
Housing Committee

HB 1337

Brief Description: Expanding housing options by easing barriers to the construction and use of accessory dwelling units.

Sponsors: Representatives Gregerson, Barkis, Berry, Christian, Duerr, Fitzgibbon, Taylor, Ramel, Reeves, Simmons, Walen, Graham, Bateman, Reed, Lekanoff, Doglio, Tharinger, Cortes, Macri and Stonier.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Requires fully planning cities and counties to allow accessory dwelling units (ADUs) in urban growth areas (UGAs).• Prohibits certain ADU regulations within UGAs.

Hearing Date: 1/23/23

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

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which urban growth must be encouraged and outside of which growth may occur only if it is not urban in nature. Each city in a county must be included in a UGA. Planning jurisdictions must include within their UGAs 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 accessory dwelling unit (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 by the then Department of Community, Trade, and Economic Development, now the Department of Commerce, for the development and placement of accessory apartments in 1993.

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 July 1, 2024, fully planning cities and counties must ensure local development regulations allow for the construction of ADUs within urban growth areas (UGAs) and comply with the following policies:

- permitting ADUs in structures detached from the principal unit;
- allowing an ADU on any lot that meets the minimum lot size required for the principal unit;

- not establishing a maximum gross floor area requirement for ADUs that is less than 1,000 square feet;
- not establishing roof height limits on an ADU of less than 24 feet, unless the height limit on the principal unit is less than 24 feet;
- not imposing setback requirements, yard coverage limits, tree retention mandates, restrictions on entry door locations, aesthetic requirements, or requirements for design review for ADUs that are more restrictive than those for principal units;
- allowing detached ADUs to be sited at a lot line if the lot line abuts a public alley, unless the city or county routinely plows snow on the public alley;
- allowing ADUs to be converted from existing structures, including detached garages;
- not prohibiting the sale of a condominium unit independently of a principal unit solely on the grounds that the condominium unit was originally built as an ADU; and
- not requiring public street improvements as a condition of permitting ADUs.

Fully planning cities and counties also must comply with a minimum of three of the following policies:

- not establishing a requirement for the provision of off-street parking for ADUs;
- not assessing impact fees on the construction of ADUs that are greater than 50 percent of the impact fees that would be imposed on the principal unit;
- not requiring the owner of a lot on which there is an ADU to reside in or occupy the ADU or another housing unit on the same lot; or
- allowing at least two ADUs on all lots that allow for single-family homes in the following configurations:
 - one attached ADU and one detached ADU;
 - two attached ADUs; or
 - two detached ADUs, which may be comprised of either one or two detached structures.

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

- generally applicable development regulations;
- public health, safety, building code, and environmental permitting requirements that would be applicable to the principal unit, including regulations to protect ground and surface waters from on-site wastewater;
- a prohibition on the construction of ADUs that are not connected to or served by public sewers;
- 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, flood plains, or geologically hazardous areas; and
- restrictions on the use of ADUs for short-term rentals.

Any local development regulations that fail to incorporate the required provisions by the deadline are superseded, preempted, and invalidated.

Any conflicting provisions in local development regulations after the deadline are superseded, preempted, and invalidated. Actions taken to adopt these regulations cannot be challenged under

the Growth Management Act or the State Environmental Policy Act. ADUs may not be considered as contributing to underlying density within an urban growth area boundary of a county for purposes of the GMA.

A restrictive covenant or deed restriction created after the effective date of the act may not prohibit the construction, development, or use of an ADU within a UGA. A city or county that issues a permit for the construction of an ADU may not be held civilly liable on the basis that the construction would violate the restrictive covenant or deed restriction that was created after the effective date of the act.

The provisions requiring cities and counties to incorporate in their regulations the recommendations made by the then Department of Community, Trade, and Economic Development for accessory dwelling apartments are repealed.

Appropriation: None.

Fiscal Note: Requested on January 19, 2023.

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