

# SENATE BILL REPORT

## ESHB 1660

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As of February 22, 2022

**Title:** An act relating to accessory dwelling units.

**Brief Description:** Concerning accessory dwelling units.

**Sponsors:** House Committee on Local Government (originally sponsored by Representatives Shewmake, Ryu, Fitzgibbon, Ramel, Bateman, Gregerson, Goodman, Macri, Peterson, Simmons, Bergquist, Tharinger, Kloba, Pollet and Ormsby).

**Brief History:** Passed House: 2/14/22, 50-48.

**Committee Activity:** Housing & Local Government: 2/23/22.

### Brief Summary of Bill

- Requires cities and counties fully planning under the Growth Management Act to allow for the construction of accessory dwelling units (ADUs) within urban growth areas (UGAs), and prohibits such cities and counties from imposing certain ADU regulations, by the time of their next comprehensive plan update.
- Removes the exemption allowing fully planning cities to require off-street parking for ADUs within a quarter-mile of a major transit stop under certain circumstances.
- Prohibits homeowners' associations, condominium associations, associations of apartment owners, common interest communities, and restrictive covenants from prohibiting ADUs within UGAs.

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### SENATE COMMITTEE ON HOUSING & LOCAL GOVERNMENT

**Staff:** Brandon Popovac (786-7465)

**Background:** Growth Management Act. The Growth Management Act (GMA) is the

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comprehensive land-use planning framework for counties and cities in Washington. 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. These jurisdictions are sometimes said to be fully planning under 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. Each city in a county must be included in an urban growth area. Planning jurisdictions must include within their UGAs sufficient areas and densities to accommodate projected urban growth for the succeeding 20-year period.

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. Comprehensive plans must be reviewed and, if necessary, revised every eight years to ensure that it complies with the GMA. When developing their comprehensive plans, counties and cities must consider various goals set forth in statute.

Each comprehensive plan must include a plan, scheme, or design for certain enumerated elements, including a mandatory housing element. The housing element must ensure the vitality and character of established residential neighborhoods and among other requirements consider the role of accessory dwelling units in meeting housing needs.

Accessory Dwelling Units. Any county fully planning under the GMA, city with a population of over 20,000, or county with a population of over 125,000 must have accessory dwelling unit (ADU) 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 that provided recommendations to encourage the development and placement of ADUs in areas zoned for single-family residential use. However, local communities have some flexibility to adapt these recommendations to local needs and preferences.

As of July 1, 2021, fully planning cities under the GMA may not require the provision of off-street parking for ADUs within a quarter mile of a major transit stop, such as a high capacity transportation system stop, a rail stop, or certain bus stops, unless the city determines that on-street parking is infeasible for the ADU.

An ADU is a residential living unit providing independent living facilities and permanent provisions for sleeping, cooking, sanitation, and living on the same lot as a single-family home, duplex, triplex, townhome, or other housing unit. A short-term rental is a lodging use, outside of a hotel, motel, or bed and breakfast, in which a room is offered for a fee for

fewer than 30 consecutive nights.

**Summary of Bill:** Cities and counties fully planning under the GMA must allow for the construction of ADUs within UGAs. When regulating ADUs, such cities and counties may not:

- impose a maximum floor area limit on an ADU that is less than:
  - 850 square feet on a lot with square footage of less than 4500 square feet; or
  - 1350 square feet combined between an attached and detached ADU on a lot over 4500 square feet, except that an attached ADU may be limited to half of the size of the principal unit, and any public health, safety, building code, and environmental permitting requirements applicable to the principal unit residence may also apply to the ADU;
- impose any impact fee imposed on the construction or development of an ADU that is greater than 50 percent of the fee that would be imposed on a principal unit of a similar size;
- impose a limit on ADUs that would allow fewer than one attached and one detached ADU on a lot over 4500 square feet in a residential zone, unless the lot is otherwise zoned for at least three dwelling units;
- impose a prohibition on the sale of a condominium unit independently of a principal unit based solely on the condominium unit initially being built as an ADU, as long as the condominium unit has independent utilities;
- impose any owner-occupancy requirements on a lot containing an ADU, unless:
  - an ADU on the lot is offered or used for short-term rental; or
  - the owner of the ADU accepts an offer from the city or county to reduce or waive costs or fees that would otherwise have been imposed on the construction of the ADU, and the city or county has a general program to reduce or waive fees and costs associated with ADU construction, with a specific additional waiver for ADUs offered at or below 80 percent of area median income; and
- require the provision of off-street parking for an ADU within 0.25 miles of a major transit stop.

Fully planning cities and counties must comply with these new ADU requirements by the time of their next comprehensive plan update after July 1, 2021. Such new requirements apply and take effect, and any contrary development regulations are preempted and superseded, after this deadline. Cities and counties may otherwise apply generally applicable development regulations to ADU construction.

Governing documents of homeowners' associations, condominium associations, associations of apartment owners, and common interest communities created after the effective date of the act may not prohibit the construction, development, or use of an ADU within a UGA. A restrictive covenant or deed restriction applicable to real property within a UGA created after the effective date of the act may not prevent the construction, development, or use of an ADU in a UGA.

A city or county that issues a permit for the construction of an ADU may not be held civilly liable on the basis that the construction would violate the declarations or governing documents of a homeowners' association, condominium association, association of apartment owners, or common interest community, or violate a restrictive covenant or deed restriction, created after the effective date of the act that would prohibit the construction or use of an ADU.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 17, 2022.

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

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