

HOUSE BILL REPORT

ESSB 6617

As Reported by House Committee On:
Environment & Energy

Title: An act relating to accessory dwelling unit regulation.

Brief Description: Concerning accessory dwelling unit regulation.

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

Brief History:

Committee Activity:

Environment & Energy: 2/25/20, 2/27/20 [DPA].

**Brief Summary of Engrossed Substitute Bill
(As Amended by Committee)**

- Requires cities planning under the Growth Management Act (GMA) to adopt certain policies related to the provision of parking for accessory dwelling units (ADUs) by July 1, 2021.
- Provides that the adoption of specified ADU policies by cities planning under the GMA are exempt from appeals under the GMA and the State Environmental Policy Act.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: Do pass as amended. Signed by 10 members: Representatives Fitzgibbon, Chair; Lekanoff, Vice Chair; DeBolt, Ranking Minority Member; Dye, Assistant Ranking Minority Member; Boehnke, Doglio, Fey, Mead, Robinson and Shewmake.

Minority Report: Do not pass. Signed by 1 member: Representative Goehner.

Staff: Jacob Lipson (786-7196).

Background:

Growth Management Act.

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.

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 Originally enacted in 1990 and 1991, the GMA establishes land-use designation and environmental-protection requirements for all Washington counties and cities.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). 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.

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 into their development regulations, zoning regulations, or official controls. These provisions must be consistent with a 1994 report to the Legislature by the predecessor agency to the Department of Commerce, the Department of Community, Trade, and Economic Development (CTED). This 1994 CTED report provided recommendations designed to encourage developing and placing ADUs in areas zoned for single-family residential use. The CTED model ordinance recommendations include standards and criteria regarding size, parking, design, and quantity of ADUs. 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 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 the 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 Amended Bill:

Accessory Dwelling Unit Parking Requirements.

Through ordinances, development regulations, and other official controls, cities planning under the Growth Management Act (GMA) are generally prohibited from requiring the provision of off-street parking for accessory dwelling units (ADUs) within one-quarter of a mile from major transit stops, including bus or transit stops frequented by fixed-route service at intervals of at least every 15 minutes during peak hours. However, cities may require parking associated with an ADU located within one-quarter of a mile from a major transit stop if the city has determined that the ADU is in an area with a lack of access to street parking capacity, physical space impediments, or other reasons supported by evidence that would make on-street parking infeasible. Growth Management Act-planning cities must adopt ADU policies consistent with this prohibition by July 1, 2021. Beginning July 1, 2021, this policy applies and takes effect in any GMA-planning city that has not adopted required ADU ordinances, development regulations, or other official controls and supersedes, preempts, and invalidates local regulations in conflict with the ADU requirements.

Optional Accessory Dwelling Unit Policies.

Through ordinances, development regulations, and other official controls, cities planning under the GMA:

- may allow up to two attached or detached ADUs on all lots on which there is a single-family unit, duplex, triplex, fourplex, rowhouse, townhome, or apartment building, regardless of zoning district; and
- may remove requirements that the owner of a lot on which there is an ADU reside in or occupy the ADU or another housing unit on the lot.

The adoption of ADU policies that GMA-planning cities must or may adopt are exempt from appeals under the State Environmental Policy Act (SEPA) and the GMA, except that ordinances that authorize the construction of ADUs on properties where single-family homes are zoned to be a nonconforming use are not eligible for the SEPA appeal exemption.

Amended Bill Compared to Engrossed Substitute Bill:

The striking amendment makes the following changes to the engrossed substitute senate bill:

- limits the scope of the bill to cities and provides that accessory dwelling unit (ADU) requirements and the State Environmental Policy Act (SEPA) appeal exemption do not apply to counties;
- amends the areas in which cities may require off-street parking associated with the development of ADUs to include areas that are at least one-quarter of a mile away from a major transit stop, rather than one-half of a mile away from a major transit stop;
- limits the types of bus and other fixed-route service stops that qualify as major transit stops to those that are served every 15 minutes during peak hours of operation;
- makes technical corrections to clarify that the only ADU policies that are mandatory for cities is the prohibition on requiring parking associated with ADUs near major transit stops;
- provides that local ordinances and development regulations are not subject to the exemption from appeal under the Growth Management Act or the SEPA if authorization is provided for the siting of ADUs on properties zoned such that single-family housing units are a nonconforming use; and
- authorizes cities to require parking associated with an ADU located within one-quarter of a mile from a major transit stop if the city has determined that the ADU is in an area with a lack of access to street parking capacity, physical space impediments, or other reasons supported by evidence that would make on-street parking infeasible.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) One of the most important things that cities can do to encourage the development of accessory dwelling units (ADUs) is to not require off-street parking for them. Other states have restricted the abilities of local governments to require parking for ADUs. The City of Seattle did a full environmental analysis of parking requirements associated with ADUs, and even in the state's densest city, ADUs were not found to adversely impact on-street parking. Accessory dwelling units allow homeowners to retain independence as they age, by providing a revenue stream and allowing the construction of accessible living spaces. Local ordinances currently make it difficult to build ADUs.

(Opposed) Many cities have voluntarily adopted ADU policies and do not need the state to mandate a single uniform standard that does not take into account local circumstances. By imposing ADU requirements on all cities, this bill will slow down existing voluntary efforts by cities to update their ADU policies. Prohibiting parking requirements for ADUs near transit is difficult to implement in practice, because bus and other public transportation service lines change over time. Properties located geographically close to major transit stops

are sometimes not easy to reach from the transit stop due to sidewalk gaps and other route limitations. By incentivizing looser density in areas near transit stops by allowing ADUs to be built, it will undercut financial incentive for truly dense development to occur near transit stops. Environmental regulations should not be abandoned in the effort to build affordable housing. Building ADUs degrades the quality of life in single-family neighborhoods. Owners should be located on properties where ADUs are built.

(Other) There are lots of reasons that ADUs are not built in many cities, and local regulations are only one factor that can affect ADU supply. Parking restrictions are not a major factor inhibiting ADU development in some jurisdictions. Some jurisdictions have a true need to require off-street parking for ADUs because of narrow roadways, lack of on-street parking, and fire access requirements. The reality is that some people who live in ADUs will choose to drive cars. This bill needs to address Growth Management Hearings Board precedent indicating that detached ADUs count towards density, or else this bill will have unintended consequences in counties. Allowing ADUs could cause certain developments to exceed their allowable water use authorized by the Department of Ecology.

Persons Testifying: (In support) Dan Bertolet, Sightline Institute; and Joanna Grist, AARP Washington.

(Opposed) Carl Schroeder, Association of Washington Cities; Shelly Helder, Cities of Bothell, Issaquah, Lake Forest Park, Lakewood, and Mountlake Terrace; Briahna Murray, Cities of Pasco, Spokane Valley, and Tacoma; Anita Gallagher, City of Tacoma; and Arthur West, Center for Environmental Law and Policy.

(Other) Paul Jewell, Washington State Association of Counties; Pete Kmet, City of Tumwater; and Jeff Johnson, Regional Water Cooperative of Pierce County.

Persons Signed In To Testify But Not Testifying: None.