

HOUSE BILL REPORT

HB 1345

As Reported by House Committee On:

Housing

Title: An act relating to establishing limitations on detached accessory dwelling units outside of urban growth areas.

Brief Description: Establishing limitations on detached accessory dwelling units outside of urban growth areas.

Sponsors: Representatives Low, Peterson, Tharinger, Nance and Gregerson.

Brief History:

Committee Activity:

Housing: 1/27/25, 2/6/25 [DP].

Brief Summary of Bill

- Authorizes counties that are required or have chosen to plan under the Growth Management Act to allow detached accessory dwelling units (DADUs) outside of urban growth areas if the DADUs are subject to certain development regulations, the county has certain code enforcement measures in place, and the county takes certain actions to account for DADU development.

HOUSE COMMITTEE ON HOUSING

Majority Report: Do pass. Signed by 17 members: Representatives Peterson, Chair; Hill, Vice Chair; Richards, Vice Chair; Low, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Manjarrez, Assistant Ranking Minority Member; Barkis, Connors, Dufault, Engell, Entenman, Gregerson, Lekanoff, Reed, Thomas, Timmons and Zahn.

Staff: Audrey Vasek (786-7383).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

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 required or have chosen to plan under the GMA. These jurisdictions are sometimes said to be "fully planning" under the GMA.

Fully planning cities and counties must adopt internally consistent comprehensive land use plans that are generalized, coordinated land-use policy statements of the governing body. When developing comprehensive plans, cities and counties must consider specific planning goals related to certain subjects, such as urban growth, reduction of sprawl, transportation, and housing. Each comprehensive plan must include certain mandatory elements, including elements related to land use, housing, capital facilities, utilities, rural areas, transportation, economic development, parks and recreation, and climate change and resiliency. The housing element must ensure the vitality and character of established residential neighborhoods and, among other requirements, consider the role of accessory dwelling units (ADUs) in meeting housing needs.

Fully planning counties 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 urban in nature. Each city in a fully planning county must be included in a UGA, and UGAs must include sufficient areas and densities to accommodate projected urban growth for the succeeding 20-year period.

A comprehensive plan and any locally adopted development regulations must be reviewed and, if necessary, revised every 10 years to ensure that they comply with the GMA. Certain cities and counties are also required to provide implementation progress reports detailing the progress they have achieved in implementing their comprehensive plans five years after the required 10-year review and revision. Comprehensive plan update deadlines for each county, and the cities within those counties, are specified in the GMA. Amendments to a comprehensive plan may occur no more frequently than once per year, with certain exceptions.

Accessory Dwelling Units.

Under the GMA, an ADU is defined as a dwelling unit that is located on the same lot as a single-family housing unit, duplex, triplex, townhome, or other housing unit, which is referred to as the principal unit. A dwelling unit means a residential living unit that provides complete independent living facilities for one or more persons and permanent provisions for living, sleeping, eating, cooking, and sanitation.

An attached accessory dwelling unit (AADU) is defined as an ADU located within or

attached to the principal unit, and a detached accessory dwelling unit (DADU) is defined as an ADU that consists partly or entirely of a building that is separate and detached from the principal unit and is on the same property.

Requirements for Development of Accessory Dwelling Units within Urban Growth Areas.

As of July 23, 2023, beginning six months after its next periodic comprehensive plan update, a fully planning city or county must ensure local development regulations allow for the construction of ADUs within UGAs and comply with certain policies related to siting and permitting of ADUs. A city or county may impose a limit of two ADUs, in addition to the principal unit, on a residential lot of 2,000 square feet or less.

A city or county may not authorize the construction of an ADU in a location where development is restricted under other laws, rules, or ordinances as a result of physical proximity to on-site sewage system infrastructure, critical areas, or other unsuitable physical characteristics of a property. Certain provisions related to off-street parking for ADUs are also specified.

None of these ADU requirements apply to lots designated with critical areas, critical area buffers, or a watershed serving as a reservoir for potable water if that watershed is or was listed as impaired or threatened under the United States Clean Water Act. Cities and counties are not prohibited from enforcing certain development regulations on ADUs.

Summary of Bill:

Requirements for Development of Detached Accessory Dwelling Units Outside of Urban Growth Areas.

Fully planning counties may allow DADUs outside of UGAs if the DADUs are subject to certain development regulations, the county has certain code enforcement measures in place, and the county takes certain actions to account for DADU development.

Development Regulations.

Any DADUs allowed outside of UGAs must be subject to development regulations that include the following limitations:

- no parcel may have more than one ADU, whether attached or detached;
- the DADU must be subject to certain water supply requirements specified in the State Building Code and any groundwater mitigation requirements adopted by the county or the Department of Ecology;
- the combined water withdrawal for the DADU, the principal unit, and any other domestic uses on the parcel may not exceed certain use limitations for domestic use specified in the state laws regulating public groundwaters;
- withdrawals of water by each dwelling unit on the parcel must be metered;
- the applicant must provide documentation that the sewage or septic system can handle the additional demand from the DADU;

- the gross floor area of the DADU may not be greater than 1,296 square feet and may not exceed the area that could be authorized by the county as an expansion of the principal unit to create an AADU. Floor areas exclude garages, porches, and unfinished basements;
- the DADU must use the same driveway or other means of ingress and egress as the principal unit;
- the DADU must be sited within 150 feet of the principal unit;
- the DADU may be the existing principal unit if the existing principal unit meets these requirements, is a single-family dwelling, and a new principal unit that is a single-family dwelling unit is constructed on the same parcel; and
- a parcel may not be subdivided for the purposes of avoiding these requirements.

Code Enforcement Measures.

Counties that allow DADUs outside of UGAs must have certain code enforcement measures in place, including a voluntary code compliance process for the owner of an unpermitted DADU to bring the DADU into compliance with applicable regulations. When the owner of an unpermitted DADU seeks to bring the DADU into compliance, a permit penalty of at least double the normal permit fee must be applied.

Owners who do not seek voluntary compliance and are found to have a DADU without the required permits must be subject to a civil infraction of at least \$1,000 and must be required to remove the DADU or ensure that it meets all existing development regulations. A penalty of at least triple the normal permit fee must be applied if the DADU remains.

Any owner who does not seek voluntary compliance and has received a civil infraction for having an unpermitted ADU must be prohibited from receiving any permits for construction or placement of new ADUs for a period of at least three years.

Accounting for Detached Accessory Dwelling Unit Development.

Any county that allows DADUs outside of UGAs must also take certain actions to account for DADU development, including tracking and annually reporting the number of completed DADU permits to the Department of Commerce. During its next required comprehensive plan review and all subsequent reviews, a county must use this data to update its comprehensive plan and properly account for the actual and projected development of DADUs within the overall underlying density outside of UGAs. The county must limit future comprehensive plan amendments accounting for the actual and projected development of DADUs such that these amendments may not occur more than once every five years.

Other Provisions.

The bill does not affect or modify the validity of any county ordinance authorizing ADUs adopted before the effective date of the bill; exclude other means of authorizing ADUs in urban or rural areas, if consistent with the bill; or exclude certain other innovative techniques allowed under the GMA, if consistent with the bill.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill will help seniors who live in rural areas and want to age in place, as well as students and young people who are just starting out. While there is nothing in state law that prohibits DADUs in rural areas, there is an uncertain regulatory environment. In some counties, rural DADU ordinances have been appealed to the Growth Management Hearings Board. This bill specifically authorizes rural DADUs but also places some limits going forward.

This bill is part of a housing priority legislative package supported by many counties. Compared to versions of the bill from past years, this bill adds new policies that have been negotiated. This is a compromise bill that brings a lot of people who were not on board before to a "yes" or "other."

This bill includes enforcement measures that many stakeholders find important because there are a lot of unpermitted ADUs in rural areas. The bill also includes requirements to account for ADUs in comprehensive plans going forward. It provides a pathway for getting real data to satisfy the needs of those who want to plan for this type of development.

Water availability is a critical issue in many counties. This bill will not negatively impact water supply. After meetings with tribal members, nothing negative has been raised about the water requirements in the bill. Owners who build DADUs will still have to comply with state and local water supply requirements.

In rural areas, realtors frequently see garages and structures that have been converted into living areas without the proper permits. Sellers often need to remove these unpermitted living areas before they can sell the home, only to have the buyer rebuild these living areas right after the home is sold. Authorizing rural DADUs will address the housing need that is leading homeowners to build these unpermitted structures while also putting some health and safety measures in place.

(Opposed) None.

(Other) Current law allows DADUs outside of UGAs, but only within the underlying density. This bill is a big step in the right direction compared to versions of the bill from past years because it requires local jurisdictions to keep track of the numbers of permits that have been issued to account for their underlying density. This should prevent increased

rural sprawl, which is when rural areas have many nonconforming lots or small lots with higher density than they should have.

There are still a few issues with the bill. The bill should require approval of on-site septic systems by local health departments, acknowledge the wildland-urban interface to prevent people from losing their homes due to wildfires, and mention stormwater infiltration, because a lot of the instream flows rely on water filtering through these areas. The bill should also prevent rural DADUs from being used for short-term rentals because short-term rentals do not help with housing affordability.

This bill significantly changes the way planning has historically been done in Washington. It allows people to move forward with development before figuring out what type of infrastructure and facilities are needed to support that development. This is a significant departure because normally development is not allowed unless there are enough police, fire, roads, and highways to support it. Another concern is the potential long-term impact of this bill on the transportation budget.

With respect to water issues, there is still a concern about instream flows within specific basins under the *Hirst* decision. DADUs typically use additional water beyond what an AADU uses.

Builders want as much flexibility as possible. People who live in rural areas should have the same development opportunities as people who live in urban areas. The bill should include more flexibility in the requirements related to the shared driveway and the distance between the primary dwelling and the ADU.

Persons Testifying: (In support) Representative Sam Low, prime sponsor; Paul Jewell, Washington State Association of Counties; Laura Osiadacz, Commissioner, Kittitas County; and Bill Clarke, WA REALTORS.

(Other) Bryce Yadon, Futurewise; and Alex Hur, Master Builders Association of King and Snohomish Counties.

Persons Signed In To Testify But Not Testifying: None.