

RCW 36.70A.835 Department review of housing element compliance—

Application. (1) A county or city that is required or chooses to plan under RCW 36.70A.040 may submit their housing element required under RCW 36.70A.070(2) and any housing development regulations adopted or amended on or after July 27, 2025, to the department for review to determine whether the housing element or housing development regulations comply with the laws and regulations identified in subsection (7) of this section.

(2) (a) Not less than 120 days prior to applying for approval of a housing element, the county or city must notify the department in writing that it intends to apply for approval under subsection (1) of this section. The department shall review proposed housing elements prior to final adoption and advise the county or city of the actions necessary to receive approval.

(b) Prior to advising the county or city of the actions necessary to receive approval under (a) of this subsection, the department, along with the county or city, may consult with other relevant state agencies in making its determination.

(c) Prior to advising the county or city of the actions necessary to receive approval under (a) of this subsection, the department, along with the county or city, may consult with housing providers, developers, and builders that are located in or have completed work in the county or city.

(d) The department shall publish notice in the Washington state register that a city or county has notified the department of its intent to apply for approval and the department shall post a copy of the notice on the department website.

(3) (a) A county or city submitting a housing element or housing development regulation for review under subsection (1) of this section must submit its application to the department within 10 days after any final action to amend, repeal, or replace the housing element or housing development regulations.

(b) Notwithstanding subsection (1) of this section, the department may review housing development regulations adopted or amended before July 27, 2025, if amendments to those regulations are necessary to implement the housing element or any laws and regulations identified in subsection (7) of this section.

(4) Notwithstanding RCW 36.70A.320(1), a housing element or housing development regulation subject to review under this section does not take effect until the department issues a final decision determining that the housing element or housing development regulation complies with the laws and regulations identified in subsection (7) of this section.

(5) (a) An application for review must include, at a minimum, the following:

(i) A cover letter from the legislative authority requesting review of the housing element or housing development regulations;

(ii) A copy of the adopted ordinance or resolution taking the legislative action or actions required to adopt the housing element or housing development regulations;

(iii) A statement explaining how the adopted housing element or housing development regulations comply with the laws and regulations identified in subsection (7) of this section; and

(iv) A copy of the record developed by the city or county at any public meeting or public hearing at which action was taken on the housing element or housing development regulations.

(b) For the purposes of this subsection, "action" and "meeting" have the same meanings as in RCW 42.30.020.

(6) (a) Within 90 days of the date of receipt of an application, the department shall issue a decision determining whether the housing element and any housing development regulations comply with the laws and regulations identified in subsection (7) of this section. The department may extend the review period with written agreement of the city or county.

(b) The department must issue its decision in the form of a written statement, including findings of fact and conclusions, and noting the date of the issuance of its decision. The department's issued decision must conspicuously and plainly state that it is the department's final decision. In issuing a decision that finds that a city's or county's housing element and any housing development regulations are not in compliance with the laws and regulations identified in subsection (7) of this section, the department must demonstrate that the city's or county's housing element or development regulations are clearly erroneous.

(c) The department shall promptly publish its decision as follows:

- (i) Notify the city or county in writing of its decision;
- (ii) Publish a notice of action in the Washington State Register;
- (iii) Post a notice of its decision on the agency website; and
- (iv) Notify other relevant state agencies regarding the decision.

(7) (a) The department shall issue a determination of compliance for a housing element or housing development regulation unless it finds that the housing element or housing development regulation is not consistent with any of the following laws and regulations:

- (i) The housing planning goal set forth in RCW 36.70A.020(4);
- (ii) The housing element requirements set forth in RCW 36.70A.070(2);
- (iii) Any relevant rules adopted by the department;
- (iv) Any relevant state environmental policy act requirements in chapter 43.21C RCW;
- (v) The county's or city's comprehensive plan;
- (vi) Emergency shelters, transitional housing, emergency housing, and permanent supportive housing requirements in RCW 35.21.683 and 35A.21.430;
- (vii) Co-living housing requirements in RCW 36.70A.535;
- (viii) Density bonuses required in RCW 36.70A.545;
- (ix) Parking requirements in RCW *36.70A.620 and 36.70A.622; or
- (x) Housing requirements in RCW 36.70A.115, 36.70A.635, 36.70A.636, 36.70A.637, 36.70A.638, 36.70A.680, 36.70A.681, 36.70A.682, 36.70A.696, 36.70A.697, 36.70A.698, and 36.70A.699.

(b) Within six months of July 27, 2025, the department shall publish a defined set of minimum objective standards that jurisdictions must meet in order to comply with this section.

(8) (a) The department shall publish and regularly update a local government compliance list that includes, at minimum, the following information for each city or county:

- (i) Whether the city or county is subject to a targeted review under subsection (9) of this section;
- (ii) Whether the city or county has applied for a determination of compliance and, if so, the date of the application; and
- (iii) Whether the department has issued a decision on compliance for the city or county and, if so, the nature of the decision, the

date that the decision was issued, and the status or outcome of any appeals.

(b) The local government compliance list must be made publicly available on the department's website.

(9)(a)(i) A city or county that is required or chooses to plan under RCW 36.70A.040 must submit its housing element required under RCW 36.70A.070(2) and any housing development regulations adopted or amended on or after July 27, 2025, to the department for review in accordance with this section if the department selects the city or county for targeted review under this subsection. The department may select up to 10 cities or counties for targeted review each calendar year and must prioritize selections for review based on criteria including, but not limited to, the following:

(A) The city or county has not planned for and accommodated for its portion of the countywide housing need determined by the county;

(B) The city's or county's housing production is less than 50 percent of the annual housing being produced within the county or regional council area, as applicable, adjusted by population;

(C) The city's or county's housing production consists of greater than 80 percent single-family homes aimed at primarily households whose income is at or greater than 120 percent of the median household income adjusted for household size for the city or county where the household is located.

(ii) Upon selection for review, the department must notify any selected cities or counties within 10 days.

(iii) During review of a city or county under this subsection, the department may consult with housing developers and builders that are located in or have completed work in the city or county.

(b)(i) If the department determines that a city or county subject to targeted review under this subsection is not in compliance with the laws and regulations identified in subsection (7) of this section, the department shall notify the city or county of the deficiencies identified and propose amendments to correct any deficiencies. The city or county has 120 days to amend its housing element and any relevant housing development regulations to address any deficiencies noted by the department in its decision issued under subsection (6)(a) of this section and must submit any amendments to its housing element or housing development regulations to the department in the same manner of the initial application for review under subsection (5)(a) of this section. The department may extend the 120-day correction period with written agreement of the city or county.

(ii) If the department determines that a housing element or housing development regulation amended under (b)(i) of this subsection does not comply with the laws and regulations identified in subsection (7) of this section, the city or county is subject to the requirements of subsection (11) of this section.

(10) The department's decision on compliance, including subsequent reviews under subsection (9)(b) of this section, and any housing element or housing development regulations subject to review under this section, may be appealed to the growth management hearings board by filing a petition as provided in RCW 36.70A.290.

(11)(a) A noncompliant city or county may not deny an affordable or moderate-income housing development, or approve an affordable or moderate-income housing development with conditions or restrictions that have a substantial adverse impact on the viability of the development or the degree of affordability of the development unless at least one of the following conditions is met:

(i) The city or county has received a final decision from the department determining that its housing element and any housing development regulations comply with the laws and regulations identified in subsection (7) of this section;

(ii) The denial of the affordable or moderate-income housing development, or the approval of the affordable or moderate-income housing development with conditions or restrictions that have a substantial adverse impact on the viability of the development or the degree of affordability of the development, is required in order to comply with specific state or federal law;

(iii) The affordable or moderate-income housing development or proposed development site is located outside an urban growth area, in a critical area, in a critical area buffer, or in an area where residential uses are not allowed by the applicable shoreline master program; or

(iv) The affordable or moderate-income housing development or proposed development site is located in an area where neither the local jurisdiction's comprehensive plan nor zoning ordinance permits residential or mixed uses.

(b) The county or city must require the developer of an affordable or moderate-income housing development to include legally binding, enforceable restrictions on the development, recorded as a covenant or deed restriction, to ensure that the following measures of affordability are met for a minimum 25-year period:

(i) At least 20 percent of the units are affordable housing as defined in **RCW 36A.70A.030;

(ii) At least 50 percent of the units are workforce housing; or

(iii) All of the units are moderate-income housing as defined in RCW 36.70A.030.

(c) The county or city must periodically audit compliance with the restrictions or provide another mechanism to ensure that the units committed to affordable or workforce housing meet the measures of affordability described in (b) of this subsection during the agreed term.

(d) For the purposes of this subsection, "noncompliant city or county" means a city or county subject to targeted review under subsection (9) of this section that:

(i) Does not take amendatory actions under subsection (9)(b)(i) of this section following a determination from the department that the city's or county's housing element or housing development regulations do not comply with the laws and regulations identified in subsection (7) of this section; or

(ii) Has a housing element or housing development regulation that does not comply with the laws and regulations identified in subsection (7) of this section as determined by the department under subsection (9)(b)(ii) of this section or, if appealed, the board under RCW 36.70A.290(3)(b).

(12) A city or county may not be required to submit their housing element or housing development regulations for department review and compliance under this section as a condition of eligibility or prioritization for funds or other programs and opportunities unless a city or county is required to submit their housing element or housing development regulations under subsection (9)(a)(i) of this section.

(13) The department may adopt any rules necessary to implement this section.

(14) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Affordable housing" has the same meaning as in RCW 36.70A.030.

(b) "Workforce housing" means housing with monthly costs, including utilities other than telephone, that do not exceed 30 percent of the monthly income of a household whose income is:

(i) For a rental: At or below 80 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;

(ii) For ownership: At or below 100 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.

(c) "Moderate-income housing" has the same meaning as "moderate-income household" in RCW 36.70A.030.

(d) "Housing development regulations" means any development regulations related to the housing element requirements under RCW 36.70A.070(2) including, but not limited to, development regulations related to affordable housing, middle housing, co-living housing, accessory dwelling units, emergency shelters, transitional housing, emergency housing, permanent supportive housing, conversions of nonresidential buildings to residential use, and any zoning maps and zoning districts. [2025 c 269 s 1.]

Reviser's note: *(1) RCW 36.70A.620 was repealed by 2025 c 204 s 6.

** (2) RCW 36A.70A.030 appears to be erroneous. RCW 36.70A.030 was apparently intended.

State representation—2025 c 269: "The state, through the department and the attorney general, shall represent its interest before agencies of the United States, interstate agencies, and the courts with regard to comprehensive plans, regulations, activities, or uses approved under this act. Where federal or interstate agency plans, activities, or procedures conflict with state policies, all reasonable steps available shall be taken by the state to preserve the integrity of its policies." [2025 c 269 s 7.]

Short title—2025 c 269: "This act may be known and cited as the housing accountability act." [2025 c 269 s 8.]