
Local Government Committee

ESSB 5812

Brief Description: Concerning local governments planning and zoning for accessory dwelling units.

Sponsors: Senate Committee on Housing Stability & Affordability (originally sponsored by Senators Palumbo, Liias and Nguyen).

Brief Summary of Engrossed Substitute Bill

- Requires cities and counties to adopt ordinances that authorize accessory dwelling units (ADUs) within designated urban growth areas by June 1, 2021 and establishes certain regulatory requirements that must be included.
- Exempts cities that have adopted ADU regulations on or before the effective date of the act from the ADU regulation requirements, but encourages them to adopt similar policies before their next comprehensive review is due under the Growth Management Act.

Hearing Date: 3/27/19

Staff: Robbi Kesler (786-7153).

Background:

Local Planning for Accessory Apartments.

Local governments must have accessory apartment—commonly referred to as an accessory dwelling unit (ADU)—provisions incorporated in their development regulations, zoning regulations, or official controls. These provisions must be consistent with a 1993 report by the Department of Community, Trade, and Economic Development (CTED) providing recommendations to the Legislature designed to encourage developing and placing accessory apartments in areas zoned for single-family residential use. The CTED recommendations include standards and criteria regarding size, parking, design, and quantity of accessory apartments.

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

"Local government" means a county that is planning under the Growth Management Act (GMA), a city with a population of over 20,000, and a county with a population of over 125,000.

Urban Growth Areas.

Counties that fully plan under the GMA must designate Urban Growth areas (UGAs). Urban growth areas are areas within which urban growth must be encouraged and outside of which growth can 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. In addition, 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.

Summary of Bill:

By June 1, 2021, any city with a population of 10,000 or more, any city with a population of at least 2500 but less than 10,000 of which any portion of the city lies within the boundaries of a regional transit authority or transit agency, and any county with a population of 15,000 or more must adopt by ordinance and incorporate into its development and zoning regulations an authorization for creating ADUs within designated UGAs. However, any such city that has adopted ADU regulations on or before the effective date of the act are exempt from this requirement, but is encouraged to adopt similar policies by the date the city is required to complete its next comprehensive review under the GMA. Any city or county that does not comply with this requirement by June 1, 2021, must consider any permit application it receives in accordance with the act unless it adopts its own ordinance or regulations in compliance with this requirement within 60 days after receipt of the application.

Any county or city that takes action necessary to meet the requirements of the act within its UGA boundary is not subject to any legal challenge brought under the GMA or state environmental policy act on or after January 1, 2018. Accessory dwelling units may not be considered as contributing to the overall underlying density within the UGA of a county for purposes of compliance with the GMA. Such ordinances and regulations must allow: either one attached ADU or one detached ADU on lots on which there is a single-family housing unit, and at least one attached ADU on lots of 2,500 square feet or less on which there is a single-family housing unit. For such lots of 2,500 square feet or less, such ordinances and regulations may allow at least one detached ADU. To allow flexibility for local governments to implement these requirements, such requirements are subject to regulations, conditions, procedures, and limitations as determined by the local legislative authority. Such ordinances and regulations must also require ADUs to be accessible to fire department apparatus by way of a public street or approved fire apparatus access.

The ordinances and regulations may not:

- impose minimum lot size requirements for siting ADUs;
- be inconsistent with water availability requirements, water system plans, small water system management plans, or established policies adopted by cities or counties. Any connection fees or capacity charges for ADUs must be proportionate to the burden of the proposed ADU on the water-sewer system;
- count ADU residents towards the number of unrelated residents on a single-family lot;

- establish requirements for ADU off-street parking within 0.5 miles of a transit stop for fixed rail or for regularly scheduled bus service; but for all other areas, one additional off-street parking space per lot in which there is at least one ADU may be required;
- for cities with a population of 100,000 or more, require the lot owner to reside or occupy the ADU or other housing units on the same lot; or
- count the gross floor area of an ADU against any single-family home floor area ratio limitations.

The ordinances and regulations may exempt designated historical districts that are recognized as such under local ordinance.

The ordinances and regulations are encouraged to minimize their impact on the construction cost of an ADU, and without adopted findings, to not:

- limit the roof height of detached ADUs to less than 24 feet or limit their wall height to less than 17 feet;
- limit the maximum gross floor area of an ADU to less than 1,000 square feet or its minimum gross floor area to more than 140 square feet; or
- establish setback regulations for ADUs that are more restrictive than regulations for single-family housing units.

The ordinances and regulations do not preempt local jurisdictions from enacting regulations related to short-term rentals, including development standards, lot size provisions, off-street parking requirements, and tree retention requirements. Cities are encouraged to allow detached ADUs to be sited at the lot line of the rear yard if the rear yard is adjacent to an alley.

By April 1, 2020, the Building Code Council must adopt rules pertaining to ADUs consistent with the act's definitions and development standards.

Cities and counties must review their impact fees to ensure that any impact fees imposed for ADUs are commensurate with the actual impact of the ADU and are less than impact fees for single-family housing units. Cities and counties may provide an exemption from impact fees for ADUs, but may not establish a transportation impact fee for ADUs that are within 0.5 miles of a transit stop for fixed rail or regularly scheduled bus service that is more than 50 percent of the fee set for single-family residences.

"Dwelling unit" is defined as a residential that provides complete independent living facilities for one or more persons and includes permanent provisions for living, sleeping, eating, cooking, and sanitation. "Accessory dwelling unit" is defined as a dwelling unit located on the same lot as a single-family housing unit. "Single-family housing unit" is defined as a single-family detached house, and excludes a duplex, triplex, townhome, or other housing unit.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.