
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1096

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)

READ FIRST TIME 02/21/25.

1 AN ACT Relating to increasing housing options through lot
2 splitting; amending RCW 36.70A.635; adding a new section to chapter
3 58.17 RCW; and creating new sections.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that allowing an
6 existing residential lot to be split to create a new residential lot
7 through a simple, administrative process can offer many advantages to
8 both the existing homeowner and to prospective homebuyers. The
9 legislature further finds that administrative lot splitting can
10 provide current owners the opportunity to maintain homeownership in
11 changing life circumstances while facilitating development of middle
12 housing to provide homebuyers, including first-time homebuyers, with
13 more affordable ownership opportunities. The legislature also finds
14 that lot splitting can be combined with the review of a residential
15 building permit application to create a single integrated process
16 benefiting both homeowners and cities. Therefore, it is the intent of
17 the legislature to ease restrictions on, and expand opportunities
18 for, lot splitting in certain cities planning under chapter 36.70A
19 RCW, the growth management act.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 58.17

2 RCW to read as follows:

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

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

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

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

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

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

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

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

1 subdivision, subdivision application, or short subdivision if less
2 than the maximum number of dwelling units are built on the newly
3 created lot;

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

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

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

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

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

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

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

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

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

39 (9) Cities are immune from any liability, loss, or other damage
40 suffered by another that is related to the city's approval of a lot

1 split under this act, including if the lot split creates a lot that
2 is later determined to not be buildable.

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

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

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

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

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

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

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

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

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

33 **Sec. 3.** RCW 36.70A.635 and 2024 c 152 s 2 are each amended to
34 read as follows:

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

1 (a) For cities with a population of at least 25,000 but less than
2 75,000 based on office of financial management population estimates:

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

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

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

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

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

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

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

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

34 (2)(a) To qualify for the additional units allowed under
35 subsection (1) of this section, the applicant must commit to renting
36 or selling the required number of units as affordable housing. The
37 units must be maintained as affordable for a term of at least 50
38 years, and the property must satisfy that commitment and all required
39 affordability and income eligibility conditions adopted by the local
40 government under this chapter. A city must require the applicant to

1 record a covenant or deed restriction that ensures the continuing
2 rental of units subject to these affordability requirements
3 consistent with the conditions in chapter 84.14 RCW for a period of
4 no less than 50 years. The covenant or deed restriction must also
5 address criteria and policies to maintain public benefit if the
6 property is converted to a use other than which continues to provide
7 for permanently affordable housing.

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

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

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

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

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

32 (i) Any areas within the city for which the department has
33 certified an extension of the implementation timelines under RCW
34 36.70A.637 due to the risk of displacement;

35 (ii) Any areas within the city for which the department has
36 certified an extension of the implementation timelines under RCW
37 36.70A.638 due to a lack of infrastructure capacity;

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

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

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

8 (c) Unless identified as at higher risk of displacement under RCW
9 36.70A.070(2)(g), the 25 percent of lots for which the requirements
10 of subsection (1) of this section are not implemented may not
11 include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (a) Portions of a lot, parcel, or tract designated with critical
39 areas designated under RCW 36.70A.170 or their buffers as required by
40 RCW 36.70A.170, except for critical aquifer recharge areas where a

1 single-family detached house is an allowed use provided that any
2 requirements to maintain aquifer recharge are met;

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

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

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

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

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

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

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

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

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

28 (12) A city complying with this section and not granted a
29 timeline extension under RCW 36.70A.638 does not have to update its
30 capital facilities plan element required by RCW 36.70A.070(3) to
31 accommodate the increased housing required by chapter 332, Laws of
32 2023 until the first periodic comprehensive plan update required for
33 the city under RCW 36.70A.130(5) that occurs on or after June 30,
34 2034.

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

1 planning policies, multicounty planning policies, or growth targets
2 adopted under RCW 36.70A.210.

3 NEW SECTION. **Sec. 4.** If specific funding for the purposes of
4 this act, referencing this act by bill or chapter number, is not
5 provided by June 30, 2025, in the omnibus appropriations act, this
6 act is null and void.

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