

SENATE BILL REPORT

E2SHB 1220

As Reported by Senate Committee On:
Housing & Local Government, March 25, 2021

Title: An act relating to supporting emergency shelters and housing through local planning and development regulations.

Brief Description: Supporting emergency shelters and housing through local planning and development regulations.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Peterson, Macri, Bateman, Ryu, Lekanoff, Fitzgibbon, Kloba, Davis, Lovick, Santos, Ortiz-Self, Simmons, Berg, Hackney, Chopp, Tharinger and Frame).

Brief History: Passed House: 3/3/21, 57-39.

Committee Activity: Housing & Local Government: 3/18/21, 3/25/21 [DPA-WM, DNP].

Brief Summary of Amended Bill

- Updates the housing goals of the Growth Management Act (GMA) to include planning for and accommodating affordable housing.
- Requires GMA jurisdictions to address moderate, low, very low, and extremely low-income housing and racially disparate impacts and displacement in the housing element of the comprehensive plan.
- Requires the Department of Commerce to provide an inventory and analysis of existing and projected housing needs required in the housing element of the comprehensive plan, including emergency housing and shelters and permanent supportive housing.
- Prohibits cities from preventing emergency housing, transitional housing, or permanent supportive housing in zones where residential dwelling units, hotels, or short-term rentals are allowed, and from preventing emergency shelters in zones where hotels are allowed.
- Directs GMA jurisdictions to consider certain policies that encourage the

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

construction of accessory dwelling units to meet affordable housing goals.

SENATE COMMITTEE ON HOUSING & LOCAL GOVERNMENT

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Kuderer, Chair; Das, Vice Chair; Cleveland, Lovelett and Salomon.

Minority Report: Do not pass.

Signed by Senators Fortunato, Ranking Member; Gildon, Assistant Ranking Member; Short, Assistant Ranking Member; Warnick.

Staff: Brandon Popovac (786-7465)

Background: Growth Management Act. The Growth Management Act (GMA) is the comprehensive land-use planning framework for counties and cities in Washington. Originally enacted in 1990 and 1991, the GMA establishes land-use designation and environmental protection requirements for all Washington counties and cities. The GMA also establishes a significantly wider array of planning duties for 28 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA.

Counties that fully plan under the GMA must designate urban growth areas (UGAs), within which urban growth must be encouraged and outside of which growth may occur only if it is not urban in nature. Planning jurisdictions must include within their UGAs sufficient areas and densities to accommodate projected urban growth for the succeeding 20-year period. Cities must include sufficient areas to accommodate the broad range of needs and uses that will accompany the projected urban growth, including, as appropriate, medical, governmental, institutional, commercial, service, retail, and other nonresidential uses.

The GMA also directs fully planning jurisdictions to adopt internally consistent comprehensive land use plans. Comprehensive plans are implemented through locally adopted development regulations, and both the plans and the local regulations are subject to review and revision requirements prescribed in the GMA. When developing their comprehensive plans, counties and cities must consider various goals set forth in statute.

Comprehensive Plan—Mandatory Housing Element. The comprehensive plan of a fully planning county or city must consist of a map or maps and descriptive text covering objectives, principles, and standards used to develop the plan. The plan must be an internally consistent document and all elements must be consistent with the future land-use map. Each comprehensive plan must include a plan, scheme, or design for certain enumerated elements, including a housing element. The housing element must ensure the

vitality and character of established residential neighborhoods and:

- include an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth;
- include a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including single-family residences;
- identify sufficient land for housing, including government-assisted housing, housing for low-income families, manufactured housing, multifamily housing, and group homes and foster care facilities; and
- make adequate provisions for existing and projected needs of all economic segments of the community.

Local Planning for Accessory Apartments. Local governments are required to have accessory apartments, commonly referred to as accessory dwelling units (ADUs), provisions incorporated in their development regulations, zoning regulations, or official controls. These provisions must be consistent with a 1993 report from the Department of Community, Trade, and Economic Development (CTED) that provided recommendations to the Legislature designed to encourage development and placement of accessory apartments in areas zoned for single-family residential use. CTED recommendations include standards and criteria regarding size, parking, design, and quantity of accessory apartments. Local communities have some flexibility to adapt these recommendations to local needs and preferences. "Local government" means a county planning under the GMA, a city with a population of over 20,000, and a county with a population of over 125,000.

Accessory Dwelling Unit Regulation. In 2019, the Legislature encouraged fully planning cities to take an array of specified planning actions to increase residential building capacity. Specified planning actions relating to ADUs include authorizing attached and detached ADUs on all parcels containing single-family homes on lots of a certain size.

In 2020, the Legislature required any city within a county planning under the GMA that has not adopted or substantively amended its ADU regulations within the previous four years to adopt or amend ordinances, regulations, or other official controls that do not require the provision of off-street parking for ADUs within 0.25 mile of a major transit stop, with exceptions.

Summary of Amended Bill: The housing goal guiding the development of comprehensive plans and development regulations for GMA jurisdictions is updated to provide that jurisdictions plan for and accommodate, rather than encourage the availability of, affordable housing.

The Department of Commerce must provide the inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth as required in the housing element of the comprehensive plan, including units for moderate, low, very low, and extremely low-income households as well as

emergency housing, emergency shelters, and permanent supportive housing. Definitions are provided for emergency housing, emergency shelter, and moderate-income household.

The housing element of the comprehensive plan is updated to require GMA jurisdictions to do the following:

- include moderate density housing options in the statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing;
- identify zoning capacities for housing, including moderate, low, very low, and extremely low-income households as well as emergency housing, emergency shelters, and permanent supportive housing;
- when making adequate provisions for existing and projected needs of all economic segments:
 1. incorporate consideration for low, very low, extremely low, and moderate-income households;
 2. document programs and actions needed to achieve housing availability, including gaps in local funding, barriers such as development regulations, and other limitations;
 3. consider housing locations in relation to employment location; and
 4. consider the role of ADUs in meeting housing needs;
- identify local policies and regulations that result in racially disparate impacts, displacement, and exclusion in housing, including discriminatory zoning, disinvestment, and infrastructure availability;
- identify and implement policies and regulations to address and begin to undo racially disparate impacts, displacement, and exclusion in housing;
- identify areas at higher risk of displacement from market forces that occur with changes to zoning development regulations and capital investments; and
- establish anti-displacement policies, with consideration to the preservation of historical and cultural communities as well as investments in low, very low, extremely low, and moderate-income housing, equitable development initiatives, inclusionary zoning, community planning requirements, tenant protections, land disposition policies, and land that may be used for affordable housing.

Cities may not prohibit emergency housing, transitional housing, or permanent supportive housing in any zones where residential dwelling units, hotels, or short-term rentals are allowed, and may not prohibit emergency shelters in any zones where hotels are allowed. Reasonable occupancy, spacing, intensity of use, and operational restrictions may be imposed on indoor emergency housing and shelters, but such restrictions on occupancy, spacing, and intensity of use may not prevent the siting of sufficient indoor emergency housing or shelters necessary to accommodate the need for such housing and shelter. The terms dwelling unit, hotel, and short-term rental are defined with reference to how the terms are defined in other statutory provisions.

Cities and counties are directed to consider policies encouraging construction of ADUs to

meet affordable housing goals. Policies may include:

- prohibiting owner-occupancy requirements;
- requiring the owner not to use the ADU for short-term rentals;
- prohibiting counting of ADU residents toward the number of unrelated residents on the lot;
- prohibiting minimum gross floor area requirements exceeding building codes;
- prohibiting maximum gross floor area requirements of certain dimensions;
- requiring the same ADU allowances regarding roof decks, balconies, and porches as for the principal unit;
- requiring certain abutting lot setbacks;
- requiring an amnesty program for owners with unpermitted ADUs to obtain permits;
- authorizing detached ADUs, ADUs on lots meeting minimum lot size, and ADUs on lots with nonconforming principal units, if the ADU would not increase the nonconformity;
- authorizing ADUs to be converted from existing structures even if in violation of current setback or lot coverage requirements;
- prohibiting public street improvements as a requisite to permitting ADUs; and
- authorizing new or separate utility connection requirements between the ADU and utility when necessary to be consistent with certain requirements, plans, or policies.

EFFECT OF HOUSING & LOCAL GOVERNMENT COMMITTEE AMENDMENT(S):

- Modifies the new action of the housing element addressing the documentation of programs and actions needed to achieve housing availability to include gaps in local funding only as opposed to both state and local funding.
- Modifies the new action of the housing element addressing the establishment of anti-displacement policies by prioritizing consideration of the preservation of historical and cultural communities.
- Replaces the prohibition on cities preventing emergency housing and shelters and permanent supportive housing in certain zones where short-term rentals are allowed, and the requirement that such housing be permitted at the same occupancy levels as short-term rentals in the residential zone, with the following:
 1. Prohibits cities from preventing emergency housing, transitional housing, or permanent supportive housing in any zones in which residential dwelling units, hotels, or short-term rentals are allowed, and from preventing emergency shelters in any zone in which hotels are allowed.
 2. Authorizes the imposition of reasonable occupancy, spacing, intensity of use, and operational restrictions on indoor emergency housing and indoor emergency shelters, but that any such restrictions on occupancy, spacing, and intensity of use does not prevent the siting of sufficient indoor emergency housing or shelters to accommodate the projected need.
 3. Provides definitions for "dwelling unit" and "hotel," while clarifying the definition of "short-term rental" to align with how the term is defined under

statutory provisions regulating short-term rentals.

- Modifies one of the suggested policies to encourage the construction of ADUs to meet affordable housing goals, specifically authorizing cities and counties to require a new or separate utility connection between the ADU and a utility only when necessary to be consistent with certain water availability requirements and system plans, and requiring any fees associated with a necessary connection to be proportionate and not exceed reasonable costs.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed Second Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: The bill addresses the housing element in GMA comprehensive plans, which has been a relatively vague element, and asks cities to look at all housing types and possibly past zoning policies. The bill simply attempts to allow people to live where they want to live, and eliminates discrimination that may occur when limiting where people stay. Stakeholder negotiations are still ongoing to address fears with the bill. The bill does not interfere with current local practices addressing homelessness and housing. Land use regulation is based on a history of discrimination and redlining, and this bill addresses this history of exclusion. The bill addresses areas with high risk of displacement and provides policies to help prevent such displacement from reoccurring in certain communities. Emergency shelters need to be made available and provided in all neighborhoods. Too few GMA jurisdictions have addressed any housing beyond market rate housing. Many families are cost burdened, and there is no GMA planning to accommodate affordable housing or for emergency shelters. More emergency shelters are needed that are not congregate care based, like the recent use of the Red Lion Hotel in Renton, which can provide better support for shelter clients. Hotel-based shelters provided a benefit to the community in which they are located, resulting in a low spread of COVID-19 and a 75 percent decrease in emergency/police calls at the primary shelter location. Hotel-based shelters would provide more streamlined access to local clinics for medical services. Some counties have declared homelessness an emergency, and a lack of shelter and housing for lower income households has increased during the pandemic especially for BIPOC communities. Homelessness has decreased in certain counties and increased in others. The best way to treat homelessness is with housing, which is more cost effective. The planning and action strategies in the bill cannot be separated. People of color represent the homeless population at disproportionately higher rates. Local control is important but should not result in local discrimination. Most opposition to the bill has come from local government officials themselves and not the organizations operating or communities within such jurisdictions.

CON: There are general objections to sections 3 and 4 in the bill, and revisions or removal is requested. The state preemption in the bill is based on the false premise that smaller cities oppose emergency shelters. Certain cities have engaged in homelessness work over the last ten years, including convening a homelessness task force, setting up a day center and overnight shelter, and converting a strip mall to house a resource center and other providers. Certain cities have also worked with faith-based organizations to set up emergency shelters within city buildings. The preemptive language undermines other encouraging language in the bill. The bill goes too far and removes local zoning authority provided to cities to regulate shelter location. The underlying intent of the bill in providing local government options is supported, but sections 3 and 4 are concerning, especially if shelters would be permitted in areas of commercial activity. Amendments to the housing element should work as long as such efforts are funded along with any projected shelter need requirements; however, local stakeholders and residents still need to be involved to help determine shelter locations. Current issues around the types of shelters and appropriate locations depend on the type of proposed shelter. State preemption of local control faces the risk of backlash and a resulting lack of collaboration from local governments and residents to address the homelessness and housing needs. Local governments are best suited to evaluate transit and legal services needs for shelter populations. The state preemption fails to acknowledge previous efforts of cities to address housing and site shelters. Certain cities are already implementing permanent supportive housing and amending city codes to make shelter access easier. Conflating regulations governing short-term rentals and shelters does not make sense, and local governments have a better sense to achieve a balance between these approaches. Some cities are already in the process of updating their comprehensive plans and could not meet required timelines.

OTHER: There are concerns about the policies in the bill providing ADU recommendations, specifically utility connection charges for water-sewer service. Certain cities have allowed zoning for new residential multifamily housing where single-family zoning previously existed. The state preemption of local zoning authority is not supported, but the housing element modifications will help achieve housing diversity.

Persons Testifying: PRO: Representative Strom Peterson, Prime Sponsor; Bryce Yadon, Futurewise; Cynthia Stewart, League of Women Voters of Washington; Nancy Connolly; Russell Berg; Penny Sweet, Mayor, City of Kirkland; Michele Thomas, Washington Low Income Housing Alliance; Des Anderson, SEIU 1199NW.

CON: Armondo Pavone, Mayor, City of Renton; Reagan Dunn, King County Council; Nancy Backus, City of Auburn; Mike Ennis, Association of Washington Business; Carl Schroeder, Association of Washington Cities; Angela Birney, Mayor, City of Redmond; Brian Enslow, Cities of Vancouver, Lacey, Ferndale, and College Place.

OTHER: Joren Clowers, Washington Association of Sewer and Water Districts; Elizabeth Chamberlain, City of Walla Walla; Bill Clarke, Pierce County Water Cooperative.

Persons Signed In To Testify But Not Testifying: No one.