

HOUSE BILL REPORT

HB 1660

As Reported by House Committee On:
Local Government

Title: An act relating to accessory dwelling units.

Brief Description: Concerning accessory dwelling units.

Sponsors: Representatives Shewmake, Ryu, Fitzgibbon, Ramel, Bateman, Gregerson, Goodman, Macri, Peterson, Simmons, Bergquist, Tharinger, Kloba, Pollet and Ormsby.

Brief History:

Committee Activity:

Local Government: 1/12/22, 1/21/22 [DPS].

Brief Summary of Substitute Bill

- Requires the housing element of a comprehensive plan to allow for the construction of accessory dwelling units within an urban growth area and requires the removal of barriers to such construction, including certain identified regulations.
- Removes exemptions in current law that would allow cities to require off-street parking for accessory dwelling units within a quarter-mile of a major transit center under certain circumstances and sets a deadline of July 1, 2023, for the removal of such provisions.
- Prohibits homeowners' associations, common interest communities, and restrictive covenants from actively or effectively prohibiting accessory dwelling units within an urban growth area.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Pollet, Chair; Duerr, Vice Chair; Berg and Senn.

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.

Minority Report: Do not pass. Signed by 1 member: Representative Goehner, Ranking Minority Member.

Minority Report: Without recommendation. Signed by 2 members: Representatives Griffey, Assistant Ranking Minority Member; Robertson.

Staff: Kellen Wright (786-7134).

Background:

Growth Management Act.

The Growth Management Act (GMA) requires that certain counties, and the cities within those counties, engage in planning for future population growth. Currently, 28 counties fully plan under the GMA, and 11 do not.

The centerpiece of the planning process is the comprehensive plan. The Legislature has established 14 goals to act as the basis of all comprehensive plans. Examples of goals include reducing sprawl, providing for affordable housing, and protecting property rights. The comprehensive plan must address these goals and set out policies and standards that are meant to guide the city or county's actions and decisions in the future. Comprehensive plans must contain certain elements, such as a land use element, a transportation element, and a capital facilities plan element. These elements must satisfy the requirements for each individual element while fitting within the overall comprehensive plan.

Housing Element.

One required element of a comprehensive plan is a housing element ensuring the vitality and character of established neighborhoods. The housing element must include an inventory and analysis of existing and projected housing needs and the number of housing units needed to manage this growth. This inventory and analysis must include the units needed for moderate-, low-, very low-, and extremely low-income households, as well as emergency housing, shelters, and permanent supportive housing.

The housing element must also include a statement of goals, objectives, and provisions for the preservation, development, and improvement of housing including single-family residences and, within an urban growth area boundary, moderate-density housing options. Sufficient capacity for housing must be identified, including government-assisted housing; housing for moderate-, low-, very low-, and extremely low-income households; multifamily housing; emergency housing and shelters; and within an urban growth area boundary, the consideration of duplexes, triplexes, and townhomes.

Within the housing element, adequate provision must be made for the existing and projected housing needs of all segments of the community. This includes documenting actions need to achieve housing availability, considering the role of accessory dwelling units in meeting housing needs, and considering the location of housing in relation to employment. Areas at

a high risk of displacement must be identified, and antidisplacement policies must be established. The housing element must also identify and implement policies and regulations to address and begin to undo racially disparate impacts and exclusion in housing caused by local policies and actions.

Urban Growth Areas.

An urban growth area is an area designated by a county within which urban growth is encouraged and outside of which urban growth cannot occur. Each city in a county must be included in an urban growth area. Cities and counties must include sufficient area and densities within an urban growth area to accommodate the growth that is projected to occur over the next 20 years. Urban growth must be initially located in areas already characterized by urban growth that have sufficient public service capabilities to serve the new growth, and only thereafter in areas that are characterized by urban growth but that will need additional public facilities and services, and finally in any remaining portion of the urban growth area.

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 house, duplex, triplex, townhome, or other housing unit. As of July 1, 2021, cities are prohibited from requiring the provision of off-street parking for ADUs within a quarter of a mile of a major transit stop, unless the city determines that on-street parking is infeasible for the ADU or the city had updated its ADU regulations between June 11, 2016, and June 11, 2020. A major transit stop includes a stop on a high capacity transportation system such as a rail system or rapid transit bus service or stops for a bus or other mode of transportation that provide fixed route service of at least 15 minutes for at least five hours a day during peak weekday operation.

By the end of 1994, cities with more than 20,000 people, and counties that were planning under the GMA or that had more than 125,000 people, were required to incorporate in their development and zoning regulations recommendations made by the then Department of Community, Trade, and Economic Development for encouraging the development of accessory apartments. These recommendations could be subject to regulations, conditions, and limitations as determined by the local government.

In the context of an ADU, an owner-occupancy requirement is a mandate that the property owner live on the property on which an ADU is located.

Short-Term Rental.

A short-term rental is a lodging use, outside of a hotel, motel, or bed and breakfast, in which a room is offered for a fee for fewer than 30 consecutive nights.

Condominiums.

A condominium is real property with individual portions or units separately owned and the

remainder owned in common.

Restrictions on the Use of Property.

A homeowners' association is a legal entity made up of members who are owners of residential real property located within the association's jurisdiction who are required to pay dues for the upkeep of the association and common areas. An association can also adopt rules and regulate or limit the use of residential property by its members.

A common interest community is similar. It is made up of member-owners who are obligated to pay for the taxes, maintenance, or other costs of common areas. Like a homeowners' association, a common interest community can also regulate or limit the use of residential property by its members, including by adopting rules to establish and enforce construction and design criteria as well as aesthetic standards. Generally, a common interest community may only be terminated by the agreement of at least 80 percent of its members.

A restrictive covenant, or a restrictive deed, is a restriction or limitation on the use of the property that encumbers the property and runs with the land and binds subsequent owners.

Summary of Substitute Bill:

The housing element of a comprehensive plan must allow for the construction of ADUs within urban growth areas and must remove barriers to such construction, including:

- removing any maximum floor area limit on an ADU that would require the ADU to be less than 850 square feet on a lot with square footage of less than 4,500 square feet;
- removing any maximum floor limits on an ADU that would require the ADU to be less than 1,350 square feet combined between an attached and detached ADU on a lot 4,500 square feet or larger, except that an attached ADU may be limited to half of the size of the principal unit, and public health, safety, building code, and environmental permitting requirements applicable to the principal unit residence may also be required of the ADU;
- removing or reducing any impact fee imposed on the development of an ADU that is greater than 50 percent of the fee that would be imposed on a principle unit of a similar size;
- removing limits that would allow fewer than one attached and one detached accessory dwelling units on a lot of 4,500 or more square feet in a zone that allows for single-family homes;
- removing prohibitions on the sale of a condominium unit independently of a principle unit that are solely based on the condominium unit initially being built as an ADU; and
- removing owner-occupancy restrictions on a lot containing an ADU, unless an ADU on the lot is offered or used for short-term rental.

Cities may not require the off-street provision of parking for an ADU within a quarter of a mile of a major transit stop. Cities must comply with this requirement by July 1, 2023. Any contrary regulations are preempted and superseded after this deadline.

Neither homeowners' associations nor common interest communities within an urban growth area may actively or effectively prohibit the construction and use of an ADU. Any rules or regulations that the associations or communities that would effectively or actively prohibit ADUs are void and unenforceable. Associations and communities may adopt and enforce reasonable rules and regulations that do not effectively prevent the construction or use of ADUs or make the construction or use of an ADU economically impracticable.

No restrictive covenant or deed can prevent the development or use of an ADU in an urban growth area, and contrary covenants and restrictions are unenforceable.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes to the underlying bill:

- moves provisions related to new ADU requirements applicable to cities and counties into the housing element of the comprehensive plan under the GMA;
- requires cities and counties planning under the GMA to allow for the construction of ADUs within an urban growth area, and disallows regulations that impose:
 - Maximum floor limits on an ADU of less than 850 square feet on a lot with square footage of less than 4,500 square feet;
 - Maximum floor limits on an ADU of less than 1,350 square feet combined between an attached and detached accessory dwelling unit on a lot 4,500 square feet or larger, except that an attached ADU may be limited to half of the size of the principal residence, and public health, safety, building code, and environmental permitting requirements applicable to the primary residence may be required of the accessory dwelling unit;
 - Impact fees of greater than 50 percent of the fees that would be imposed on a similar-sized principal unit;
 - Restrictions to fewer than one attached and one detached ADU on a lot of 4,500 or more square feet in a zone that allows for single-family homes;
 - Prohibitions on the sale of a condominium unit independently of a principal unit solely because the condominium unit was built as an ADU; and
 - Owner-occupancy restrictions on a lot containing an ADU, unless an ADU on the lot is offered or used for short-term rental.
- Removes exemptions in current law that allow cities to require off-street parking for ADUs within a quarter of a mile of a major transit center under certain circumstances and sets deadline of July 1, 2023, for the removal of such provisions; and
- Prohibits homeowners' associations, common interest communities, and restrictive covenants from actively or effectively prohibiting ADUs within an urban growth area.

Appropriation: None.

Fiscal Note: Available.

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) Accessory dwelling units help many people throughout the State of Washington, including young people looking to get started in homeownership or an older person hoping to age in place. The ADUs are good for affordable housing, and the rules around ADUs would mean reasonably priced housing options, where otherwise there would only be expensive single-family homes. This would help put home ownership in reach for many, and would help to address the racial housing gap. Land use and zoning policies are embedded in a legacy of injustice. This bill would be a step in favor of equity. Removing restrictions on ADUs would provide a wider range of housing choices and improve affordability.

(Opposed) Eliminating local government control will not result in affordable housing. Owner-occupancy restrictions should be allowed if local government ensures that housing is rented at an affordable rate. There should be a funding mechanism for this. This preempts local control, and the underlying premise that local regulations are the primary barrier to construction is wrong. This bill would not require the ADUs to be affordable. Owner-occupancy is a tool to ensure that developers don't buy up homes just to turn them into rentals, which would make the current shortage of single-family housing worse.

(Other) There are some concerns over reducing local control, but an amendment could make the bill more workable. Affordability can be a trade-off with owner-occupancy, as the requirement can be waived if a certain percentage of the ADUs will be affordable. There is a massive shortage of affordable housing units in the state, and ADUs can help to address this. The ADUs won't solve all issues, but they can help, and will offer opportunities for entry into home ownership. Accessory dwelling units are not disruptive and are acceptable in neighborhoods. The ADUs allow families to remain together. Owner-occupancy requirements may still be needed because it can make accessory dwelling units more acceptable in neighborhoods.

Persons Testifying: (In support) Representative Sharon Shewmake, prime sponsor; Greg Hansen, City of Ferndale; and Dan Bertolet, Sightline Institute.

(Opposed) Mary Lou Pauly, City of Issaquah; and Shelly Helder, Cities of Issaquah, Lake Forest Park & Mountlake Terrace.

(Other) Cynthia Stewart, League of Women Voters of Washington; and Ruth Perez, City of Renton.

Persons Signed In To Testify But Not Testifying: None.