
Housing Committee

SSB 5235

Brief Description: Concerning accessory dwelling units.

Sponsors: Senate Committee on Local Government, Land Use & Tribal Affairs (originally sponsored by Senators Shewmake, Frame, Lovelett, Nguyen, Pedersen and Salomon).

Brief Summary of Substitute Bill

- Requires fully planning cities and counties to allow for the construction of accessory dwelling units (ADUs) in urban growth areas (UGAs).
- Prohibits certain ADU regulations within UGAs.
- Allows cities and counties to offer incentives for the construction or development of ADUs.

Hearing Date: 3/13/23

Staff: Serena Dolly (786-7150).

Background:

Growth Management Act.

The Growth Management Act (GMA) is the 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

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urban in nature. Each city in a county must be included in a UGA. UGAs must include 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 ten 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 mandatory elements, including a housing element. The housing element must ensure the vitality and character of established residential neighborhoods and, among other requirements, consider the role of ADUs in meeting housing needs.

Accessory Dwelling Units.

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. An attached ADU is a dwelling unit located within or attached to another housing unit. A detached ADU is separate and detached from another housing unit.

Cities with more than 20,000 people, counties with more than 125,000 people, and counties that are required to plan under the Growth Management Act are required to incorporate in their development and zoning regulations recommendations made in 1993 by the then Department of Community, Trade, and Economic Development, now the Department of Commerce, for the development and placement of accessory apartments.

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.

Summary of Bill:

By their next comprehensive plan update after July 1, 2021, fully planning cities and counties must ensure local development regulations allow for the construction of ADUs within UGAs. City and county ADU regulations may not include:

- a limit on ADUs of fewer than one attached and one detached ADU on a residential lot with a total square footage of more than 4,500 square feet, unless the lot is otherwise zoned to allow: (1) at least two dwelling units, in which case at least one additional attached or detached ADU must be allowed; or (2) at least three dwelling units;
- a limit on ADUs of fewer than one attached or one detached ADU on a lot zoned for

residential use with a total square footage of less than 4,500 square feet, unless the lot is otherwise zoned to allow at least two dwelling units;

- any prohibition of the sale of a condominium unit independently of a principal unit based solely on the grounds that the condominium unit was originally built as an ADU, if the condominium has independent utilities;
- any owner occupancy requirements on a lot containing an ADU unless: (1) an ADU on the lot is offered or used for short-term rental; or (2) the city or county administers a general program, begun prior to December 31, 2022, offering the waiver or reduction of impact fees and costs associated with ADU construction, if the units are offered at or below 80 percent of the area median income;
- off-street parking requirements within .25 miles of a major transit stop, unless the city or county makes a determination, supported by evidence, that the ADU is in an area that would make on-street parking infeasible or unsafe for the ADU; or
- other development regulations for the construction of ADUs that are more restrictive than regulations for single-family or other residential developments.

Cities and counties may apply certain regulations to ADUs, including:

- generally applicable development regulations;
- public health, safety, building code, and environmental permitting requirements, including regulations to protect ground and surface waters from on-site wastewater, that would be applicable to a principal unit;
- a prohibition on the construction of ADUs on lots that are not connected to or served by public sewers; and
- a prohibition or restriction on the construction of ADUs in residential zones with a density of one dwelling unit per acre or less that are within areas designated as wetlands, fish and wildlife habitats, floodplains, or geologically hazardous areas.

Cities and counties may offer incentives to encourage the development or construction of ADUs, including waiving or deferring fees, deferring the payment of taxes, or waiving specific regulations, if the units are subject to binding commitments or covenants that they will not be regularly offered for short-term rental.

A restrictive covenant or deed restriction created after the effective date of the act for property located within a UGA may not impose any restriction or prohibition on the construction, development, or use of an ADU that city or county would be prohibited from imposing. A city or county issuing a permit for the construction of an ADU may not be held civilly liable on the basis that the construction of the ADU would violate a restrictive covenant or deed restriction that was created after the effective date of the act.

Appropriation: None.

Fiscal Note: Available.

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

passed.