**5812-S.E AMH LG H2719.1 - NOT FOR FLOOR USE**

**ESSB 5812** - H COMM AMD

By Committee on Local Government

**NOT CONSIDERED 12/23/2019**

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  FINDINGS AND INTENT. (1) The legislature makes the following findings:

(a) Washington state is experiencing a housing affordability crisis. Many communities across the state are in need of more housing options for renters.

(b) Accessory dwelling units are one of the best housing affordability tools that support homeownership and address long-standing issues of intergenerational poverty.

(c) Accessory dwelling units typically rent below market rate compared to new constructed apartments, providing additional affordable housing options for renters.

(d) Accessory dwelling units also help to provide housing for very low-income households. More than ten percent of accessory dwelling units in some areas are occupied by tenants who pay no rent at all; among these tenants are grandparents, adult children, family members with disabilities, and friends going through life transitions. Accessory dwelling units meet the needs of these people who might otherwise require subsidized housing space and resources needed by other households.

(e) Homeowners who add an accessory dwelling unit to their property may benefit from added income and an increased sense of security, as well as enabling them to stay in their home.

(f) Accessory dwelling units can also benefit neighborhoods by expanding rental options near public amenities such as schools, parks, and transit without changing the look and feel of existing neighborhoods.

(g) Accessory dwelling units may reduce economic displacement in existing communities by expanding the range of available housing options and prices, provided that the units are utilized for permanent housing rather than for short-term rental, such as to tourists, or for business uses.

(h) Accessory dwelling units are a housing choice that provides environmental benefits. They promote energy conservation compared with average size single-family homes. In addition, the siting of additional accessory dwelling units near transit hubs can help to reduce greenhouse gas emissions.

(i) Removing certain regulatory barriers to the construction of accessory dwelling units, such as inflexible design standards and siting restrictions, may substantially reduce construction costs, thereby enabling more homeowners to add accessory dwelling units to their properties. The increased availability of accessory dwelling units will provide benefits to homeowners, renters, the community, and the environment.

(2) The legislature intends to promote and encourage the creation of accessory dwelling units as a means to address the need for additional affordable housing options. The legislature intends that local governments shall continue to have full authority to: Regulate accessory dwelling units to ensure that they are utilized for permanent affordable housing; regulate or bar accessory dwelling units for use in any zone or area as short-term visitor businesses or any other business use; prevent speculation leading to displacement or loss of affordable home purchase options; preserve environmental values; and apply local landlord–tenant ordinances, including antidiscrimination provisions or provisions requiring acceptance of housing vouchers or noncash governmental or nonprofit supported housing payments, and safety and health codes.

NEW SECTION. **Sec.**  DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Accessory dwelling unit" means a dwelling unit located on the same lot as a single-family housing unit.

(2) "Attached accessory dwelling unit" means an accessory dwelling unit located within or attached to a single-family housing unit without violating applicable lot size or lot coverage and set back requirements.

(3) "Detached accessory dwelling unit" means an accessory dwelling unit that consists partly or entirely of a building that is separate and detached from a single-family housing unit.

(4) "Dwelling unit" means a residential living unit that provides complete independent living facilities for one or more persons and that includes permanent provisions for living, sleeping, eating, cooking, and sanitation.

(5) "Cities" means all cities, code cities, and towns with a population of ten thousand or more.

(6) "Counties" means all counties with a population of fifteen thousand or more.

(7) "Gross floor area" means the interior habitable area of a dwelling unit including basements and attics but not including a garage or accessory structure.

(8) "Permanent rental housing" or "permanent housing" for purposes of this act in regard to accessory dwelling units means a dwelling unit typically offered for rent for greater than a six-month period under either a month-to-month tenancy or residential lease, or utilized for free long-term residence by the homeowner.

(9) "Short-term rental" means a dwelling unit offered for rent for thirty days or fewer.

(10) "Single-family housing unit" means a single-family detached house, and excludes a duplex, triplex, townhome, or other housing unit.

NEW SECTION. **Sec.**  ACCESSORY DWELLING UNIT REGULATIONS REQUIRED. (1) Except as provided in section 4 of this act, cities and counties must adopt or amend by ordinance and incorporate into their development regulations, zoning regulations, and other official controls, an authorization for the creation of accessory dwelling units that is consistent with this chapter.

(2) Ordinances, development regulations, and other official controls adopted or amended pursuant to this chapter may only apply in the portions of towns, cities, and counties that are within designated urban growth areas.

(3) Except as provided in section 4 of this act, cities and counties must implement the requirements of this chapter by June 1, 2021.

(4) Any action taken by a county or city to comply with the requirements of this chapter within its urban growth area boundary is not subject to legal challenge under chapter 36.70A RCW.

(5) Attached or detached accessory dwelling units may not be considered as contributing to the overall underlying density within the urban growth area boundary of a county for purposes of compliance with chapter 36.70A RCW.

(6) A local jurisdiction adopting an ordinance pursuant to this section must provide for notice to neighbors to provide an opportunity for review along with a minimum thirty-day period for submitting public comments. A local jurisdiction may provide notice by posting signs on the respective property and within two hundred feet of the property, mailing a notice, and providing notice to community organizations for the neighborhood recognized by the local governmental entity.

(7) City and county ordinances adopted pursuant to this chapter:

(a) May be subject to such regulations, conditions, procedures, and limitations as determined by the local legislative authority, to allow local flexibility, and recognize local authority;

(b) Must require an accessory dwelling unit to be accessible to fire department apparatus by way of a public street or approved fire apparatus access;

(c) May exempt designated historical districts;

(d) May establish design guidelines consistent with the neighborhood;

(e) May include owner occupancy restrictions relating to accessory dwelling units, restrictions on short-term rentals relating to accessory dwelling units, or both;

(f) For setbacks, heights, and design elements, such elements must be developed based on lot sizes, lot conditions, street block setbacks, slope, provide for pedestrian friendly streets and alleys, and other appropriate local considerations;

(g) May establish regulations consistent with tree, solar access, shading, and stormwater runoff capture ordinances; and

(h) May require the acceptance of low-income housing vouchers or other noncash housing program payments and other rules to create affordable housing.

NEW SECTION. **Sec.**  GENERAL REGULATORY REQUIREMENTS. Cities and counties which have not adopted accessory dwelling unit regulations as of June 1, 2021, which resulted in an increase in permitted accessory dwelling units utilized for permanent rental or permanent housing, as defined in section 2 of this act, or have not adopted or updated an accessory dwelling unit ordinance since 2012, must adopt an ordinance that includes at least four of the following provisions in subsections (1) through (10) of this section:

(1) For lots exceeding three thousand two hundred square feet and less than four thousand three hundred fifty-six square feet on which there is a single-family housing unit, allow for an attached accessory dwelling unit to be permitted for permanent rental housing or permanent housing, provided that the location of the accessory dwelling unit is compliant with all applicable state and federal laws, critical area ordinances, or other local ordinances regarding significant trees, lot setback, solar access, and health or safety considerations. Compliance with such other laws and development regulations may limit approval to an attached accessory dwelling unit within the existing permitted footprint of the main dwelling unit;

(2) For lots of four thousand three hundred fifty-six square feet or greater on which there is a single-family housing unit, allow for an attached or detached accessory dwelling unit to be permitted for permanent rental housing or permanent housing, provided that the location of the accessory dwelling unit is compliant with all applicable state and federal laws, critical area ordinances, or other local ordinances regarding significant trees, lot setback, solar access, and health or safety considerations. Compliance with such other laws and development regulations may limit approval to an attached accessory dwelling unit within the existing permitted footprint of the main dwelling unit or bar siting of a detached accessory dwelling unit;

(3) For lots of three thousand two hundred square feet or less on which there is a single-family housing unit, allow at least one attached accessory dwelling unit used for permanent rental housing or permanent housing located within the existing permitted dwelling structure;

(4) Attached or detached accessory dwelling units are not considered as contributing to the overall underlying density within the urban growth area boundary of a city for purposes of compliance with chapter 36.70A RCW;

(5) Any connection fees or capacity charges for attached or detached accessory dwelling units must not exceed the proportionate burden upon the water or sewer system that is typical of structures with similar characteristics as the proposed accessory dwelling. These charges may not be inconsistent with water availability requirements, water system plans, small water system management plans, or established policies adopted by the water or sewer utility provider;

(6) Does not count residents of accessory dwelling units against any limits on the number of unrelated residents on a single-family lot;

(7) Does not count the gross floor area of an accessory dwelling unit against any floor area ratio limitations that apply to single-family housing units;

(8) Does not establish a maximum gross floor area for accessory dwelling units that is less than five hundred square feet and fifteen percent of total lot size for lots over five thousand square feet but less than six thousand six hundred seventy square feet;

(9) Does not establish a minimum gross floor area for accessory dwelling units that is greater than two hundred square feet; or

(10) Provides for a waiver or reduction in on-site parking requirements based on location such as for accessory dwelling units within one-half mile of a transit stop for fixed rail or for bus service that is scheduled at least every fifteen minutes for no less than ten hours per day that is greater than fifty percent of the amount set for single-family residences.

NEW SECTION. **Sec.**  An ordinance that meets the criteria of sections 3 and 4 of this act may not be challenged in administrative or judicial appeals for noncompliance with chapter 43.21C RCW.

NEW SECTION. **Sec.**  IMPACT FEE REVIEW. Cities and counties must review their impact fees to ensure that any impact fees imposed for accessory dwelling units, in accordance with RCW 82.02.060(9), are commensurate with the actual impact of the accessory dwelling unit and are less than impact fees for single-family housing units.

NEW SECTION. **Sec.**  A new section is added to chapter 19.27 RCW to read as follows:

By April 1, 2020, the building code council shall adopt rules pertaining to accessory dwelling units that are consistent with the definitions and standards in chapter 36.--- RCW (the new chapter created in section 14 of this act).

**Sec.**  RCW 82.02.060 and 2012 c 200 s 1 are each amended to read as follows:

The local ordinance by which impact fees are imposed:

(1) Shall include a schedule of impact fees which shall be adopted for each type of development activity that is subject to impact fees, specifying the amount of the impact fee to be imposed for each type of system improvement. The schedule shall be based upon a formula or other method of calculating such impact fees. In determining proportionate share, the formula or other method of calculating impact fees shall incorporate, among other things, the following:

(a) The cost of public facilities necessitated by new development;

(b) An adjustment to the cost of the public facilities for past or future payments made or reasonably anticipated to be made by new development to pay for particular system improvements in the form of user fees, debt service payments, taxes, or other payments earmarked for or proratable to the particular system improvement;

(c) The availability of other means of funding public facility improvements;

(d) The cost of existing public facilities improvements; and

(e) The methods by which public facilities improvements were financed;

(2) May provide an exemption for low-income housing, and other development activities with broad public purposes, from these impact fees, provided that the impact fees for such development activity shall be paid from public funds other than impact fee accounts;

(3) May provide an exemption from impact fees for low-income housing. Local governments that grant exemptions for low-income housing under this subsection (3) may either: Grant a partial exemption of not more than eighty percent of impact fees, in which case there is no explicit requirement to pay the exempted portion of the fee from public funds other than impact fee accounts; or provide a full waiver, in which case the remaining percentage of the exempted fee must be paid from public funds other than impact fee accounts. An exemption for low-income housing granted under subsection (2) of this section or this subsection (3) must be conditioned upon requiring the developer to record a covenant that, except as provided otherwise by this subsection, prohibits using the property for any purpose other than for low-income housing. At a minimum, the covenant must address price restrictions and household income limits for the low-income housing, and that if the property is converted to a use other than for low-income housing, the property owner must pay the applicable impact fees in effect at the time of conversion. Covenants required by this subsection must be recorded with the applicable county auditor or recording officer. A local government granting an exemption under subsection (2) of this section or this subsection (3) for low-income housing may not collect revenue lost through granting an exemption by increasing impact fees unrelated to the exemption. A school district who receives school impact fees must approve any exemption under subsection (2) of this section or this subsection (3);

(4) Shall provide a credit for the value of any dedication of land for, improvement to, or new construction of any system improvements provided by the developer, to facilities that are identified in the capital facilities plan and that are required by the county, city, or town as a condition of approving the development activity;

(5) Shall allow the county, city, or town imposing the impact fees to adjust the standard impact fee at the time the fee is imposed to consider unusual circumstances in specific cases to ensure that impact fees are imposed fairly;

(6) Shall include a provision for calculating the amount of the fee to be imposed on a particular development that permits consideration of studies and data submitted by the developer to adjust the amount of the fee;

(7) Shall establish one or more reasonable service areas within which it shall calculate and impose impact fees for various land use categories per unit of development; and

(8) May provide for the imposition of an impact fee for system improvement costs previously incurred by a county, city, or town to the extent that new growth and development will be served by the previously constructed improvements provided such fee shall not be imposed to make up for any system improvement deficiencies.

(9) May provide an exemption from impact fees for accessory dwelling units as defined in section 2 of this act, but may not establish a transportation impact fee amount for accessory dwelling units within one-half mile of a transit stop for fixed rail or for bus service that is scheduled at least every fifteen minutes for no less than ten hours per day that is greater than fifty percent of the amount set for single-family residences.

For purposes of this section, "low-income housing" means housing with a monthly housing expense, that is no greater than thirty percent of eighty percent of the median family income adjusted for family size, for the county where the project is located, as reported by the United States department of housing and urban development.

**Sec.**  RCW 35.63.210 and 1993 c 478 s 8 are each amended to read as follows:

Any ((~~local government~~)) city or county, as defined in ((~~RCW 43.63A.215~~)) section 2 of this act, that is planning under this chapter shall comply with ((~~RCW 43.63A.215(3)~~)) chapter 36.--- RCW (the new chapter created in section 14 of this act).

**Sec.**  RCW 35A.63.230 and 1993 c 478 s 9 are each amended to read as follows:

Any ((~~local government~~)) city or county, as defined in ((~~RCW 43.63A.215~~)) section 2 of this act, that is planning under this chapter shall comply with ((~~RCW 43.63A.215(3)~~)) chapter 36.--- RCW (the new chapter created in section 14 of this act).

**Sec.**  RCW 36.70.677 and 1993 c 478 s 10 are each amended to read as follows:

Any ((~~local government~~)) city or county, as defined in ((~~RCW 43.63A.215~~)) section 2 of this act, that is planning under this chapter shall comply with ((~~RCW 43.63A.215(3)~~)) chapter 36.--- RCW (the new chapter created in section 14 of this act).

**Sec.**  RCW 36.70A.400 and 1993 c 478 s 11 are each amended to read as follows:

Any ((~~local government~~)) city or county, as defined in ((~~RCW 43.63A.215~~)) section 2 of this act, that is planning under this chapter shall comply with ((~~RCW 43.63A.215(3)~~)) chapter 36.--- RCW (the new chapter created in section 14 of this act).

NEW SECTION. **Sec.**  RCW 43.63A.215 (Accessory apartments—Development and placement—Local governments) and 1993 c 478 s 7 are each repealed.

NEW SECTION. **Sec.**  Sections 1 through 6 of this act constitute a new chapter in Title 36 RCW."

Correct the title.

EFFECT: (1) Adds housing affordability statements to the findings and intent section.

(2) Modifies the definition of "attached accessory dwelling unit" by adding a requirement that such units not violate applicable lot size or lot coverage and set back requirements.

(3) Modifies the definition of "cities" by limiting the definition to all cities, code cities, and towns with a population of 10,000 or more and removing all cities, code cities, and towns with a population of at least 2,500 within the boundaries of a regional transit authority.

(4) Adds definitions for "permanent rental housing" and "short-term rental."

(5) Removes a requirement that a city or county consider permit applications under the requirements of the bill if they do not adopt an ordinance in compliance with the bill.

(6) Removes retroactivity language relating to legal challenges under the Growth Management Act.

(7) Requires cities that have not adopted detached accessory dwelling unit regulations resulting in an increase in permitted accessory dwelling units (ADU) or that have not adopted an updated ADU ordinance since 2012, to adopt an ordinance that includes at least four provisions from a specified list and includes in the list an option for providing a waiver or reduction in on-site parking requirements based on location of the ADU.

(8) Requires a local jurisdiction adopting an ordinance pursuant to the bill to provide notice to neighbors and an opportunity to review along with a minimum 30-day period for public comment.

(9) Allows local ordinances to include owner occupancy restrictions relating to ADUs, restrictions on short-term rental relating to ADUs, or both.

(10) Removes language prohibiting a requirement for off-street parking for ADUs within one-half mile of a transit stop.

(11) Removes language prohibiting a city with a population of one hundred thousand or more to require the owner of a lot with an ADU to reside in the ADU or on another housing unit on the same lot.