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**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1096**

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**State of Washington 69th Legislature 2025 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Barkis, Ryu, Connors, Leavitt, Klicker, Reed, Fitzgibbon, Richards, Couture, Macri, Callan, Doglio, Bronoske, Tharinger, Wylie, Duerr, Timmons, Ormsby, Fosse, Stonier, Bernbaum, and Hill)

AN ACT Relating to increasing housing options through lot splitting; amending RCW 36.70A.635; adding a new section to chapter 58.17 RCW; and creating new sections.

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

NEW SECTION. **Sec.**  The legislature finds that allowing an existing residential lot to be split to create a new residential lot through a simple, administrative process can offer many advantages to both the existing homeowner and to prospective homebuyers. The legislature further finds that administrative lot splitting can provide current owners the opportunity to maintain homeownership in changing life circumstances while facilitating development of middle housing to provide homebuyers, including first-time homebuyers, with more affordable ownership opportunities. The legislature also finds that lot splitting can be combined with the review of a residential building permit application to create a single integrated process benefiting both homeowners and cities. Therefore, it is the intent of the legislature to ease restrictions on, and expand opportunities for, lot splitting in certain cities planning under chapter 36.70A RCW, the growth management act.

NEW SECTION. **Sec.**  A new section is added to chapter 58.17 RCW to read as follows:

(1) Cities required to comply with the minimum density requirements under RCW 36.70A.635 shall include in their development regulations a process through which an applicant can seek review and approval of an administrative lot split, which may be combined with concurrent review of a residential building permit to create new middle housing, as defined in RCW 36.70A.030, or single-family housing. The application process for a residential lot to be split may require only an administrative decision, through which the application is reviewed, approved, or denied by the planning director or other designee based on applicable development standards without a predecision public hearing. A new buildable residential lot and residential building permit or permits must be administratively approved and are not subject to administrative appeal if they comply with applicable development standards and the following conditions are met:

(a) No more than one newly created lot is created through the administrative lot split;

(b) Both the parent lot and the newly created lot meet the minimum lot size allowed under applicable development regulations;

(c) The parent lot was not created through the splitting of a residential lot authorized by this section;

(d) The parent lot is located in a residential zone and not in an exclusively nonresidential zone including, but not limited to, zones that are exclusively commercial, retail, agricultural, or industrial;

(e) If the lot split would require demolition or alteration of any existing housing that would displace a renter, the applicant must recommend a displacement mitigation strategy that may include, but is not limited to, relocation assistance;

(f) The applicable sewer and water purveyors have issued certificates of availability to serve the newly created lot and dwelling units;

(g) Access and utility rights are granted or conveyed as necessary on or before recording of the lot split survey to provide access for the maximum number of dwelling units that could be developed on the newly created lot, provided such access rights may be reduced consistent with a city's adopted codes, regulations, or design standards as applicable through review of a subsequent application for a building permit, short subdivision, unit lot subdivision, subdivision application, or short subdivision if less than the maximum number of dwelling units are built on the newly created lot;

(h) The planning director or other designee determines that the application follows all applicable development regulations; and

(i) The lot split survey has been approved by the planning director or other designee and includes a condition on the face of the survey that further lot splits of the parent lot and newly created lot are not authorized by this section.

(2) A proposed lot split may be conditioned upon dedication of right-of-way on the parent lot to the extent such dedication is required under applicable codes, regulations, and design standards for the development, short plat, or subdivision of the parent lot absent an administrative lot split.

(3) Development of dwelling units on the newly created lot may be conditioned upon construction of frontage improvements to a right-of-way adjacent to either the parent lot or the newly created lot to the extent required under applicable codes, regulations, and design standards.

(4) Any construction on the newly created lot is subject to all existing state and local laws including those specified in this section. Nothing in this section modifies the requirements for approval of residential building permits in chapter 19.27 RCW.

(5) A city subject to the requirements of this section may not impose a limit on the total number of dwelling units allowed on the parent lot or newly created lot that is less than the number of dwelling units allowed by the underlying zoning of the parent lot prior to the administrative lot split.

(6) Notwithstanding the provisions of this section, lots that are not buildable according to locally adopted development regulations including, but not limited to, critical areas, shorelines, stormwater, setbacks, impervious surface areas, and building coverage standards, are not eligible for a lot split under this section.

(7) If a lot split results in a lot of a size that would allow for further land division, the lot is not eligible for a lot split but may be divided under other applicable land subdivision processes.

(8) The newly created lot must meet any locally adopted minimum density requirements.

(9) Cities are immune from any liability, loss, or other damage suffered by another that is related to the city's approval of a lot split under this act, including if the lot split creates a lot that is later determined to not be buildable.

(10) Parent lots and newly created lots approved under this section must have a lot split survey recorded with the county assessor with a notation that future lot splits are not allowed on the lot.

(11) Ordinances adopted to comply with this section are not subject to administrative or judicial appeal under chapter 43.21C RCW.

(12) The department of commerce must develop guidance for cities in implementing the lot splitting requirements.

(13) A city required to comply with the requirements of this section that has its next comprehensive plan update due in 2027, pursuant to RCW 36.70A.130, must adopt or amend by ordinance, and incorporate into its development regulations, zoning regulations, and other official controls, the requirements of this section in its next comprehensive plan update. All other cities required to comply with this section must implement the requirements within two years of the effective date of this section.

(14) For the purposes of this section, the following definitions apply unless the context clearly requires otherwise:

(a) "Lot split" means the administrative process of dividing an existing lot into two lots for the purpose of sale, lease, or transfer of ownership pursuant to this section.

(b) "Lot split survey" means the final survey prepared for filing for record with the county auditor and containing all elements and requirements for a lot split under this section and any local regulations.

(c) "Newly created lot" means a lot that was created by a lot split under this section.

(d) "Parent lot" means a lot that is subjected to a lot split under this section.

**Sec.**  RCW 36.70A.635 and 2024 c 152 s 2 are each amended to read as follows:

(1) Except as provided in subsection (4) of this section, any city that is required or chooses to plan under RCW 36.70A.040 must provide by ordinance and incorporate into its development regulations, zoning regulations, and other official controls, authorization for the following:

(a) For cities with a population of at least 25,000 but less than 75,000 based on office of financial management population estimates:

(i) The development of at least two units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies;

(ii) The development of at least four units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies, within one-quarter mile walking distance of a major transit stop; and

(iii) The development of at least four units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies, if at least one unit is affordable housing.

(b) For cities with a population of at least 75,000 based on office of financial management population estimates:

(i) The development of at least four units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies;

(ii) The development of at least six units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies, within one-quarter mile walking distance of a major transit stop; and

(iii) The development of at least six units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies, if at least two units are affordable housing.

(c) For cities with a population of less than 25,000, that are within a contiguous urban growth area with the largest city in a county with a population of more than 275,000, based on office of financial management population estimates the development of at least two units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies.

(2)(a) To qualify for the additional units allowed under subsection (1) of this section, the applicant must commit to renting or selling the required number of units as affordable housing. The units must be maintained as affordable for a term of at least 50 years, and the property must satisfy that commitment and all required affordability and income eligibility conditions adopted by the local government under this chapter. A city must require the applicant to record a covenant or deed restriction that ensures the continuing rental of units subject to these affordability requirements consistent with the conditions in chapter 84.14 RCW for a period of no less than 50 years. The covenant or deed restriction must also address criteria and policies to maintain public benefit if the property is converted to a use other than which continues to provide for permanently affordable housing.

(b) The units dedicated as affordable must be provided in a range of sizes comparable to other units in the development. To the extent practicable, the number of bedrooms in affordable units must be in the same proportion as the number of bedrooms in units within the entire development. The affordable units must generally be distributed throughout the development and have substantially the same functionality as the other units in the development.

(c) If a city has enacted a program under RCW 36.70A.540, the terms of that program govern to the extent they vary from the requirements of this subsection.

(3) If a city has enacted a program under RCW 36.70A.540, subsection (1) of this section does not preclude the city from requiring any development, including development described in subsection (1) of this section, to provide affordable housing, either on-site or through an in-lieu payment, nor limit the city's ability to expand such a program or modify its requirements.

(4)(a) As an alternative to the density requirements in subsection (1) of this section, a city may implement the density requirements in subsection (1) of this section for at least 75 percent of lots in the city that are primarily dedicated to single-family detached housing units.

(b) The 25 percent of lots for which the requirements of subsection (1) of this section are not implemented must include but are not limited to:

(i) Any areas within the city for which the department has certified an extension of the implementation timelines under RCW 36.70A.637 due to the risk of displacement;

(ii) Any areas within the city for which the department has certified an extension of the implementation timelines under RCW 36.70A.638 due to a lack of infrastructure capacity;

(iii) Any lots, parcels, and tracts designated with critical areas or their buffers that are exempt from the density requirements as provided in subsection (8) of this section;

(iv) Any portion of a city within a one-mile radius of a commercial airport with at least 9,000,000 annual enplanements that is exempt from the parking requirements under subsection (7)(b) of this section; and

(v) Any areas subject to sea level rise, increased flooding, susceptible to wildfires, or geological hazards over the next 100 years.

(c) Unless identified as at higher risk of displacement under RCW 36.70A.070(2)(g), the 25 percent of lots for which the requirements of subsection (1) of this section are not implemented may not include:

(i) Any areas for which the exclusion would further racially disparate impacts or result in zoning with a discriminatory effect;

(ii) Any areas within one-half mile walking distance of a major transit stop; or

(iii) Any areas historically covered by a covenant or deed restriction excluding racial minorities from owning property or living in the area, as known to the city at the time of each comprehensive plan update.

(5) A city subject to the requirements of subsection (1)(a) or (b) of this section must allow at least six of the nine types of middle housing to achieve the unit density required in subsection (1) of this section. A city may allow accessory dwelling units to achieve the unit density required in subsection (1) of this section. Cities are not required to allow accessory dwelling units or middle housing types beyond the density requirements in subsection (1) of this section. A city must also allow zero lot line short subdivision where the number of lots created is equal to the unit density required in subsection (1) of this section.

(6) Any city subject to the requirements of this section:

(a) If applying design review for middle housing, only administrative design review shall be required;

(b) Except as provided in (a) of this subsection, shall not require through development regulations any standards for middle housing that are more restrictive than those required for detached single-family residences, but may apply any objective development regulations that are required for detached single-family residences, including, but not limited to, set-back, lot coverage, stormwater, clearing, and tree canopy and retention requirements;

(c) Shall apply to middle housing the same development permit and environmental review processes that apply to detached single-family residences, unless otherwise required by state law including, but not limited to, shoreline regulations under chapter 90.58 RCW, building codes under chapter 19.27 RCW, energy codes under chapter 19.27A RCW, or electrical codes under chapter 19.28 RCW;

(d) Shall not require off-street parking as a condition of permitting development of middle housing within one-half mile walking distance of a major transit stop;

(e) Shall not require more than one off-street parking space per unit as a condition of permitting development of middle housing on lots no greater than 6,000 square feet before any zero lot line subdivisions or lot splits;

(f) Shall not require more than two off-street parking spaces per unit as a condition of permitting development of middle housing on lots greater than 6,000 square feet before any zero lot line subdivisions or lot splits; and

(g) Are not required to achieve the per unit density under chapter 332, Laws of 2023 on lots after subdivision below 1,000 square feet unless the city chooses to enact smaller allowable lot sizes.

(7) The provisions of subsection (6)(d) through (f) of this section do not apply:

(a) If a local government submits to the department an empirical study prepared by a credentialed transportation or land use planning expert that clearly demonstrates, and the department finds and certifies, that the application of the parking limitations of subsection (6)(d) through (f) of this section for middle housing will be significantly less safe for vehicle drivers or passengers, pedestrians, or bicyclists than if the jurisdiction's parking requirements were applied to the same location for the same number of detached houses. The department must develop guidance to assist cities on items to include in the study; or

(b) To portions of cities within a one-mile radius of a commercial airport in Washington with at least 9,000,000 annual enplanements.

(8) The provisions of this section do not apply to:

(a) Portions of a lot, parcel, or tract designated with critical areas designated under RCW 36.70A.170 or their buffers as required by RCW 36.70A.170, except for critical aquifer recharge areas where a single-family detached house is an allowed use provided that any requirements to maintain aquifer recharge are met;

(b) Areas designated as sole-source aquifers by the United States environmental protection agency on islands in the Puget Sound;

(c) A watershed serving a reservoir for potable water if that watershed is or was listed, as of July 23, 2023, as impaired or threatened under section 303(d) of the federal clean water act (33 U.S.C. Sec. 1313(d));

(d) Lots that have been designated urban separators by countywide planning policies as of July 23, 2023; or

(e) A lot that was created through the splitting of a single residential lot pursuant to section 2 of this act.

(9) Nothing in this section prohibits a city from permitting detached single-family residences.

(10) Nothing in this section requires a city to issue a building permit if other federal, state, and local requirements for a building permit are not met.

(11) A city must comply with the requirements of this section on the latter of:

(a) Six months after its next periodic comprehensive plan update required under RCW 36.70A.130 if the city meets the population threshold based on the 2020 office of financial management population data; or

(b) 12 months after their next implementation progress report required under RCW 36.70A.130 after a determination by the office of financial management that the city has reached a population threshold established under this section.

(12) A city complying with this section and not granted a timeline extension under RCW 36.70A.638 does not have to update its capital facilities plan element required by RCW 36.70A.070(3) to accommodate the increased housing required by chapter 332, Laws of 2023 until the first periodic comprehensive plan update required for the city under RCW 36.70A.130(5) that occurs on or after June 30, 2034.

(13) Until June 30, 2026, for cities subject to a growth target adopted under RCW 36.70A.210 that limit the maximum residential capacity of the jurisdiction, any additional residential capacity required by this section for lots, parcels, and tracts with critical areas or critical area buffers outside of critical areas or their buffers may not be considered an inconsistency with the countywide planning policies, multicounty planning policies, or growth targets adopted under RCW 36.70A.210.

NEW SECTION. **Sec.**  If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2025, in the omnibus appropriations act, this act is null and void.

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