

2SHB 2570 - H AMD 1607

By Representative Barkis

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

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

5 (a) The growth management act directs certain cities within urban
6 growth areas to allow accessory dwelling units. However, excessive
7 regulatory and design barriers often limit production in many cities
8 where accessory dwelling units are allowed.

9 (b) Accessory dwelling units provide environmental benefits. They
10 promote energy efficiency compared with average size single-detached
11 houses, and incentivize adaptive reuse of existing homes and
12 materials.

13 (c) Siting accessory dwelling units near transit hubs and near
14 public amenities can help to reduce greenhouse gas emissions by
15 increasing walkability, shortening household commutes, and limiting
16 sprawl.

17 (d) Accessory dwelling units can meet the needs of Washington's
18 growing senior population, making it possible for this population to
19 age in their communities by offering senior-friendly housing, which
20 prioritizes physical accessibility, in walkable communities near
21 amenities essential to successful aging in place, including transit
22 and grocery stores, without requiring costly renovations of existing
23 housing stock.

24 (e) Washington state is experiencing a housing affordability
25 crisis. Many communities across the state are in need of more housing
26 for renters, across the income spectrum.

27 (f) Many cities dedicate the majority of residentially zoned land
28 to single-detached houses that are increasingly financially out of
29 reach for many households. Due to their smaller size, accessory
30 dwelling units can provide a more affordable housing option in those
31 single-family zones.

1 (g) Accessory dwelling units are frequently rented below market
2 rate, providing additional affordable housing options for renters.

3 (h) Accessory dwelling units are often occupied by tenants who
4 pay no rent at all; among these tenants are grandparents, adult
5 children, family members with disabilities, friends going through
6 life transitions, and community members in need. Accessory dwelling
7 units meet the needs of these people who might otherwise require
8 subsidized housing space and resources needed by other households.

9 (i) Homeowners who add an accessory dwelling unit to her or his
10 property may benefit from added income and an increased sense of
11 security.

12 (j) Removing certain regulatory barriers to the construction of
13 accessory dwelling units may substantially reduce construction costs,
14 thereby enabling more homeowners to add accessory dwelling units to
15 their properties. The increased availability of accessory dwelling
16 units will provide benefits to homeowners, renters, the community,
17 and the environment.

18 (2) The legislature intends to promote and encourage the creation
19 of accessory dwelling units as a means to address the need for
20 additional affordable housing options. The legislature encourages
21 local governments to increase the availability of affordable housing
22 by subsidizing accessory dwelling units with local sales tax revenue,
23 as authorized by chapter 338, Laws of 2019.

24 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70A
25 RCW to read as follows:

26 The definitions in this section apply throughout sections 3, 4,
27 and 5 of this act unless the context clearly requires otherwise.

28 (1) "Accessory dwelling unit" means a dwelling unit located on
29 the same lot as a single-family housing unit, duplex, triplex,
30 townhome, or other housing unit.

31 (2) "Attached accessory dwelling unit" means an accessory
32 dwelling unit located within or attached to a single-family housing
33 unit, duplex, triplex, townhome, or other housing unit.

34 (3) "Covered cities" means all cities, code cities, and towns
35 located in a county planning under RCW 36.70A.040 and that had a
36 population of at least two thousand five hundred, as determined by
37 the office of financial management.

1 (4) "Covered counties" means all counties planning under
2 36.70A.040 that have a population of at least fifteen thousand, as
3 determined by the office of financial management.

4 (5) "Detached accessory dwelling unit" means an accessory
5 dwelling unit that consists partly or entirely of a building that is
6 separate and detached from a single-family housing unit, duplex,
7 triplex, townhome, or other housing unit.

8 (6) "Dwelling unit" means a residential living unit that provides
9 complete independent living facilities for one or more persons and
10 that includes permanent provisions for living, sleeping, eating,
11 cooking, and sanitation.

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

15 (8)(a) "Short-term rental" means a lodging use, that is not a
16 hotel or motel or bed and breakfast, in which a dwelling unit, or
17 portion thereof, is offered or provided to a guest by a short-
18 term rental operator for a fee for fewer than thirty consecutive
19 nights.

20 (b) "Short-term rental" does not include any of the following:

21 (i) A dwelling unit that is occupied by the owner for at least
22 six months during the calendar year and in which fewer than three
23 rooms are rented at any time;

24 (ii) A dwelling unit, or portion thereof, that is used by the
25 same person for thirty or more consecutive nights; or

26 (iii) A dwelling unit, or portion thereof, that is operated by an
27 organization or government entity that is registered as a charitable
28 organization with the secretary of state, state of Washington, or
29 classified by the federal internal revenue service as a public
30 charity or a private foundation, and provides temporary housing to
31 individuals who are being treated for trauma, injury, or disease, or
32 their family members.

33 NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70A
34 RCW to read as follows:

35 (1) Covered cities and covered counties must adopt or amend by
36 ordinance and incorporate into their development regulations, zoning
37 regulations, and other official controls, an authorization for the
38 creation of accessory dwelling units that is consistent with this
39 section and section 4 of this act.

1 (2) Ordinances, development regulations, and other official
2 controls adopted or amended pursuant to this section and sections 4
3 and 5 of this act are only required to apply in the portions of
4 towns, cities, and counties that are within urban growth areas
5 designated under this chapter.

6 (3) Attached or detached accessory dwelling units may not be
7 considered as contributing to the overall underlying density within
8 the urban growth area boundary of a county for purposes of compliance
9 with this chapter.

10 (4)(a) Any action taken by a covered city or covered county to
11 comply with the requirements of this section and section 4 of this
12 act, or to implement the options specified in section 5 of this act
13 within its urban growth area boundary is not subject to legal
14 challenge under this chapter or chapter 43.21C RCW.

15 (b) A covered city or covered county that does not comply with
16 the requirements of this section and section 4 of this act is subject
17 to legal challenge under this chapter.

18 (5)(a)(i) Covered cities that had a population of at least two
19 thousand five hundred and counties that had a population of at least
20 fifteen thousand as of April 1, 2019, must adopt ordinances,
21 regulations, or other official controls to implement the requirements
22 of section 4 of this act that take effect by July 1, 2021.

23 (ii) A city or county that becomes a covered city or county as a
24 result of population growth must adopt ordinances, regulations, or
25 other official controls to implement the requirements of section 4 of
26 this act that take effect no later than twelve months after a
27 determination by the office of financial management that the city in
28 a county planning under RCW 36.70A.040 has a population of two
29 thousand five hundred or a county planning under RCW 36.70A.040 has a
30 population that exceeds fifteen thousand.

31 (b) Beginning July 1, 2021, the requirements of section 4 of this
32 act:

33 (i) Apply and take effect in any covered city or covered county
34 that has not adopted ordinances, regulations, or other official
35 controls as required by this section; and

36 (ii) Supersede, preempt, and invalidate any local development
37 regulations that conflict with the provisions of section 4 of this
38 act.

39 (6) Nothing in this section or section 4 or 5 of this act
40 requires or authorizes a city or county to authorize the construction

1 of an accessory dwelling unit in a location where development is
2 restricted under other laws, rules, or ordinances as a result of
3 physical proximity to on-site sewage system infrastructure, critical
4 areas, or other unsuitable physical characteristics of a property.

5 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70A
6 RCW to read as follows:

7 Through ordinances, development regulations, and other official
8 controls adopted or amended as required by section 3 of this act,
9 covered cities and covered counties:

10 (1) Must allow at least one accessory dwelling unit on all lots
11 that are located in all zoning districts that allow for single-family
12 homes; the accessory dwelling units allowed under this subsection (1)
13 may be either attached accessory dwelling units or detached accessory
14 dwelling units; if the unit is a detached accessory dwelling unit,
15 the lot must be at least three thousand five-hundred square feet;

16 (2) (a) Except as provided in (b) of this subsection, may not
17 establish a requirement for the provision of off-street parking for
18 accessory dwelling units;

19 (b) May require one additional parking spot on lots with
20 accessory dwelling units located on a property located no closer than
21 one-half mile to a major transit stop as defined in RCW 43.21C.420(3)
22 if the city or county determines that the particular housing unit is
23 in an area with a lack of access to street parking capacity, physical
24 space impediments, or other reasons supported by evidence that would
25 make on-street parking infeasible for the units;

26 (3) May not require the owner of a lot on which there is an
27 accessory dwelling unit to reside in or occupy the accessory dwelling
28 unit or another housing unit on the same lot unless the owner owns
29 more than five accessory dwelling units within the same county or the
30 accessory dwelling unit is used as a short-term rental, and may not
31 require a period of continuous ownership before permitting
32 construction of an accessory dwelling unit on a lot;

33 (4) May not charge permitting and plan review fees under chapter
34 19.27 RCW for accessory dwelling units that exceed fifty percent of
35 the fees charged for single-family residences;

36 (5) May not establish an impact fee amount for accessory dwelling
37 units that is greater than fifty percent of the amount set for
38 single-family residences; and

39 (6) May only authorize charges that:

1 (a) Are proportionate to the burden of the proposed accessory
2 dwelling unit, based on its size or number of plumbing fixtures, upon
3 the water or sewer system;

4 (b) Do not exceed the reasonable cost of providing the service;
5 and

6 (c) Are not inconsistent with water availability requirements,
7 water system plans, small water system management plans, or
8 established policies adopted by the water or sewer utility provider.

9 NEW SECTION. **Sec. 5.** A new section is added to chapter 36.70A
10 RCW to read as follows:

11 Covered cities and counties are encouraged, but not required, to
12 adopt ordinances, development regulations, and other official
13 controls that:

14 (1) Do not require impact fees under chapter 82.02 RCW for
15 accessory dwelling units;

16 (2) Do not establish tree retention requirements for accessory
17 dwelling units that are in addition to any tree retention
18 requirements for single-family housing units;

19 (3) Do not prohibit the sale or other conveyance of a condominium
20 unit solely on the grounds that the unit was originally built as an
21 accessory dwelling unit;

22 (4) Require an accessory dwelling unit to be accessible to fire
23 department apparatus by way of a public street or approved fire
24 apparatus access;

25 (5) Do not establish a minimum gross floor area requirement for
26 accessory dwelling units that is greater than two hundred square
27 feet;

28 (6) Do not establish a limit for the percent of the rear yard
29 that an accessory dwelling unit may cover that is less than sixty
30 percent of the rear yard;

31 (7) Do not establish setback regulations that are more
32 restrictive than for single-family housing units;

33 (8) Do not require that the exterior design or appearance of an
34 accessory dwelling unit be similar to the exterior design or
35 appearance of the principal housing unit, including through
36 regulations that require an accessory dwelling unit to have similar
37 roof pitch, siding, or windows as the primary housing unit;

1 (9) Do not count the gross floor area of an accessory dwelling
2 unit against any floor area ratio limitations that apply to single-
3 family or other primary housing units;

4 (10) Allow detached accessory dwelling units to be sited within
5 five feet of a lot line if there is written approval from the
6 property owner with whom the lot line is shared on file in the
7 jurisdiction in which the detached accessory dwelling unit is
8 located;

9 (11) Do not regulate the location of the entry doors of accessory
10 dwelling units;

11 (12) Allow at least two accessory dwelling units on all lots on
12 which there is a single-family housing unit, duplex, triplex,
13 fourplex, rowhouse, townhome, or apartment building, regardless of
14 zoning district; the two accessory dwelling units may be in any of
15 the following configurations:

16 (a) One attached accessory dwelling unit and one detached
17 accessory dwelling unit;

18 (b) Two attached accessory dwelling units; or

19 (c) Two detached accessory dwelling units, which may be comprised
20 of either one or two detached structures;

21 (13) Do not establish a maximum gross floor area requirement for
22 accessory dwelling units that is less than one thousand square feet;

23 (14) Do not establish a roof height limitation on accessory
24 dwelling units of less than twenty-four feet;

25 (15) Adopt model accessory dwelling unit architectural plans that
26 are preapproved for public use under some or all local building and
27 environmental permitting requirements;

28 (16) Allow detached accessory dwelling units to be sited at the
29 lot line of the rear yard if the rear yard is adjacent to an alley;
30 and

31 (17) Are identical to all or some of the model ordinances
32 developed by the department of commerce under RCW 43.63A.215 after
33 July 1, 2022.

34 **Sec. 6.** RCW 43.21C.495 and 2019 c 348 s 4 are each amended to
35 read as follows:

36 (1) If adopted by April 1, 2021, amendments to development
37 regulations and other nonproject actions taken by a city to implement
38 RCW 36.70A.600 (1) or (4), with the exception of the action specified

1 in RCW 36.70A.600(1)(f), are not subject to administrative or
2 judicial appeals under this chapter.

3 (2) Amendments to development regulations and other nonproject
4 actions taken by a covered city or county consistent with the
5 requirements of sections 3 and 4 of this act or to achieve the
6 options encouraged in section 5 of this act are not subject to
7 administrative or judicial appeals under this chapter.

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

10 Any (~~local government~~) covered city or covered county, as
11 defined in (~~RCW 43.63A.215~~) section 2 of this act, that is planning
12 under this chapter shall comply with RCW 43.63A.215(3), section 3 of
13 this act, and section 4 of this act.

14 **Sec. 8.** RCW 35A.63.230 and 1993 c 478 s 9 are each amended to
15 read as follows:

16 Any (~~local government~~) covered city or covered county, as
17 defined in (~~RCW 43.63A.215~~) section 2 of this act, that is planning
18 under this chapter shall comply with RCW 43.63A.215(3), section 3 of
19 this act, and section 4 of this act.

20 **Sec. 9.** RCW 36.70A.400 and 1993 c 478 s 11 are each amended to
21 read as follows:

22 Any (~~local government~~) covered city or county, as defined in
23 (~~RCW 43.63A.215~~) section 2 of this act, that is planning under this
24 chapter shall comply with RCW 43.63A.215(3), section 3 of this act,
25 and section 4 of this act.

26 **Sec. 10.** RCW 43.63A.215 and 1993 c 478 s 7 are each amended to
27 read as follows:

28 (1) The department shall, in consultation with the affordable
29 housing advisory board created in RCW 43.185B.020, report to the
30 legislature on the development and placement of accessory apartments.
31 The department shall produce a written report by December 15, 1993,
32 which:

33 (a) Identifies local governments that allow the siting of
34 accessory apartments in areas zoned for single-family residential
35 use; and

1 (b) Makes recommendations to the legislature designed to
2 encourage the development and placement of accessory apartments in
3 areas zoned for single-family residential use.

4 (2) The recommendations made under subsection (1) of this section
5 shall not take effect before ninety days following adjournment of the
6 1994 regular legislative session.

7 (~~Unless provided otherwise by the legislature, by December~~
8 ~~31, 1994, local~~) Local governments shall incorporate in their
9 development regulations, zoning regulations, or official controls the
10 recommendations contained in subsection (1) of this section. The
11 accessory apartment provisions shall be part of the local
12 government's development regulation, zoning regulation, or official
13 control. To allow local flexibility, the recommendations shall be
14 subject to such regulations, conditions, procedures, and limitations
15 as determined by the local legislative authority.

16 (4) By December 15, 2021, the department of commerce must update
17 the model accessory dwelling unit ordinance recommendations required
18 under this section and published in January 1994. Upon publication,
19 the updated model ordinance recommendations supersede the
20 recommendations published in January 1994, for purposes of subsection
21 (3) of this section. The recommendations made under this subsection
22 shall not take effect before May 1, 2022.

23 (5) As used in this section, "local government" means (~~(~~

24 ~~(a) A city or code city with a population that exceeds twenty~~
25 ~~thousand;~~

26 ~~(b) A county that is required to or has elected to plan under the~~
27 ~~state growth management act; and~~

28 ~~(c) A county with a population that exceeds one hundred twenty-~~
29 ~~five thousand)) a covered city or covered county as defined in
30 section 2 of this act.~~

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

33 Any local government, as defined in RCW 43.63A.215, that is
34 planning under this chapter shall comply with RCW 43.63A.215 (3) and
35 (4).

36 NEW SECTION. **Sec. 12.** A new section is added to chapter 36.70A
37 RCW to read as follows:

1 Nothing in this act modifies or limits any rights or interests
2 legally recorded in the governing documents of associations subject
3 to chapter 64.32, 64.34, 64.38, or 64.90 RCW."

4 Correct the title.

EFFECT: Lowers the population threshold for cities and counties required to adopt mandatory accessory dwelling unit (ADU) policies to growth management act (GMA)-planning cities of at least two thousand five hundred and GMA-planning counties of at least fifteen thousand. Requires site-specific determinations as to parking adequacy and other factors in order for covered cities and counties to be able to require off-street parking for ADUs. Establishes limits on impact fees and plan review fees that covered cities and counties may charge for ADU fees. Prohibits covered cities and counties from establishing owner-occupancy requirements for ADUs. Clarifies that covered cities and counties must comply with the updated model ordinance to be adopted by the department of commerce taking effect after May 1, 2022, while retaining local flexibility to subject the model ordinance to regulation, conditions, procedures, and limitations.

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