

SSB 5812 - S AMD 235  
By Senator Palumbo

ADOPTED AS AMENDED 03/11/2019

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

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

5 (a) Washington state is experiencing a housing affordability  
6 crisis. Many communities across the state are in need of more housing  
7 options for renters.

8 (b) Accessory dwelling units typically rent below market rate,  
9 providing additional affordable housing options for renters.

10 (c) Accessory dwelling units also help to provide housing for  
11 very low-income households. More than ten percent of accessory  
12 dwelling units in some areas are occupied by tenants who pay no rent  
13 at all; among these tenants are grandparents, adult children, family  
14 members with disabilities, and friends going through life  
15 transitions. Accessory dwelling units meet the needs of these people  
16 who might otherwise require subsidized housing space and resources  
17 needed by other households.

18 (d) Homeowners who add an accessory dwelling unit to her or his  
19 property may benefit from added income and an increased sense of  
20 security.

21 (e) Accessory dwelling units can also benefit neighborhoods by  
22 expanding rental options near public amenities such as schools,  
23 parks, and transit without changing the look and feel of existing  
24 neighborhoods.

25 (f) Accessory dwelling units may reduce economic displacement in  
26 existing communities by expanding the range of available housing  
27 options and prices.

28 (g) Accessory dwelling units are a housing choice that provides  
29 environmental benefits. They promote energy conservation compared  
30 with average size single-family homes. In addition, the siting of  
31 additional accessory dwelling units near transit hubs can help to  
32 reduce greenhouse gas emissions.

1 (h) Removing certain regulatory barriers to the construction of  
2 accessory dwelling units, such as inflexible design standards and  
3 siting restrictions, may substantially reduce construction costs,  
4 thereby enabling more homeowners to add accessory dwelling units to  
5 their properties. The increased availability of accessory dwelling  
6 units will provide benefits to homeowners, renters, the community,  
7 and the environment.

8 (2) The legislature intends to promote and encourage the creation  
9 of accessory dwelling units as a means to address the need for  
10 additional affordable housing options. The legislature encourages  
11 local governments to increase the availability of affordable housing  
12 by subsidizing accessory dwelling units with local sales tax revenue,  
13 as authorized by House Bill No. 1406.

14 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this  
15 section apply throughout this chapter unless the context clearly  
16 requires otherwise.

17 (1) "Accessory dwelling unit" means a dwelling unit located on  
18 the same lot as a single-family housing unit.

19 (2) "Attached accessory dwelling unit" means an accessory  
20 dwelling unit located within or attached to a single-family housing  
21 unit.

22 (3) "Detached accessory dwelling unit" means an accessory  
23 dwelling unit that consists partly or entirely of a building that is  
24 separate and detached from a single-family housing unit.

25 (4) "Dwelling unit" means a residential living unit that provides  
26 complete independent living facilities for one or more persons and  
27 that includes permanent provisions for living, sleeping, eating,  
28 cooking, and sanitation.

29 (5) "Cities" means, except as provided in section 4(2) of this  
30 act, (a) all cities, code cities, and towns with a population of ten  
31 thousand or more, and (b) all cities, code cities, and towns with a  
32 population of at least two thousand five hundred but less than ten  
33 thousand in which any portion of the city, code city, or town lies  
34 within the boundaries of a regional transit authority or a transit  
35 agency as defined in RCW 81.104.015.

36 (6) "Counties" means all counties with a population of fifteen  
37 thousand or more.

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

4 (8) "Single-family housing unit" means a single-family detached  
5 house, and excludes a duplex, triplex, townhome, or other housing  
6 unit.

7 NEW SECTION. **Sec. 3.** ACCESSORY DWELLING UNIT REGULATIONS  
8 REQUIRED. (1) Cities and counties must adopt or amend by ordinance  
9 and incorporate into their development regulations, zoning  
10 regulations, and other official controls, an authorization for the  
11 creation of accessory dwelling units that is consistent with this  
12 chapter.

13 (2) Ordinances, development regulations, and other official  
14 controls adopted or amended pursuant to this chapter may only apply  
15 in the portions of towns, cities, and counties that are within  
16 designated urban growth areas.

17 (3) Cities and counties must implement the requirements of this  
18 chapter by June 1, 2021. Any city or county that does not comply with  
19 this subsection must consider any permit application it receives  
20 under this chapter in accordance with this chapter unless it adopts  
21 its own ordinance, development regulation, or other official control  
22 in accordance with this subsection within sixty days after receipt of  
23 the application.

24 (4) Any action taken by a county or city to comply with the  
25 requirements of this chapter within its urban growth area boundary is  
26 not subject to legal challenge under chapter 36.70A or 43.21C RCW.  
27 This subsection is retroactive, as well as prospective, and applies  
28 to any legal challenge commenced on or after January 1, 2018.

29 NEW SECTION. **Sec. 4.** GENERAL REGULATORY REQUIREMENTS. (1)  
30 Ordinances, development regulations, and other official controls  
31 adopted or amended as required by this chapter:

32 (a) Must allow, on lots on which there is a single-family housing  
33 unit either one attached accessory dwelling unit or one detached  
34 accessory dwelling unit. To allow local flexibility, the requirement  
35 under this subsection (1)(a) is subject to such regulations,  
36 conditions, procedures, and limitations as determined by the local  
37 legislative authority except as provided in this section. Attached or  
38 detached accessory dwelling units may not be considered as

1 contributing to the overall underlying density within the urban  
2 growth area boundary of a county for purposes of compliance with  
3 chapter 36.70A RCW;

4 (b) May not impose a minimum lot size requirement for the siting  
5 of accessory dwelling units;

6 (c) May not be inconsistent with water availability requirements,  
7 water system plans, small water system management plans, or  
8 established policies adopted by cities or counties. Any connection  
9 fees or capacity charges for attached or detached accessory dwelling  
10 units must be proportionate to the burden of the proposed accessory  
11 dwelling unit upon the water or sewer system;

12 (e) Must require an accessory dwelling unit to be accessible to  
13 fire department apparatus by way of a public street or approved fire  
14 apparatus access;

15 (f) May not count residents of accessory dwelling units against  
16 any limits on the number of unrelated residents on a single-family  
17 lot;

18 (g) May not establish a requirement for the provision of off-  
19 street parking for accessory dwelling units within one-half mile of a  
20 transit stop for fixed rail or for bus service that is scheduled at  
21 least every fifteen minutes for no less than ten hours per day.  
22 Except as provided in this subsection (1)(g), jurisdictions may  
23 require up to one additional off-street parking space per lot in  
24 which there is at least one accessory dwelling unit; and

25 (h) May not count the gross floor area of an accessory dwelling  
26 unit against any floor area ratio limitations that apply to single-  
27 family housing units.

28 (2) Any city with a population of one hundred thousand or more  
29 may not require the owner of a lot on which there is an accessory  
30 dwelling unit to reside in or occupy the accessory dwelling unit or  
31 another housing unit on the same lot.

32 NEW SECTION. **Sec. 5.** DEVELOPMENT STANDARDS. (1) Ordinances,  
33 development regulations, and other official controls adopted or  
34 amended as required by this chapter are encouraged to minimize the  
35 impact of these ordinances and regulations on the construction cost  
36 of an accessory dwelling unit, and without adopted findings:

37 (a) Should not establish a roof height limitation on detached  
38 accessory dwelling units that is less than twenty-four feet;

1 (b) Should not establish a wall height limitation on detached  
2 accessory dwelling units that is less than seventeen feet;

3 (c) Should not establish a maximum gross floor area for accessory  
4 dwelling units that is less than one thousand square feet;

5 (d) Should not establish a minimum gross floor area for accessory  
6 dwelling units that is greater than one hundred forty square feet;  
7 and

8 (e) Should not establish setback regulations for accessory  
9 dwelling units that are more restrictive than regulations for single-  
10 family housing units.

11 (2) Such ordinances, regulations, and controls may exempt  
12 designated historical districts that are recognized as such under  
13 local ordinance.

14 (3) Cities are encouraged to allow detached accessory dwelling  
15 units to be sited at the lot line of the rear yard if the rear yard  
16 is adjacent to an alley.

17 NEW SECTION. **Sec. 6.** IMPACT FEE REVIEW. Cities and counties  
18 must review their impact fees to ensure that any impact fees imposed  
19 for accessory dwelling units, in accordance with RCW 82.02.060(9),  
20 are commensurate with the actual impact of the accessory dwelling  
21 unit and are less than impact fees for single-family housing units.

22 NEW SECTION. **Sec. 7.** A new section is added to chapter 19.27  
23 RCW to read as follows:

24 By April 1, 2020, the building code council shall adopt rules  
25 pertaining to accessory dwelling units that are consistent with the  
26 definitions and standards in chapter 36.--- RCW (the new chapter  
27 created in section 14 of this act).

28 **Sec. 8.** RCW 82.02.060 and 2012 c 200 s 1 are each amended to  
29 read as follows:

30 The local ordinance by which impact fees are imposed:

31 (1) Shall include a schedule of impact fees which shall be  
32 adopted for each type of development activity that is subject to  
33 impact fees, specifying the amount of the impact fee to be imposed  
34 for each type of system improvement. The schedule shall be based upon  
35 a formula or other method of calculating such impact fees. In  
36 determining proportionate share, the formula or other method of

1 calculating impact fees shall incorporate, among other things, the  
2 following:

3 (a) The cost of public facilities necessitated by new  
4 development;

5 (b) An adjustment to the cost of the public facilities for past  
6 or future payments made or reasonably anticipated to be made by new  
7 development to pay for particular system improvements in the form of  
8 user fees, debt service payments, taxes, or other payments earmarked  
9 for or proratable to the particular system improvement;

10 (c) The availability of other means of funding public facility  
11 improvements;

12 (d) The cost of existing public facilities improvements; and

13 (e) The methods by which public facilities improvements were  
14 financed;

15 (2) May provide an exemption for low-income housing, and other  
16 development activities with broad public purposes, from these impact  
17 fees, provided that the impact fees for such development activity  
18 shall be paid from public funds other than impact fee accounts;

19 (3) May provide an exemption from impact fees for low-income  
20 housing. Local governments that grant exemptions for low-income  
21 housing under this subsection (3) may either: Grant a partial  
22 exemption of not more than eighty percent of impact fees, in which  
23 case there is no explicit requirement to pay the exempted portion of  
24 the fee from public funds other than impact fee accounts; or provide  
25 a full waiver, in which case the remaining percentage of the exempted  
26 fee must be paid from public funds other than impact fee accounts. An  
27 exemption for low-income housing granted under subsection (2) of this  
28 section or this subsection (3) must be conditioned upon requiring the  
29 developer to record a covenant that, except as provided otherwise by  
30 this subsection, prohibits using the property for any purpose other  
31 than for low-income housing. At a minimum, the covenant must address  
32 price restrictions and household income limits for the low-income  
33 housing, and that if the property is converted to a use other than  
34 for low-income housing, the property owner must pay the applicable  
35 impact fees in effect at the time of conversion. Covenants required  
36 by this subsection must be recorded with the applicable county  
37 auditor or recording officer. A local government granting an  
38 exemption under subsection (2) of this section or this subsection (3)  
39 for low-income housing may not collect revenue lost through granting  
40 an exemption by increasing impact fees unrelated to the exemption. A

1 school district who receives school impact fees must approve any  
2 exemption under subsection (2) of this section or this subsection  
3 (3);

4 (4) Shall provide a credit for the value of any dedication of  
5 land for, improvement to, or new construction of any system  
6 improvements provided by the developer, to facilities that are  
7 identified in the capital facilities plan and that are required by  
8 the county, city, or town as a condition of approving the development  
9 activity;

10 (5) Shall allow the county, city, or town imposing the impact  
11 fees to adjust the standard impact fee at the time the fee is imposed  
12 to consider unusual circumstances in specific cases to ensure that  
13 impact fees are imposed fairly;

14 (6) Shall include a provision for calculating the amount of the  
15 fee to be imposed on a particular development that permits  
16 consideration of studies and data submitted by the developer to  
17 adjust the amount of the fee;

18 (7) Shall establish one or more reasonable service areas within  
19 which it shall calculate and impose impact fees for various land use  
20 categories per unit of development; and

21 (8) May provide for the imposition of an impact fee for system  
22 improvement costs previously incurred by a county, city, or town to  
23 the extent that new growth and development will be served by the  
24 previously constructed improvements provided such fee shall not be  
25 imposed to make up for any system improvement deficiencies.

26 (9) May provide an exemption from impact fees for accessory  
27 dwelling units as defined in section 2 of this act, but may not  
28 establish an impact fee amount for accessory dwelling units within  
29 one-half mile of a transit stop for fixed rail or for bus service  
30 that is scheduled at least every fifteen minutes for no less than ten  
31 hours per day that is greater than fifty percent of the amount set  
32 for single-family residences.

33 For purposes of this section, "low-income housing" means housing  
34 with a monthly housing expense, that is no greater than thirty  
35 percent of eighty percent of the median family income adjusted for  
36 family size, for the county where the project is located, as reported  
37 by the United States department of housing and urban development.

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

1 Any (~~local government~~) city or county, as defined in ((RCW  
2 ~~43.63A.215~~)) section 2 of this act, that is planning under this  
3 chapter shall comply with ((RCW ~~43.63A.215(3)~~)) chapter 36.--- RCW  
4 (the new chapter created in section 14 of this act).

5 **Sec. 10.** RCW 35A.63.230 and 1993 c 478 s 9 are each amended to  
6 read as follows:

7 Any (~~local government~~) city or county, as defined in ((RCW  
8 ~~43.63A.215~~)) section 2 of this act, that is planning under this  
9 chapter shall comply with ((RCW ~~43.63A.215(3)~~)) chapter 36.--- RCW  
10 (the new chapter created in section 14 of this act).

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

13 Any (~~local government~~) city or county, as defined in ((RCW  
14 ~~43.63A.215~~)) section 2 of this act, that is planning under this  
15 chapter shall comply with ((RCW ~~43.63A.215(3)~~)) chapter 36.--- RCW  
16 (the new chapter created in section 14 of this act).

17 **Sec. 12.** RCW 36.70A.400 and 1993 c 478 s 11 are each amended to  
18 read as follows:

19 Any (~~local government~~) city or county, as defined in ((RCW  
20 ~~43.63A.215~~)) section 2 of this act, that is planning under this  
21 chapter shall comply with ((RCW ~~43.63A.215(3)~~)) chapter 36.--- RCW  
22 (the new chapter created in section 14 of this act).

23 NEW SECTION. **Sec. 13.** RCW 43.63A.215 (Accessory apartments—  
24 Development and placement—Local governments) and 1993 c 478 s 7 are  
25 each repealed.

26 NEW SECTION. **Sec. 14.** Sections 1 through 6 of this act  
27 constitute a new chapter in Title 36 RCW."

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By Senator Palumbo

**ADOPTED AS AMENDED 03/11/2019**

28 On page 1, line 2 of the title, after "units;" strike the  
29 remainder of the title and insert "amending RCW 82.02.060, 35.63.210,



1 35A.63.230, 36.70.677, and 36.70A.400; adding a new section to  
2 chapter 19.27 RCW; adding a new chapter to Title 36 RCW; and  
3 repealing RCW 43.63A.215."

EFFECT: (1) Clarifies that any action taken by counties and cities to comply with this act within urban growth area (UGA) boundaries are not subject to legal challenge brought, on or after January 1, 2018, under the GMA or SEPA.

(2) Modifies the requirement that local ordinances and development regulations must allow for ADUs on all lots that contain a single-family housing unit, duplex, or triplex to single-family housing lots only with the allowance restricted to either an attached ADU or detached ADU, and subjects this requirement to any local regulations and limitations as determined by the local legislative authority.

(3) Clarifies that ADUs may not be considered as contributing to the underlying density with the UGA boundary of a county for GMA compliance purposes.

(4) Removes language addressing new or separate utility connections and basing connection fees and capacity charges on the size and number of plumbing fixtures for ADUs.

(5) Requires local ADU regulations to not be inconsistent with water availability requirements, water system plans, or established policies adopted by cities or counties.

(6) Removes the restriction on the prohibition on the sale or conveyance of a condo unit based on the grounds it was originally an ADU.

(7) Requires ADUs to be accessible to fire department apparatus by way of public street or approved fire apparatus access.

(8) Modifies the off-street parking prohibition to ADUs within .5 miles of a transit stop for fixed rail or for regular bus service.

(9) Encourages local regulations to minimize their impact on ADU construction costs.

(10) Encourages, instead of mandates, local regulations not to establish setback regulations for ADUs more restrictive than single-family housing unit regulations.

(11) Removes the prohibition on establishing tree retention requirements for ADUs in addition to those for single-family units.

(12) Authorizes local regulations to exempt designated historical districts.

(13) Requires cities and counties to review impact fees to ensure that impact fees on ADUs are commensurate with actual impact of the ADU and are less than impact fees on single-family housing units.

(14) Removes the requirement that cities and counties adopt ordinances and regulations regarding minimum gross floor area consistent with the act.

(15) Clarifies that cities of at least 2,500 and less than 10,000 and of which any portion lies within the boundaries of a regional transit authority or a transit agency are subject to the requirements of the act.

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