## SUBSTITUTE HOUSE BILL 2343

## AS AMENDED BY THE SENATE

Passed Legislature - 2020 Regular Session

## State of Washington 66th Legislature 2020 Regular Session

By House Environment & Energy (originally sponsored by Representatives Fitzgibbon, Frame, Macri, Doglio, Tharinger, and Pollet)

READ FIRST TIME 01/30/20.

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- AN ACT Relating to urban housing supply; amending RCW 36.70A.600,
- 2 43.21C.495, 36.70A.620, and 36.70A.610; reenacting and amending RCW
- 3 36.70A.030; and creating a new section.
- 4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:
- 5 **Sec. 1.** RCW 36.70A.600 and 2019 c 348 s 1 are each amended to 6 read as follows:
  - (1) A city planning pursuant to RCW 36.70A.040 is encouraged to take the following actions in order to increase its residential building capacity:
    - (a) Authorize development in one or more areas of not fewer than five hundred acres that include at least one train station served by commuter rail or light rail with an average of at least fifty residential units per acre that require no more than an average of one on-site parking space per two bedrooms in the portions of multifamily zones that are located within the areas;
- (b) Authorize development in one or more areas of not fewer than ((five)) two hundred acres in cities with a population greater than forty thousand or not fewer than ((two)) one hundred ((fifty)) acres in cities with a population less than forty thousand that include at least one bus stop served by scheduled bus service of at least four times per hour for twelve or more hours per day with an average of at

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least twenty-five residential units per acre that require no more than an average of one on-site parking space per two bedrooms in portions of the multifamily zones that are located within the areas;

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- (c) Authorize at least one duplex, triplex, <u>quadplex</u>, <u>sixplex</u>, <u>stacked flat</u>, <u>townhouse</u>, or courtyard apartment on each parcel in one or more zoning districts that permit single-family residences unless a city documents a specific infrastructure of physical constraint that would make this requirement unfeasible for a particular parcel;
- (d) <u>Authorize a duplex, triplex, quadplex, sixplex, stacked flat, townhouse, or courtyard apartment on one or more parcels for which they are not currently authorized;</u>
- (e) Authorize cluster zoning or lot size averaging in all zoning districts that permit single-family residences;
- ((<del>(e)</del> Authorize attached accessory dwelling units on all parcels containing single-family homes where the lot is at least three thousand two hundred square feet in size, and permit both attached and detached accessory dwelling units on all parcels containing single-family homes, provided lots are at least four thousand three hundred fifty-six square feet in size. Qualifying city ordinances or regulations may not provide for on-site parking requirements, owner occupancy requirements, or square footage limitations below one thousand square feet for the accessory dwelling unit, and must not prohibit the separate rental or sale of accessory dwelling units and the primary residence. Cities must set applicable impact fees at no more than the projected impact of the accessory dwelling unit. To allow local flexibility, other than these factors, accessory dwelling units may be subject to such regulations, conditions, procedures, and limitations as determined by the local legislative authority, and must follow all applicable state and federal laws and local ordinances;))
  - (f) Adopt a subarea plan pursuant to RCW 43.21C.420;
- (g) Adopt a planned action pursuant to RCW 43.21C.440(1)(b)(ii), except that an environmental impact statement pursuant to RCW 43.21C.030 is not required for such an action;
- (h) Adopt increases in categorical exemptions pursuant to RCW 43.21C.229 for residential or mixed-use development;
- (i) Adopt a form-based code in one or more zoning districts that permit residential uses. "Form-based code" means a land development regulation that uses physical form, rather than separation of use, as the organizing principle for the code;

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

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- (k) Allow for the division or redivision of land into the maximum number of lots through the short subdivision process provided in chapter 58.17 RCW; ((and))
- (1) Authorize a minimum net density of six dwelling units per acre in all residential zones, where the residential development capacity will increase within the city. For purposes of this subsection, the calculation of net density does not include the square footage of areas that are otherwise prohibited from development, such as critical areas, the area of buffers around critical areas, and the area of roads and similar features;
- (m) Create one or more zoning districts of medium density in which individual lots may be no larger than three thousand five hundred square feet and single-family residences may be no larger than one thousand two hundred square feet;
- 17 <u>(n) Authorize accessory dwelling units in one or more zoning</u> 18 <u>districts in which they are currently prohibited;</u>
  - (o) Remove minimum residential parking requirements related to accessory dwelling units;
- 21 (p) Remove owner occupancy requirements related to accessory 22 dwelling units;
  - (q) Adopt new square footage requirements related to accessory dwelling units that are less restrictive than existing square footage requirements related to accessory dwelling units;
  - (r) Adopt maximum allowable exemption levels in WAC 197-11-800(1) as it existed on the effective date of this section, or such subsequent date as may be provided by the department of ecology by rule, consistent with the purposes of this section;
- 30 <u>(s) Adopt standards for administrative approval of final plats</u>
  31 <u>pursuant to RCW 58.17.100;</u>
  - (t) Adopt ordinances authorizing administrative review of preliminary plats pursuant to RCW 58.17.095;
  - (u) Adopt other permit process improvements where it is demonstrated that the code, development regulation, or ordinance changes will result in a more efficient permit process for customers;
- (v) Update use matrices and allowable use tables that eliminate conditional use permits and administrative conditional use permits for all housing types, including single-family homes, townhomes,

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- 1 <u>multifamily housing, low-income housing, and senior housing, but</u> 2 excluding essential public facilities;
  - (w) Allow off-street parking to compensate for lack of on-street parking when private roads are utilized or a parking demand study shows that less parking is required for the project;
- 6 (x) Develop a local program that offers homeowners a combination 7 of financing, design, permitting, or construction support to build accessory dwelling units. A city may condition this program on a 8 requirement to provide the unit for affordable home ownership or rent 9 10 the accessory dwelling unit for a defined period of time to either tenants in a housing subsidy program as defined in RCW 43.31.605(14) 11 12 or to tenants whose income is less than eighty percent of the city or county median family income. If the city includes an affordability 13 requirement under the program, it must provide additional incentives, 14 15 such as:
  - (i) Density bonuses;

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- (ii) Height and bulk bonuses;
- 18 (iii) Fee waivers or exemptions;
- 19 (iv) Parking reductions; or
- 20 <u>(v) Expedited permitting; and</u>
  - (y) Develop a local program that offers homeowners a combination of financing, design, permitting, or construction support to convert a single-family home into a duplex, triplex, or quadplex where those housing types are authorized. A local government may condition this program on a requirement to provide a certain number of units for affordable home ownership or to rent a certain number of the newly created units for a defined period of time to either tenants in a housing subsidy program as defined in RCW 43.31.605(14) or to tenants whose income is less than eighty percent of the city or county median family income. If the city includes an affordability requirement, it must provide additional incentives, such as:
    - (i) Density bonuses;
- 33 (ii) Height and bulk bonuses;
- 34 (iii) Fee waivers or exemptions;
- 35 (iv) Parking reductions; or
- 36 (v) Expedited permitting.
- 37 (2) A city planning pursuant to RCW 36.70A.040 may adopt a 38 housing action plan as described in this subsection. The goal of any 39 such housing plan must be to encourage construction of additional 40 affordable and market rate housing in a greater variety of housing

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- types and at prices that are accessible to a greater variety of incomes, including strategies aimed at the for-profit single-family home market. A housing action plan may utilize data compiled pursuant to RCW 36.70A.610. The housing action plan should:
- 5 (a) Quantify existing and projected housing needs for all income 6 levels, including extremely low-income households, with documentation 7 of housing and household characteristics, and cost-burdened 8 households;
- 9 (b) Develop strategies to increase the supply of housing, and 10 variety of housing types, needed to serve the housing needs 11 identified in (a) of this subsection;

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- (c) Analyze population and employment trends, with documentation of projections;
- (d) Consider strategies to minimize displacement of low-income residents resulting from redevelopment;
- (e) Review and evaluate the current housing element adopted pursuant to RCW 36.70A.070, including an evaluation of success in attaining planned housing types and units, achievement of goals and policies, and implementation of the schedule of programs and actions;
- (f) Provide for participation and input from community members, community groups, local builders, local realtors, nonprofit housing advocates, and local religious groups; and
- (g) Include a schedule of programs and actions to implement the recommendations of the housing action plan.
  - (3) If adopted by April 1, ((2021))  $\underline{2023}$ , ordinances, amendments to development regulations, and other nonproject actions taken by a city to implement the actions specified in subsection (1) of this section, with the exception of the action specified in subsection (1)(f) of this section, are not subject to administrative or judicial appeal under chapter 43.21C RCW.
  - (4) Any action taken by a city prior to April 1, ((2021)) 2023, to amend their comprehensive plan, or adopt or amend ordinances or development regulations, solely to enact provisions under subsection (1) of this section is not subject to legal challenge under this chapter.
- (5) In taking action under subsection (1) of this section, cities are encouraged to utilize strategies that increase residential building capacity in areas with frequent transit service and with the transportation and utility infrastructure that supports the additional residential building capacity.

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- 1 (6) A city ((with a population over twenty thousand)) that is planning to take at least two actions under subsection (1) of this 2 section, and that action will occur between July 28, 2019, and April 3 1, 2021, is eligible to apply to the department for planning grant 4 assistance of up to one hundred thousand dollars, subject to the 5 6 availability of funds appropriated for that purpose. The department shall develop grant criteria to ensure that grant funds awarded are 7 proportionate to the level of effort proposed by a city, and the 8 potential increase in housing supply or regulatory streamlining that 9 could be achieved. Funding may be provided in advance of, and to 10 11 support, adoption of policies or ordinances consistent with this 12 section. A city can request, and the department may award, more than one hundred thousand dollars for applications that demonstrate 13 14 extraordinary potential to increase housing supply or regulatory 15 streamlining.
  - (7) A city seeking to develop a housing action plan under subsection (2) of this section is eligible to apply to the department for up to one hundred thousand dollars.

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- (8) The department shall establish grant award amounts under subsections (6) and (7) of this section based on the expected number of cities that will seek grant assistance, to ensure that all cities can receive some level of grant support. If funding capacity allows, the department may consider accepting and funding applications from cities with a population of less than twenty thousand if the actions proposed in the application will create a significant amount of housing capacity or regulatory streamlining and are consistent with the actions in this section.
- (9) In implementing chapter 348, Laws of 2019, cities are encouraged to prioritize the creation of affordable, inclusive neighborhoods and to consider the risk of residential displacement, particularly in neighborhoods with communities at high risk of displacement.
- 33 **Sec. 2.** RCW 43.21C.495 and 2019 c 348 s 4 are each amended to read as follows:
- If adopted by April 1, ((2021))  $\underline{2023}$ , amendments to development regulations and other nonproject actions taken by a city to implement RCW 36.70A.600 (1) or (4), with the exception of the action specified in RCW 36.70A.600(1)(f), are not subject to administrative or judicial appeals under this chapter.

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Sec. 3. RCW 36.70A.620 and 2019 c 348 s 5 are each amended to read as follows:

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In counties and cities planning under RCW 36.70A.040, minimum residential parking requirements mandated by municipal zoning ordinances for housing units constructed after July 1, 2019, are subject to the following requirements:

- (1) For housing units that are affordable to very low-income or extremely low-income individuals and that are located within onequarter mile of a transit stop that receives transit service at least ((four)) two times per hour for twelve or more hours per day, minimum residential parking requirements may be no greater than one parking space per bedroom or .75 space per unit. A city may require a developer to record a covenant that prohibits the rental of a unit subject to this parking restriction for any purpose other than providing for housing for very low-income or extremely low-income individuals. The covenant must address price restrictions and household income limits and policies if the property is converted to a use other than for low-income housing. A city may establish a requirement for the provision of more than one parking space per bedroom or .75 space per unit if the jurisdiction has determined a particular housing unit to be in an area with a lack of access to street parking capacity, physical space impediments, or other reasons supported by evidence that would make on-street parking infeasible for the unit.
- (2) For housing units that are specifically for seniors or people with disabilities, that are located within one-quarter mile of a transit stop that receives transit service at least four times per hour for twelve or more hours per day, a city may not impose minimum residential parking requirements for the residents of such housing units, subject to the exceptions provided in this subsection. A city may establish parking requirements for staff and visitors of such housing units. A city may establish a requirement for the provision of one or more parking space per bedroom if the jurisdiction has determined a particular housing unit to be in an area with a lack of access to street parking capacity, physical space impediments, or other reasons supported by evidence that would make on-street parking infeasible for the unit. A city may require a developer to record a covenant that prohibits the rental of a unit subject to this parking restriction for any purpose other than providing for housing for seniors or people with disabilities.

(3) For market rate multifamily housing units that are located within one-quarter mile of a transit stop that receives transit service from at least one route that provides service at least four times per hour for twelve or more hours per day, minimum residential parking requirements may be no greater than one parking space per bedroom or .75 space per unit. A city or county may establish a requirement for the provision of more than one parking space per bedroom or .75 space per unit if the jurisdiction has determined a particular housing unit to be in an area with a lack of access to street parking capacity, physical space impediments, or other reasons supported by evidence that would make on-street parking infeasible for the unit.

- Sec. 4. RCW 36.70A.030 and 2019 c 348 s 2 are each reenacted and amended to read as follows:
- Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.
  - (1) "Adopt a comprehensive land use plan" means to enact a new comprehensive land use plan or to update an existing comprehensive land use plan.
  - (2) "Affordable housing" means, unless the context clearly indicates otherwise, residential housing whose monthly costs, including utilities other than telephone, do not exceed thirty percent of the monthly income of a household whose income is:
  - (a) For rental housing, sixty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development; or
  - (b) For owner-occupied housing, eighty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.
  - (3) "Agricultural land" means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production.
    - (4) "City" means any city or town, including a code city.

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

- (6) "Critical areas" include the following areas and ecosystems:

  (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas. "Fish and wildlife habitat conservation areas" does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.
  - (7) "Department" means the department of commerce.
- (8) "Development regulations" or "regulation" means the controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto. A development regulation does not include a decision to approve a project permit application, as defined in RCW 36.70B.020, even though the decision may be expressed in a resolution or ordinance of the legislative body of the county or city.
- (9) "Extremely low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below thirty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.
- (10) "Forestland" means land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, and that has long-term commercial significance. In determining whether forestland is primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, the following factors shall be considered: (a) The proximity of the land to urban, suburban, and rural settlements; (b) surrounding parcel

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size and the compatibility and intensity of adjacent and nearby land uses; (c) long-term local economic conditions that affect the ability to manage for timber production; and (d) the availability of public facilities and services conducive to conversion of forestland to other uses.

- (11) "Freight rail dependent uses" means buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of goods where the use is dependent on and makes use of an adjacent short line railroad. Such facilities are both urban and rural development for purposes of this chapter. "Freight rail dependent uses" does not include buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of coal, liquefied natural gas, or "crude oil" as defined in RCW 90.56.010.
- (12) "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.
- (13) "Long-term commercial significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.
- (14) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below eighty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.
- 31 (15) "Minerals" include gravel, sand, and valuable metallic 32 substances.
  - (16) "Permanent supportive housing" is subsidized, leased housing with no limit on length of stay((, paired with on-site or off-site voluntary services designed to support a person living with a disability to be a successful tenant in a housing arrangement, improve the resident's health status, and connect residents of the housing with community-based health care, treatment, and employment services)) that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed

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- 1 to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to 2 rental history, criminal history, and personal behaviors. Permanent 3 supportive housing is paired with on-site or off-site voluntary 4 services designed to support a person living with a complex and 5 6 disabling behavioral health or physical health condition who was 7 experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a 8 successful tenant in a housing arrangement, improve the resident's 9 health status, and connect the resident of the housing with 10 community-based health care, treatment, or employment services. 11 12 Permanent supportive housing is subject to all of the rights and responsibilities defined in chapter 59.18 RCW. 13
  - (17) "Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

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- (18) "Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.
- (19) "Recreational land" means land so designated under RCW 36.70A.1701 and that, immediately prior to this designation, was designated as agricultural land of long-term commercial significance under RCW 36.70A.170. Recreational land must have playing fields and supporting facilities existing before July 1, 2004, for sports played on grass playing fields.
- (20) "Rural character" refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan:
- 30 (a) In which open space, the natural landscape, and vegetation 31 predominate over the built environment;
- 32 (b) That foster traditional rural lifestyles, rural-based 33 economies, and opportunities to both live and work in rural areas;
- 34 (c) That provide visual landscapes that are traditionally found 35 in rural areas and communities;
- 36 (d) That are compatible with the use of the land by wildlife and 37 for fish and wildlife habitat;
- 38 (e) That reduce the inappropriate conversion of undeveloped land 39 into sprawling, low-density development;

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1 (f) That generally do not require the extension of urban 2 governmental services; and

- (g) That are consistent with the protection of natural surface water flows and groundwater and surface water recharge and discharge areas.
- (21) "Rural development" refers to development outside the urban growth area and outside agricultural, forest, and mineral resource lands designated pursuant to RCW 36.70A.170. Rural development can consist of a variety of uses and residential densities, including clustered residential development, at levels that are consistent with the preservation of rural character and the requirements of the rural element. Rural development does not refer to agriculture or forestry activities that may be conducted in rural areas.
- (22) "Rural governmental services" or "rural services" include those public services and public facilities historically and typically delivered at an intensity usually found in rural areas, and may include domestic water systems, fire and police protection services, transportation and public transit services, and other public utilities associated with rural development and normally not associated with urban areas. Rural services do not include storm or sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).
- 22 (23) "Short line railroad" means those railroad lines designated 23 class II or class III by the United States surface transportation 24 board.
  - (24) "Urban governmental services" or "urban services" include those public services and public facilities at an intensity historically and typically provided in cities, specifically including storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with rural areas.
  - (25) "Urban growth" refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources, rural uses, rural development, and natural resource lands designated pursuant to RCW 36.70A.170. A pattern of more intensive rural development, as provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread over wide areas, urban growth typically requires urban

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- governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.
- 5 (26) "Urban growth areas" means those areas designated by a 6 county pursuant to RCW 36.70A.110.

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- (27) "Very low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below fifty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.
- (28) "Wetland" or "wetlands" means areas that are inundated or 13 14 saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances 15 16 support, a prevalence of vegetation typically adapted for life in 17 saturated soil conditions. Wetlands generally include swamps, 18 marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, 19 including, but not limited to, irrigation and drainage ditches, 20 21 grass-lined swales, canals, detention facilities, wastewater 22 treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally 23 created as a result of the construction of a road, street, or 24 25 highway. Wetlands may include those artificial wetlands intentionally 26 created from nonwetland areas created to mitigate conversion of wetlands. 27
- NEW SECTION. Sec. 5. The department of ecology shall remove parking as an element of the environment within WAC 197-11-444 and as a component of the environmental checklist within WAC 197-11-960, as those sections existed on the effective date of this section, the next time that the department amends rules implementing chapter 43.21C RCW after the effective date of this section.
- 34 **Sec. 6.** RCW 36.70A.610 and 2019 c 348 s 3 are each amended to 35 read as follows:
- 36 <u>(1)</u> The Washington center for real estate research at the 37 University of Washington shall produce a ((report every two years)) 38 <u>series of reports as described in this section</u> that compiles housing

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supply and affordability metrics for each city planning under RCW 36.70A.040 with a population of ten thousand or more.

- (a) The initial report, completed by October 15, 2020, must be a compilation of objective criteria relating to ((development regulations, zoning,)) income, employment, housing and rental prices, housing affordability ((programs)) by housing tenure, and other metrics relevant to assessing housing supply and affordability for all income segments, including the percentage of cost-burdened households( $(\tau)$ ) of each ((city subject to the report required by this section)) jurisdiction. This report may also include city-specific median income data for those cities implementing the multifamily tax exemption program under chapter 84.14 RCW.
- (b) The report completed by October 15, 2021, must include an analysis of the private rental housing market for each area outlining the number of units, vacancy rates, and rents by unit type, where possible. This analysis should separate market rate multifamily rental housing developments and other smaller scale market rate rental housing. This analysis should also incorporate data from the Washington state housing finance commission on subsidized rental housing in the area consistent with the first report under this subsection.
- (c) The report completed by October 15, 2022, must also include data relating to actions taken by cities under chapter 348, Laws of 2019 as well as detailed information on development regulations, levies and fees, and zoning related to housing development.
- (d) The report completed by October 15, 2024, and every two years thereafter, must also include relevant data relating to buildable lands reports prepared under RCW 36.70A.215, where applicable, and updates to comprehensive plans under this chapter.
- (2) The Washington center for real estate research shall collaborate with the Washington housing finance commission and the office of financial management to develop the metrics compiled in the ((report)) series of reports under this section.
- (3) The ((report)) series of reports under this section must be submitted, consistent with RCW 43.01.036, to the standing committees of the legislature with jurisdiction over housing issues and this chapter.