
Environment & Energy Committee

HB 2570

Brief Description: Managing growth by planning and zoning for accessory dwelling units.

Sponsors: Representatives Gregerson, Barkis, Ryu, Goodman, Peterson, Fitzgibbon, Walsh, Thai, Corry, Macri, Robinson, Gildon, Doglio, Jenkin, Hudgins, Hoff, Frame, Lekanoff, Kloba, Leavitt, Irwin, Bergquist, Davis, Walen, Tharinger, Cody and Ormsby.

Brief Summary of Bill

- Requires some cities and counties (covered jurisdictions) planning under the Growth Management Act (GMA) to adopt six specified policies related to accessory dwelling units (ADUs) by July 1, 2021.
- Requires covered jurisdictions to adopt three of five additional specified policies related to ADUs by July 1, 2021.
- Encourages covered jurisdictions to adopt 11 optional specified policies related to ADUs.
- Provides that the adoption of the ADU policies that covered jurisdictions are required or encouraged to implement are exempt from appeals under the GMA and the State Environmental Policy Act (SEPA).
- Repeals requirements applicable to certain counties and cities that direct the adoption of ADU policies consistent with a 1993 report to the Legislature from the predecessor agency to the Department of Commerce.

Hearing Date: 1/28/20

Staff: Jacob Lipson (786-7196).

Background:

Growth Management Act.

The Growth Management Act (GMA) is the comprehensive land-use-planning framework for counties and cities in Washington. Originally enacted in 1990 and 1991, the GMA establishes

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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 29 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA.

The GMA directs jurisdictions that fully plan under the GMA (planning jurisdictions) to adopt internally consistent comprehensive land-use plans that are generalized, coordinated land-use policy statements of the governing body. Comprehensive plans must address specified planning elements, each of which is a subset of a comprehensive plan. Comprehensive plans are implemented through locally adopted development regulations, both of which are subject to review and revision requirements prescribed in the GMA.

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.

Counties and cities planning under the GMA may impose impact fees on development activity as part of the financing of public facilities needed to serve new growth and development. Additionally, impact fees may only be imposed for system improvements that are reasonably related to the new development, may not exceed a proportionate share of the costs of system improvements, and must be used for system improvements that will reasonably benefit the new development.

Local Planning for Accessory Apartments.

Certain 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 to the Legislature by the predecessor agency to the Department of Commerce: the Department of Community, Trade, and Economic Development (CTED). This 1993 CTED report provided recommendations designed to encourage developing and placing accessory apartments in areas zoned for single-family residential use. The CTED model ordinance recommendations include standards and criteria regarding size, parking, design, and quantity of accessory apartments. To allow local flexibility, the CTED recommendations are subject to regulations, conditions, procedures, and limitations determined by the local city or county legislative authority. The local governments to which the CTED recommendation provisions apply are:

- counties planning under the Growth Management Act (GMA);
- counties with a population of over 125,000; and
- cities with a population of over 20,000.

State Environmental Policy Act.

The State Environmental Policy Act (SEPA) establishes a review process for state and local governments to identify environmental impacts that may result from governmental decisions, such as the issuance of permits or the adoption of land-use plans. The SEPA environmental review process involves a project proponent or the lead agency completing an environmental checklist to identify and evaluate probable environmental impacts. Government decisions that the SEPA checklist process identifies as having significant adverse environmental impacts must

then undergo a more comprehensive environmental analysis in the form of an Environmental Impact Statement.

Government decisions can be appealed under SEPA on procedural grounds related to a threshold determination of significance, or on substantive grounds related to an agency's decision to deny or condition a project approval upon the completion of mitigation. Depending on the applicable rules or ordinances related to SEPA appeals that have been adopted by a lead agency, a SEPA appeals process may either begin in an administrative appeals forum or may directly proceed to a judicial review.

Summary of Bill:

Certain cities and counties planning under the Growth Management Act (GMA) are required to adopt specified policies related to accessory dwelling units (ADUs) and are encouraged to adopt other policies. The cities and counties to which the requirements apply (covered jurisdictions) are:

- counties planning under the GMA that have a population of at least 15,000; and
- cities, code cities, and towns planning under the GMA that have a population of at least 2,500.

Mandatory Accessory Dwelling Unit Policies.

Covered jurisdictions must adopt ADU policies, through ordinances, development regulations, or other official controls, that achieve the following six outcomes:

- allow at least one ADU on all lots located in all zoning districts that allow for single-family housing, which may be either located within or attached to the housing unit (attached ADU) or separate and detached from the housing unit (detached ADU). For detached ADUs, lots must exceed 3,500 square feet;
- may not require the provision of off-street parking for ADUs;
- may not require the owner of a lot with an ADU to live in the ADU or another housing unit on the lot, and may not require a period of continuous ownership before ADU construction is authorized;
- may not charge building permitting and plan review fees that exceed 50% of the amount charged to single-family houses;
- may not establish impact fees for ADUs that exceed 50% of the amount set for single-family residences; and
- may not require new or separate utility connections except in certain circumstances and may not consider ADUs to be new residential uses for purposes of calculating connection fees or utility capacity charges, but may require utility connection charges to be proportionate to the burden of the ADU and not exceed the reasonable cost of service.

Covered jurisdictions must also adopt three of the following five ADU policies:

- allow two attached or detached ADUs on all lots in which there is a residential housing unit ranging in size from single-family housing to apartment buildings;
- do not establish maximum gross floor area requirements of less than 1,000 for ADUS;
- do not establish ADU roof height limitations of less than 24 feet;
- adopt model ADU architectural plans that are preapproved for public use under some or all local building and environmental permitting requirements; or
- allow ADUs to be sited at the lot line of the rear yard if adjacent to an alley.

Optional Accessory Dwelling Unit Policies.

Covered jurisdictions are encouraged to adopt the following eleven additional ADU policies:

- do not require impact fees for ADUs;
- do not establish tree retention requirements specifically applicable to ADUs;
- do not prohibit the sale or conveyance of a condominium unit on the basis that the unit was built as an ADU;
- require ADUs to be accessible to fire department apparatus;
- do not establish a minimum gross floor area requirement for ADUs of greater than 200 square feet;
- do not establish a limit of less than 60% of the rear yard that an ADU may cover;
- do not establish setback requirements for ADUs that are more restrictive than for single-family housing;
- do not require that the exterior appearance of an ADU is similar to the appearance of the principal housing unit;
- do not count the gross floor area ratio of an ADU against the floor area ratio limitations that apply to other primary housing units;
- allow ADUs to be sited within five feet of a lot line with written approval from the adjacent property owner; and
- do not regulate the location of ADU entry doors.

Implementation of Mandatory and Optional Accessory Dwelling Unit Policies.

Covered cities and counties must adopt required ADU policies by July 1, 2021. Beginning July 1, 2021, the required ADU policies apply and take effect in any covered city or covered county that has not adopted required ADU ordinances, development regulations, or other official controls, and supersede, preempt, and invalidate local regulations in conflict with the ADU requirements. If a city or county becomes a covered jurisdiction after July 1, 2021 because of population growth, required ADU policies must take effect in the jurisdiction no later than twelve months after the Office of Financial Management determines that the city or county has exceeded the population threshold.

Ordinances, development regulations, or other official controls are only required to apply in the portions of covered jurisdictions within an urban growth area designated under the GMA. ADUs are prohibited from being considered as contributing to the overall density within an UGA for purposes of the GMA. Covered jurisdictions are not required to authorize the construction of ADUs where development is restricted because of physical proximity to on-site sewage system infrastructure, critical areas, or other unsuitable physical characteristics of property.

The adoption of ADU policies that covered jurisdictions are required or encouraged to adopt are exempt from appeals under the State Environmental Policy Act (SEPA) and the GMA.

The requirement that certain cities and county adopt ADU policies consistent with the 1993 report from the Department of Community, Trade, and Economic Development are repealed.

Appropriation: None.

Fiscal Note: Requested on January 20, 2020.

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