

ESSB 5812 - H COMM AMD  
By Committee on Local Government

NOT CONSIDERED 12/23/2019

1 Strike everything after the enacting clause and insert the  
2 following:

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

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

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

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

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

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

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

29 (g) Accessory dwelling units may reduce economic displacement in  
30 existing communities by expanding the range of available housing  
31 options and prices, provided that the units are utilized for

1 permanent housing rather than for short-term rental, such as to  
2 tourists, or for business uses.

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

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

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

28 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this  
29 section apply throughout this chapter unless the context clearly  
30 requires otherwise.

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

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

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

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

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

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

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

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

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

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

22 NEW SECTION. **Sec. 3.** ACCESSORY DWELLING UNIT REGULATIONS  
23 REQUIRED. (1) Except as provided in section 4 of this act, cities and  
24 counties must adopt or amend by ordinance and incorporate into their  
25 development regulations, zoning regulations, and other official  
26 controls, an authorization for the creation of accessory dwelling  
27 units that is consistent with this chapter.

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

32 (3) Except as provided in section 4 of this act, cities and  
33 counties must implement the requirements of this chapter by June 1,  
34 2021.

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

38 (5) Attached or detached accessory dwelling units may not be  
39 considered as contributing to the overall underlying density within

1 the urban growth area boundary of a county for purposes of compliance  
2 with chapter 36.70A RCW.

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

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

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

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

18 (c) May exempt designated historical districts;

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

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

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

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

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

33 NEW SECTION. **Sec. 4.** GENERAL REGULATORY REQUIREMENTS. Cities  
34 and counties which have not adopted accessory dwelling unit  
35 regulations as of June 1, 2021, which resulted in an increase in  
36 permitted accessory dwelling units utilized for permanent rental or  
37 permanent housing, as defined in section 2 of this act, or have not  
38 adopted or updated an accessory dwelling unit ordinance since 2012,

1 must adopt an ordinance that includes at least four of the following  
2 provisions in subsections (1) through (10) of this section:

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

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

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

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

35 (5) Any connection fees or capacity charges for attached or  
36 detached accessory dwelling units must not exceed the proportionate  
37 burden upon the water or sewer system that is typical of structures  
38 with similar characteristics as the proposed accessory dwelling.  
39 These charges may not be inconsistent with water availability  
40 requirements, water system plans, small water system management

1 plans, or established policies adopted by the water or sewer utility  
2 provider;

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

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

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

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

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

21 NEW SECTION. **Sec. 5.** An ordinance that meets the criteria of  
22 sections 3 and 4 of this act may not be challenged in administrative  
23 or judicial appeals for noncompliance with chapter 43.21C RCW.

24 NEW SECTION. **Sec. 6.** IMPACT FEE REVIEW. Cities and counties  
25 must review their impact fees to ensure that any impact fees imposed  
26 for accessory dwelling units, in accordance with RCW 82.02.060(9),  
27 are commensurate with the actual impact of the accessory dwelling  
28 unit and are less than impact fees for single-family housing units.

29 NEW SECTION. **Sec. 7.** A new section is added to chapter 19.27  
30 RCW to read as follows:

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

35 **Sec. 8.** RCW 82.02.060 and 2012 c 200 s 1 are each amended to  
36 read as follows:

1 The local ordinance by which impact fees are imposed:

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

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

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

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

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

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

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

26 (3) May provide an exemption from impact fees for low-income  
27 housing. Local governments that grant exemptions for low-income  
28 housing under this subsection (3) may either: Grant a partial  
29 exemption of not more than eighty percent of impact fees, in which  
30 case there is no explicit requirement to pay the exempted portion of  
31 the fee from public funds other than impact fee accounts; or provide  
32 a full waiver, in which case the remaining percentage of the exempted  
33 fee must be paid from public funds other than impact fee accounts. An  
34 exemption for low-income housing granted under subsection (2) of this  
35 section or this subsection (3) must be conditioned upon requiring the  
36 developer to record a covenant that, except as provided otherwise by  
37 this subsection, prohibits using the property for any purpose other  
38 than for low-income housing. At a minimum, the covenant must address  
39 price restrictions and household income limits for the low-income  
40 housing, and that if the property is converted to a use other than

1 for low-income housing, the property owner must pay the applicable  
2 impact fees in effect at the time of conversion. Covenants required  
3 by this subsection must be recorded with the applicable county  
4 auditor or recording officer. A local government granting an  
5 exemption under subsection (2) of this section or this subsection (3)  
6 for low-income housing may not collect revenue lost through granting  
7 an exemption by increasing impact fees unrelated to the exemption. A  
8 school district who receives school impact fees must approve any  
9 exemption under subsection (2) of this section or this subsection  
10 (3);

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

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

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

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

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

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



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

6 **Sec. 9.** RCW 35.63.210 and 1993 c 478 s 8 are each amended to  
7 read as follows:

8 Any (~~local government~~) city or county, as defined in ((RCW  
9 ~~43.63A.215~~)) section 2 of this act, that is planning under this  
10 chapter shall comply with ((RCW ~~43.63A.215(3)~~)) chapter 36.--- RCW  
11 (the new chapter created in section 14 of this act).

12 **Sec. 10.** RCW 35A.63.230 and 1993 c 478 s 9 are each amended to  
13 read as follows:

14 Any (~~local government~~) city or county, as defined in ((RCW  
15 ~~43.63A.215~~)) section 2 of this act, that is planning under this  
16 chapter shall comply with ((RCW ~~43.63A.215(3)~~)) chapter 36.--- RCW  
17 (the new chapter created in section 14 of this act).

18 **Sec. 11.** RCW 36.70.677 and 1993 c 478 s 10 are each amended to  
19 read as follows:

20 Any (~~local government~~) city or county, as defined in ((RCW  
21 ~~43.63A.215~~)) section 2 of this act, that is planning under this  
22 chapter shall comply with ((RCW ~~43.63A.215(3)~~)) chapter 36.--- RCW  
23 (the new chapter created in section 14 of this act).

24 **Sec. 12.** RCW 36.70A.400 and 1993 c 478 s 11 are each amended to  
25 read as follows:

26 Any (~~local government~~) city or county, as defined in ((RCW  
27 ~~43.63A.215~~)) section 2 of this act, that is planning under this  
28 chapter shall comply with ((RCW ~~43.63A.215(3)~~)) chapter 36.--- RCW  
29 (the new chapter created in section 14 of this act).

30 NEW SECTION. **Sec. 13.** RCW 43.63A.215 (Accessory apartments—  
31 Development and placement—Local governments) and 1993 c 478 s 7 are  
32 each repealed.

1        NEW SECTION.        **Sec. 14.**        Sections 1 through 6 of this act  
2 constitute a new chapter in Title 36 RCW."

3        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.

--- END ---