

SENATE BILL REPORT

SB 5812

As Reported by Senate Committee On:
Housing Stability & Affordability, February 20, 2019

Title: An act relating to local governments planning and zoning for accessory dwelling units.

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

Sponsors: Senators Palumbo, Liias and Nguyen.

Brief History:

Committee Activity: Housing Stability & Affordability: 2/13/19, 2/20/19 [DPS, w/oRec].

Brief Summary of First Substitute Bill

- Requires cities and counties to adopt ordinances and development and zoning regulations that authorize creating accessory dwelling units within designated urban growth areas.

SENATE COMMITTEE ON HOUSING STABILITY & AFFORDABILITY

Majority Report: That Substitute Senate Bill No. 5812 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kuderer, Chair; Das, Vice Chair; Darneille and Saldaña.

Minority Report: That it be referred without recommendation.

Signed by Senators Zeiger, Ranking Member; Fortunato and Warnick.

Staff: Brandon Popovac (786-7465)

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's (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

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criteria regarding size, parking, design, and quantity of accessory apartments. "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). UGAs 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 (First Substitute): 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 a transit service district, 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. 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 that takes action necessary to meet the requirements of the act is held harmless from any appeals brought under the GMA or state environmental policy act.

Such ordinances and regulations must allow:

- either one attached ADU and one detached ADU or two attached ADUs on all lots zoned for single-family homes and all lots that contain a single-family housing unit; and
- one attached ADU on any lot zoned for single-family homes.

ADUs may not be considered as contributing to the overall underlying density within the county for purposes of compliance with the GMA.

Such ordinances may only require installation of new or separate utilities between an attached ADU and a utility after a finding that the site-specific technical, environmental, or financial considerations warrant a separation of utility connections for ADUs from preexisting structures.

Such ordinances and regulations may not:

- impose minimum lot size requirements for siting ADUs;
- consider attached ADUs to be new residential uses for calculating utility connection or capacity fees. Any connection fees or capacity charges must be proportionate to the burden of the proposed ADU on the water-sewer system and must not exceed the reasonable cost of providing the service;
- prohibit the sale of a condominium unit on sole grounds it was originally an ADU;
- 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 certain areas designated for commercial use, mixed use, or multifamily housing; 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 unit on the same lot;
- count the gross floor area of an ADU against any single-family home floor area ratio limitations; and
- establish tree retention requirements for ADUs in addition to those that exist for single-family homes.

Cities and counties are encouraged not to:

- limit the roof height of detached ADUs to less than 24 feet or limit their wall height to less than 17 feet; and
- 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.

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.

An impact fee for ADUs established by local ordinance may not be more than 50 percent of the impact 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 in the same lot as a single-family housing unit, duplex, triplex, townhome, or other housing unit.

EFFECT OF CHANGES MADE BY HOUSING STABILITY & AFFORDABILITY COMMITTEE (First Substitute):

- Modifies application of the act to cities with a population of 10,000 or more, and to cities between 2,500 and 10,000 if any portion of the city is within a transit service district.
- Extends the deadline when cities and counties must implement act requirements from July 1, 2020, to June 1, 2021.
- Requires any city or county that does not comply with implementation requirements by June 1, 2021, to consider any permit application pursuant to and in accordance with the act unless the city or county adopts its own regulations within 60 days of receipt of the permit application.
- Holds harmless any county that takes action under the act from any appeals brought under GMA or state environmental policy act.
- Prohibits attached and detached ADUs from being considered as contributing to the overall underlying density within the county for GMA compliance purposes.

- Authorizes local regulations to require the installation of new or separate utility connections between an attached ADU and utility if a finding shows that site-specific considerations warrant such separate utility connections.
- Requires any connection fees or capacity charges to be proportionate to the burden of the proposed ADU on water-sewer systems and to not exceed the reasonable cost of the service.
- Prohibits cities and counties from requiring off-street parking for ADUs within one-half mile of certain areas designated for commercial or mixed use or multifamily housing, except, in all other areas, up to one additional off-street parking space per lot with at least one ADU may be required.
- Limits the prohibition on requiring the lot owner to reside in or occupy the ADU on the same lot to cities of 100,000 or more.
- Encourages, instead of requires, the prohibition of establishing certain ADU size and dimension limits.
- Removes other provisions relating to requirements on ADU lot location and design.

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 Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This represents one more approach to the affordable housing crisis that legislators are trying to fix. More people are moving to Washington State and home construction is not keeping up. ADUs represent a happy medium since it can increase housing density within the framework of the existing neighborhood. The bill represents the lowest hanging fruit to help ease the housing shortage. ADUs do not require a lot of infrastructure either. Any additional housing that local officials can bring into their respective jurisdictions benefits the broader region.

With extremely high Puget Sound real estate prices, the state's younger generation is unlikely to be able to afford a house or save up enough money for a down payment. With more of the younger generation being pushed to the suburbs, more carbon intensive commutes occur. ADUs provide supplemental income to homeowners and the potential for more affordable rents. ADUs can be helpful for senior citizens who are facing a limited income after retirement by generating more income or perhaps feel safer by having somebody live close by. If their home no longer meets their needs, senior citizens can move into an ADU that is universal design and is more accessible for them and then rent out the main property.

Requiring all local governments to authorize ADU development is necessary since it is difficult for an individual local government to develop more housing if surrounding jurisdictions are not going to step up and do the same.

ADUs provide green housing options since they are compact and energy efficient. ADUs can help avoid a climate crisis and bring down overall emissions by not pushing people out of the

city. People who are forced to move out of the city either double or quadruple their carbon footprint. ADUs are environmentally responsible building options and only require a few resources to construct while consuming far less energy than larger size homes. ADUs allow more people to live near the places they work and shop, walk to transit, or bike instead of driving a car. ADUs make it easier for multiple generations of the family to occupy the same lot and for young home buyers to offset their high mortgage costs with rental income.

CON: The bill should be an option for cities and counties and not a requirement. Removing the detached ADU portion of the bill and just including the attached ADU would not impact underlying density issues. Requiring ADU regulations might impact the installation of septic systems and other infrastructure requirements. Urban growth areas are very difficult area to map out and determine which areas the counties can expand to. The growth management hearings board has ruled in a number of occasions that attached ADUs must be considered in overall density considerations for counties. Any changes must be considered when complying with the growth management act, which puts counties in the crosshairs for appeals. Population capacity and population trends must be considered when counties implement their housing element. The bill might lead to the doubling of density in many zones relating to detached ADUs and possibly decrease the amount of available land for development, leading to an unintended price increase on development overall. The bill removes all of the optional tools cities have to implement ADU use. The bill would allow a twenty-four foot high ADU roof line in a single story rambler neighborhood. It would allow people to build a two-story ADU close to property lines.

OTHER: The population threshold for the bill's application is problematic. The bill would apply to smaller cities that do not have reliable transit options, and there is a great need to reduce vehicle miles traveled.

Persons Testifying: PRO: Senator Guy Palumbo, Prime Sponsor; Alex Hur, Master Builders Association of King and Snohomish Counties; Joanna Grist, AARP Washington; Margaret Morales, Sightline Institute; Emily Johnston, 350 Seattle; Brittany Bollay, Sierra Club; Shannon Loew, Impact Development; Kate Burke, Council Member, City of Spokane; Austin Bell, Deputy Mayor, Burien; Denise Rodriguez, Washington Homeownership Resource Center.

CON: Carl Schroeder, Association of Washington Cities; Paul Jewell, Washington State Association of Counties; Wes McCart, Stevens County.

OTHER: Bryce Yadon, Futurewise.

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