovernmental coordination opportunities  
35 to provide regional approaches for meeting park and recreational  
36 demand.

37 (9) It is the intent that new or amended elements required after  
38 January 1, 2002, be adopted concurrent with the scheduled update  
39 provided in RCW 36.70A.130. Requirements to incorporate any such new  
40 or amended elements shall be null and void until funds sufficient to

1 cover applicable local government costs are appropriated and  
2 distributed by the state at least two years before local government  
3 must update comprehensive plans as required in RCW 36.70A.130.

4 **Sec. 3.** RCW 36.70A.696 and 2021 c 306 s 2 are each amended to  
5 read as follows:

6 The definitions in this section apply throughout RCW 36.70A.697  
7 and 36.70A.698 unless the context clearly requires otherwise.

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

11 (2) "Attached accessory dwelling unit" means an accessory  
12 dwelling unit located within or attached to a single-family housing  
13 unit, duplex, triplex, townhome, or other housing unit. An attached  
14 accessory dwelling unit must have a substantial portion of its  
15 footprint within the other housing unit, and must share structural  
16 elements with the other unit.

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

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

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

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

28 (7) "Major transit stop" means:

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

31 (b) Commuter rail stops;

32 (c) Stops on rail or fixed guideway systems, including  
33 transitways;

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

36 (e) Stops for a bus or other transit mode providing actual fixed  
37 route service at intervals of (~~at least fifteen~~) no greater than 15  
38 minutes for at least five hours during the peak hours of operation on  
39 weekdays.

1       (8) (~~"Owner" means any person who has at least 50 percent~~  
2 ~~ownership in a property on which an accessory dwelling unit is~~  
3 ~~located.~~

4       ~~(9))~~ "Short-term rental" means a lodging use, that is not a  
5 hotel or motel or bed and breakfast, in which a dwelling unit, or  
6 portion thereof, is offered or provided to a guest by a short-term  
7 rental operator for a fee for fewer than 30 consecutive nights.

8       **Sec. 4.** RCW 36.70A.697 and 2020 c 217 s 3 are each amended to  
9 read as follows:

10       (1) Cities and counties must adopt or amend by ordinance, and  
11 incorporate into their development regulations, zoning regulations,  
12 and other official controls the requirements of RCW 36.70A.698 to  
13 take effect by the time of the city's or county's next comprehensive  
14 plan update after July 1, 2021.

15       (2) Beginning (~~July 1, 2021~~) after the deadline in subsection  
16 (1) of this section, the requirements of RCW 36.70A.698:

17       (a) Apply and take effect in any city or county that has not  
18 adopted or amended ordinances, regulations, or other official  
19 controls as required under this section; and

20       (b) Supersede, preempt, and invalidate any local development  
21 regulations that conflict with RCW 36.70A.698.

22       **Sec. 5.** RCW 36.70A.698 and 2020 c 217 s 4 are each amended to  
23 read as follows:

24       (1) (~~Except as provided in subsection[s] (2) and (3) of this~~  
25 ~~section, through ordinances, development regulations, zoning~~  
26 ~~regulations, and other official controls as required under RCW~~  
27 ~~36.70A.697, cities)) Cities and counties may not (~~require~~) prohibit  
28 the construction of accessory dwelling units on residentially zoned  
29 lots within urban growth areas.~~

30       (2) When regulating accessory dwelling units, cities and counties  
31 may not:

32       (a) Impose a limit on accessory dwelling units of fewer than one  
33 attached and one detached accessory dwelling unit on a lot zoned for  
34 residential use with a total square footage of more than 4,500 square  
35 feet, unless the lot is otherwise zoned to allow:

36       (i) At least two dwelling units, in which case at least one  
37 additional attached or detached accessory dwelling unit must be  
38 allowed;

1 (ii) At least three dwelling units;

2 (b) Impose a limit on accessory dwelling units of fewer than one  
3 attached or one detached accessory dwelling unit on a lot zoned for  
4 residential use with a total square footage of less than 4,500 square  
5 feet, unless the lot is otherwise zoned to allow at least two  
6 dwelling units;

7 (c) Impose any prohibition of the sale or other conveyance of a  
8 condominium unit independently of a principal unit that is based  
9 solely on the grounds that the condominium unit was originally built  
10 as an accessory dwelling unit, provided that the condominium unit is  
11 served by utilities that are independent of the principal unit;

12 (d) Impose any owner occupancy requirements on any housing or  
13 dwelling unit on a lot containing an accessory dwelling unit. A city  
14 or county may retain an owner occupancy requirement if:

15 (i) An accessory dwelling unit on the lot is offered or used for  
16 short-term rental as defined in RCW 36.70A.696; or

17 (ii) The city or county administers a general program, begun  
18 prior to December 31, 2022, offering the waiver or reduction of  
19 impact fees and costs associated with accessory dwelling unit  
20 construction, if the units are offered at or below 80 percent of the  
21 area median income;

22 (e) Require the provision of off-street parking for accessory  
23 dwelling units within one-quarter mile of a major transit stop,  
24 except that a city or county may require the provision of off-street  
25 parking for such an accessory dwelling unit if the city or county  
26 makes a determination, supported by evidence, that the accessory  
27 dwelling unit is in an area that would make on-street parking  
28 infeasible or unsafe for the accessory dwelling unit; or

29 (f) Apply other development regulations to the construction of  
30 accessory dwelling units that are more restrictive than regulations  
31 on single-family or other residential developments.

32 ~~((2) A city may require the provision of off-street parking for~~  
33 ~~an accessory dwelling unit located within one-quarter mile of a major~~  
34 ~~transit stop if the city has determined that the accessory dwelling~~  
35 ~~unit is in an area with a lack of access to street parking capacity,~~  
36 ~~physical space impediments, or other reasons supported by evidence~~  
37 ~~that would make on-street parking infeasible for the accessory~~  
38 ~~dwelling unit.~~

1 ~~(3) A city that has adopted or substantively amended accessory~~  
2 ~~dwelling unit regulations within the four years previous to June 11,~~  
3 ~~2020, is not subject to the requirements of this section.)~~

4 (3) Regulations that may be applied to accessory dwelling units  
5 by cities and counties include:

6 (a) Generally applicable development regulations;

7 (b) Public health, safety, building code, and environmental  
8 permitting requirements, including regulations to protect ground and  
9 surface waters from on-site wastewater, that would be applicable to a  
10 principal unit;

11 (c) A prohibition on the construction of accessory dwelling units  
12 on lots that are not connected to or served by public sewers;

13 (d) A prohibition or restriction on the construction of accessory  
14 dwelling units in residential zones with a density of one dwelling  
15 unit per acre or less that are within areas designated as wetlands,  
16 fish and wildlife habitats, floodplains, or geologically hazardous  
17 areas.

18 (4) This section and section 4 of this act apply only within  
19 urban growth areas required by this chapter.

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

22 To encourage the use of accessory dwelling units for long-term  
23 housing, cities and counties may adopt ordinances, development  
24 regulations, and other official controls which waive or defer fees,  
25 including impact fees; defer the payment of taxes; or waive specific  
26 regulations. Cities and counties may only offer such reduced or  
27 deferred fees, deferred taxes, waivers, or other incentives for the  
28 development or construction of accessory dwelling units if such units  
29 are subject to effective binding commitments or covenants that the  
30 units will not be regularly offered for short-term rental.

31 NEW SECTION. Sec. 7. A new section is added to chapter 64.32  
32 RCW to read as follows:

33 (1) Except for restrictive covenants or deed restrictions created  
34 to protect public health and safety or to protect ground and surface  
35 waters from on-site wastewater, no restrictive covenant or deed  
36 restriction created after the effective date of this section and  
37 applicable to a property located within an urban growth area may  
38 impose any restriction or prohibition on the construction,

1 development, or use on a lot of an accessory dwelling unit that the  
2 city or county in which the urban growth area is located would be  
3 prohibited from imposing under RCW 36.70A.698.

4 (2) A city or county issuing a permit for the construction of an  
5 accessory dwelling unit may not be held civilly liable on the basis  
6 that the construction of the accessory dwelling unit would violate a  
7 restrictive covenant or deed restriction that was created after the  
8 effective date of this section and that is contrary to subsection (1)  
9 of this section.

10 NEW SECTION. **Sec. 8.** A new section is added to chapter 64.34  
11 RCW to read as follows:

12 (1) Except for restrictive covenants or deed restrictions created  
13 to protect public health and safety or to protect ground and surface  
14 waters from on-site wastewater, no restrictive covenant or deed  
15 restriction created after the effective date of this section and  
16 applicable to a property located within an urban growth area may  
17 impose any restriction or prohibition on the construction,  
18 development, or use on a lot of an accessory dwelling unit that the  
19 city or county in which the urban growth area is located would be  
20 prohibited from imposing under RCW 36.70A.698.

21 (2) A city or county issuing a permit for the construction of an  
22 accessory dwelling unit may not be held civilly liable on the basis  
23 that the construction of the accessory dwelling unit would violate a  
24 restrictive covenant or deed restriction that was created after the  
25 effective date of this section and that is contrary to subsection (1)  
26 of this section.

27 NEW SECTION. **Sec. 9.** A new section is added to chapter 64.38  
28 RCW to read as follows:

29 (1) Except for restrictive covenants or deed restrictions created  
30 to protect public health and safety or to protect ground and surface  
31 waters from on-site wastewater, no restrictive covenant or deed  
32 restriction created after the effective date of this section and  
33 applicable to a property located within an urban growth area may  
34 impose any restriction or prohibition on the construction,  
35 development, or use on a lot of an accessory dwelling unit that the  
36 city or county in which the urban growth area is located would be  
37 prohibited from imposing under RCW 36.70A.698.

1 (2) A city or county issuing a permit for the construction of an  
2 accessory dwelling unit may not be held civilly liable on the basis  
3 that the construction of the accessory dwelling unit would violate a  
4 restrictive covenant or deed restriction that was created after the  
5 effective date of this section and that is contrary to subsection (1)  
6 of this section.

7 NEW SECTION. **Sec. 10.** A new section is added to chapter 64.90  
8 RCW to read as follows:

9 (1) Except for restrictive covenants or deed restrictions created  
10 to protect public health and safety or to protect ground and surface  
11 waters from on-site wastewater, no restrictive covenant or deed  
12 restriction created after the effective date of this section and  
13 applicable to a property located within an urban growth area may  
14 impose any restriction or prohibition on the construction,  
15 development, or use on a lot of an accessory dwelling unit that the  
16 city or county in which the urban growth area is located would be  
17 prohibited from imposing under RCW 36.70A.698.

18 (2) A city or county issuing a permit for the construction of an  
19 accessory dwelling unit may not be held civilly liable on the basis  
20 that the construction of the accessory dwelling unit would violate a  
21 restrictive covenant or deed restriction that was created after the  
22 effective date of this section and that is contrary to subsection (1)  
23 of this section."

24 Correct the title.

EFFECT: Provides an exception to the prohibition against covenants or deed restrictions that prohibit or restrict the construction, development, or use of an accessory dwelling unit if the prohibition is necessary to protect public health and safety or to protect ground and surface waters from on-site wastewater.

Removes the prohibition against the covenants and deed restrictions from the growth management statutes and includes it in the statutes governing common interest communities.

--- END ---