

RCW 36.70A.840 Transit-oriented development—Development regulation in station areas—Affordable housing—Exceptions—Timelines.

(1) Cities planning under RCW 36.70A.040 may not enact or enforce any development regulation within a station area that would prohibit the siting of multifamily residential housing on lots where any other residential use is permissible.

(2)(a) Cities planning under RCW 36.70A.040 must allow new residential and mixed-use development within any station area at the transit-oriented development density of:

(i) At least 3.5 floor area ratio, on average, within a rail station area; and

(ii) At least 2.5 floor area ratio, on average, or at least a 3.0 floor area ratio, on average if a city exempts up to 25 percent of bus station areas, within a bus station area.

(A) Cities must adopt regulations that allow for greater building height and increased density in all bus station areas for developments built with all mass timber products.

(B) For the purposes of this subsection, "mass timber products" has the same meaning as in RCW 19.27.570.

(b) A city planning under RCW 36.70A.040 may adopt a modification to a station area designation, but only after consultation with and approval by the department.

(c) Cities planning under RCW 36.70A.040 may not enact or enforce any development regulation that imposes:

(i) A maximum floor area ratio of less than the transit-oriented development density in this subsection for any residential or mixed-use development within a station area, unless a city has adopted an exemption for the station area under (a)(ii) of this subsection; or

(ii) A maximum residential density, measured in residential units per acre or other metric of land area within a station area.

(3) For the purposes of this section:

(a) "Mixed-use development" means a building subject to a regulation specifying allowable residential proportions within mixed-use areas.

(b) "Workforce housing" means rental housing with monthly costs that do not exceed 30 percent of the monthly income of a household whose income is 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.

(4) Within any station area, any building in which all units are affordable or workforce housing for at least 50 years or are dedicated to permanent supportive housing, an additional 1.5 floor area ratio in excess of the transit-oriented development density required under subsection (2)(a) of this section must be permitted.

(5) Any floor area within a building located in a station area that is reserved for residential units in multifamily housing that includes at least three bedrooms must not be counted toward applicable floor area ratio limits. A city may require the residential units to comply with affordability requirements to be eligible for an exclusion from the applicable floor area ratio limits.

(6) Cities planning under RCW 36.70A.040 may by ordinance designate parts of a station area in which to enact or enforce floor area ratios for residential or mixed-use development that are more or less than the applicable transit-oriented development density, if the average maximum floor area ratio of all residential and mixed-use

areas within a station area is no less than the applicable transit-oriented development density.

(7)(a) Buildings constructed within a station area must maintain for at least 50 years:

(i) At least 10 percent of all residential units as affordable housing;

(ii) At least 10 percent of all residential units as workforce housing if at least 10 percent of the units are family sized units with more than two bedrooms; or

(iii) At least 20 percent of all residential units as workforce housing.

(b) A building constructed within a station area is exempt from the affordability requirements in (a) of this subsection if:

(i) The building is constructed on a lot in which a density that meets or exceeds the transit-oriented development density in subsection (2) of this section was authorized prior to January 1, 2025;

(ii) The building is subject to affordability requirements with a lower income threshold or a greater amount of required affordable housing that were enacted by a city prior to December 31, 2025; or

(iii) A city has enacted or expands a mandatory program under RCW 36.70A.540 that requires a minimum amount of affordable housing that must be provided by residential development, either on-site or through an in-lieu payment as allowed by RCW 36.70A.540, in an area where development regulations must comply with this section. Such mandatory program may be enacted, modified, or expanded by a city, and may require an amount of affordable housing and levels of affordability that differs or exceeds the requirements. An optional program established under RCW 36.70A.540 does not meet the requirements of this subsection (7)(b)(iii).

(c) For each building that is exempt from the requirements for affordable or workforce housing under (b)(i) or (ii) of this subsection, the city must identify the density and affordability requirements that apply to the building or parcel in its comprehensive planning documents. For each building that is exempt from the requirements for affordable or workforce housing under (b)(iii) of this subsection, the city must identify the density and affordability requirements that apply to the building or parcel in its municipal code.

(8) A city must approve an exemption under RCW 84.14.020(1)(a)(ii)(D) for multifamily residential housing within a station area that meets the affordability requirements in subsection (7)(a) of this section and the requirements of chapter 84.14 RCW, unless the city authorizes the 20-year exemption under RCW 84.14.020(1)(a)(ii)(C).

(9) A city that has enacted an incentive program prior to January 1, 2025, that requires public benefits, such as school capacity, greater amounts of affordable housing, green space, or green infrastructure, in return for additional development allowances, may continue to require such public benefits if the plan and implementing development regulations requiring those public benefits provides development capacity that is substantially similar to that required in this section.

(10)(a) No later than the deadlines established in subsection (15) of this section, cities planning under RCW 36.70A.040 must act to modify or repeal any existing development regulations applicable in a station area that, alone or in combination, are inconsistent with this

section, and may not enact any development regulations applicable in a station area that, alone or in combination with other development regulations, are inconsistent with this section.

(b) A city may apply any objective development regulations within a station area that are required for other multifamily residential uses in the same zone, including tree canopy and retention requirements.

(c) This subsection (10) does not apply to development regulations that are generally applicable health and safety standards, including building code standards and fire and life safety standards.

(11) Nothing in this section requires alteration, displacement, or limitation of industrial or agricultural uses or industrial, manufacturing, or agricultural areas within the urban growth area.

(12) 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.

(13) Cities planning under RCW 36.70A.040 may exclude from the requirements in this section any portion of a lot that is designated as a shoreline environment governed by a shoreline master program or as a critical area governed by a critical area ordinance, 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, and any lot that:

(a) Is nonconforming with development regulations governing lot dimensions including, but not limited to, standards related to lot width, area, geometry, or street access, unless an applicant demonstrates that the nonconforming lot may be developed in compliance with the development regulations governing lot dimensions by obtaining any modification, deviation, variance, or similar code departure approval allowed under the development regulations;

(b) Contains a designated landmark or is located within a historic district established under a local preservation ordinance adopted prior to July 27, 2025;

(c) Has been designated as containing urban separators by countywide planning policies as of July 27, 2025;

(d) Is an industrial, manufacturing, or agricultural designated lot that either is limited to one dwelling unit per lot or only allows housing for individuals and their families responsible for caretaking, farm work, security, or maintenance; or

(e) Is in a tsunami inundation area as mapped by the department of natural resources.

(14) For cities subject to a growth target adopted under RCW 36.70A.210 that limits the maximum residential capacity of the jurisdiction, any additional residential capacity required by this section may not be considered an inconsistency with the countywide planning policies, multicounty planning policies, or growth targets adopted under RCW 36.70A.210.

(15)(a) Any city that is required to review its comprehensive plan by the deadlines specified in RCW 36.70A.130(5)(a) must comply with the requirements of this section by the earlier of December 31, 2029, or its first implementation progress report due after December 31, 2024, as specified in RCW 36.70A.130(9), and thereafter at each comprehensive plan update or implementation progress report following the completion or funding of any major transit stop that would create a new station area within the jurisdiction.

(b) Any city that is required to review its comprehensive plan by the deadlines specified in RCW 36.70A.130(5)(b), (c), or (d) must

comply with the requirements of this section no later than six months after its first comprehensive plan update due after December 31, 2024, and thereafter at each comprehensive plan update or implementation progress report following the completion or funding of any major transit stop that would create a new station area within the jurisdiction.

(c) A federally recognized Indian tribe may voluntarily choose to participate in the planning process to implement the requirements of this section in accordance with RCW 36.70A.040(8).

(16)(a) The department must publish a model transit-oriented development ordinance by June 30, 2027.

(b) In any city subject to this section that has not passed ordinances, regulations, or other official controls by the deadlines required under subsection (15) of this section, the model ordinance supersedes, preempts, and invalidates local development regulations until the city takes all actions necessary to implement this section.

(17) A city may seek an extension from the transit-oriented development density requirements of this section by applying to the department for an extension in any areas that are at high risk of displacement based on a city's antidisplacement analysis or an antidisplacement map. The department must review the city's analysis and certify a five-year extension from the requirements of this section for areas at high risk of displacement. The city must create an implementation plan that identifies the antidisplacement policies available to residents to mitigate displacement risk. During the extension, the city may delay implementation or enact alternative floor area ratio requirements within any areas at high risk of displacement. The department may recertify an extension for additional five-year periods based on evidence of ongoing displacement risk in the area.

(18)(a)(i) The department may approve actions under this subsection (18) for cities that have, by June 30, 2026, adopted a plan and implementing development regulations for a specific station area that are substantially similar to the requirements of this section for that station area. In determining whether a city's adopted plan and development regulations are substantially similar, the department's evaluation may include, but not be limited to, if:

(A) The regulations will provide a development capacity and allow the opportunity for creation of affordable housing that is at least equivalent to the amount of development capacity and affordable housing that would be allowed in that station area if the specific provisions of this section were adopted;

(B) The jurisdiction offers a way to achieve buildings that exceed 85 feet in height; and

(C) No lot within the station area is zoned exclusively for detached single-family residences.

(ii) The department must establish by rule any standards or procedures necessary to implement (a) of this subsection.

(b) Any local actions approved by the department pursuant to (a) of this subsection are exempt from appeals under this chapter and chapter 43.21C RCW.

(c) The department's final decision to approve or reject actions by cities under this subsection (18) may be appealed to the growth management hearings board by filing a petition as provided in RCW 36.70A.290. [2025 c 267 s 3.]

Findings—2025 c 267: "The legislature finds that the state has made groundbreaking investments in state-of-the-art mass transit and intermodal infrastructure. The legislature finds that to maximize the state's return on these investments, land use policies and practices must allow housing development to keep pace with progress being implemented in transportation infrastructure development. The legislature also intends new development to reflect the state's commitment to affordable housing and vibrant, walkable, accessible urban environments that improve health, expand multimodal transportation options, and include varied community facilities, parks, and green spaces that are open to people of all income levels.

The legislature recognizes that cities planning under chapter 36.70A RCW require direction and technical assistance to ensure the benefits of state transportation investments are maximized and shared equitably while avoiding unnecessary programmatic and cost burdens to local governments in their comprehensive planning, code enactment, and permit processing workloads. The legislature further recognizes that regulatory flexibility and local control are also important features of optimal planning outcomes." [2025 c 267 s 1.]