

HOUSE BILL REPORT

HB 1298

As Reported by House Committee On:
Local Government

Title: An act relating to regulation of accessory dwelling units located outside of urban growth areas.

Brief Description: Concerning regulation of accessory dwelling units located outside of urban growth areas.

Sponsors: Representatives Vick, Springer, Robertson, Chapman, Chambers, Barkis and Shewmake.

Brief History:

Committee Activity:

Local Government: 2/3/21, 2/9/21, 2/15/21 [DPS].

Brief Summary of Substitute Bill

- Excludes accessory dwelling units located outside urban growth areas from the calculation of housing density in that area if certain local development regulations regarding accessory dwelling units are imposed.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Pollet, Chair; Duerr, Vice Chair; Goehner, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Berg, Robertson and Senn.

Staff: Elizabeth Allison (786-7129).

Background:

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.

Growth Management Act.

The Growth Management Act (GMA) is the state's comprehensive land use planning framework for counties and cities. Eighteen counties and the cities within them are required by population-based criteria to fully plan under the GMA, while other counties and cities can opt to fully plan. The GMA establishes land use designation and environmental protection requirements for all Washington counties and cities, and a much wider array of planning duties for the fully planning 29 counties.

Fully planning jurisdictions are directed to adopt internally consistent comprehensive plans that are generalized, coordinated land use policy statements. Comprehensive plans must include specific planning elements, each of which is a subset of a comprehensive plan. Examples include a capital facilities plan, a rural element, and a land use element. The comprehensive plan must be updated every eight years. Planning jurisdictions must implement comprehensive plans through locally adopted development regulations that conform to the plan.

Urban Growth Areas.

Counties that fully plan under the GMA are required to designate, in consultation with cities, urban growth areas (UGAs) within their boundaries sufficient to accommodate a planned 20-year population projection range. Each city located within a planning county must be included within a UGA. Urban growth must be encouraged within the UGAs, and only growth that is not urban in nature can occur outside of UGAs. Counties and cities must permit urban densities and provide sufficient land capacity suitable for development within UGAs. Urban governmental services cannot generally be extended to rural areas except in limited circumstances necessary to protect basic public health and safety and the environment.

Accessory Dwelling Units.

An accessory dwelling unit (ADU) is a separate living unit located on the same lot as a housing unit that provides complete independent living facilities and includes permanent provisions for living, sleeping, eating, cooking, and sanitation. A detached ADU is separate and detached from another housing unit.

Certain units of local government, including counties planning under the GMA, counties with a population over 125,000, and cities with a population over 20,000, are required to adopt ordinances encouraging the development of ADUs in single-family zones. The ordinances must incorporate in their development regulations, zoning regulations, or official controls model ordinance recommendations prepared by the Department of Community, Trade, and Economic Development, the predecessor to the Department of Commerce. The recommendations include standards and criteria regarding size, parking, design, and quantity of ADUs.

By July 1, 2021, any city within a county planning under the GMA that has not adopted or substantively amended its ADU regulations within the previous four years must adopt or

amend ordinances, regulations, or other official controls that do not require the provision of off-street parking for ADUs within 0.25 mile of a major transit stop, with exceptions.

Summary of Substitute Bill:

Detached ADUs that are located outside UGAs will not be included in the calculation of housing density in that area if such ADUs are subject to local development regulations imposing the following limitations:

- No parcel may have more than one ADU.
- The location, size, and appearance of the ADU must be consistent with rural character and may not interfere with any agriculture or other natural resource use of the property.
- Detached ADUs must be in close proximity to the primary dwelling unit.
- The square footage of an ADU may not exceed 50 percent of the square footage of the primary dwelling unit.

Accessory dwelling units located outside of UGAs are excluded from the calculation of housing density solely for purposes of determining if an area is rural. The ADUs and their residents must still be included for all other planning purposes.

Jurisdictions that authorize ADUs outside of UGAs must meter water utilized from a private well or source other than a public water system for those ADUs. Jurisdictions must report such water use data to the county and make it available to the Department of Ecology, the Department of Fish and Wildlife, and tribes with reserved rights relating to the watershed in which the ADU is located. Such water use data must also be utilized in land use, critical areas, and watershed planning.

This change does not apply to detached ADUs in existence as of the effective date of the act.

Substitute Bill Compared to Original Bill:

The substitute provides that ADUs located outside of UGAs are excluded from the calculation of housing density solely for purposes of determining if an area is rural. The ADUs and their residents must be included for all other planning purposes. Jurisdictions authorizing ADUs outside of UGAs must meter water utilized from any private well or water source other than a public water system for those ADUs. The water use data collected must be made available to the Department of Ecology, the Department of Fish and Wildlife, and any tribe with reserved rights relating to the watershed in which the ADU is located. The water use data must be used in land use, critical areas, and watershed planning.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute 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) House Bill 1298 addresses the affordable housing crisis. Accessory dwelling units are tools that many families have used to keep their loved ones close. Currently, if you live outside of a UGA in a rural county, you can add an addition to your residence, but you cannot build a detached ADU. This does not make sense especially if you have multiple family members needing space. Often times, ADUs are outbuildings and are constructed before the actual residence. Folks then have to deconstruct them after the residence is completed. The bill legalizes detached ADUs and allows them to be kept in place and address affordable housing issues. The current regulation of ADUs is dysfunctional as you can add 4,000 square feet to your residence, but you cannot build a 1000 square foot detached ADU.

(Opposed) Functionally, this bill will double the underlying zoning allowed within rural areas which will create a greater impact on services in those areas. There are substantive differences between adding a detached ADU and adding an attached ADU, including fire protection services. This bill would also contribute to sprawl. It would double the houses and not fix the need for affordable housing, nor would it make affordable housing available. Accessory dwelling units are not as affordable as people think, and they are not being sold as affordable housing. Accessory dwelling units are often transformed into Airbnb rentals, which is not affordable and is moving in the wrong direction. The bill allows ADUs up to the size of 50 percent of the primary residence, which will double the housing density in rural areas and create a false capacity analysis. Additionally, it will remove local control in long term planning. It ignores patterns of development. Under the GMA, population increase is directed to urban and urbanized areas where services can be given at far less expense. The bill nullifies much of the GMA planning regarding capacity, transportation, sewer, water, police, and fire. It ignores constraints on parcels such as slopes, wetlands, and streams.

Persons Testifying: (In support) Representative Vick, prime sponsor; Paul Jewell, Washington State Association of Counties; and Bill Clarke, Washington REALTORS and Kittitas County.

(Opposed) Angie Homola; Dean Enell; Bryce Yadon, Futurewise; and Steve Erickson, Whidbey Environmental Action Network.

Persons Signed In To Testify But Not Testifying: None.