

HB 1337 - H AMD 122

By Representative Gregerson

ADOPTED AS AMENDED 03/02/2023

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

8 (b) Many cities dedicate the majority of residentially zoned land
9 to single detached houses that are increasingly financially out of
10 reach for many households. Due to their smaller size, accessory
11 dwelling units can provide a more affordable housing option in those
12 single-family zones.

13 (c) Localities can start to correct for historic economic and
14 racial exclusion in single-family zones by opening up these
15 neighborhoods to more diverse housing types, including accessory
16 dwelling units, that provide lower cost homes. Increasing housing
17 options in expensive, high-opportunity neighborhoods will give more
18 families access to schools, parks, and other public amenities
19 otherwise accessible to only the wealthy.

20 (d) Accessory dwelling units are frequently rented below market
21 rate, providing additional affordable housing options for renters.

22 (e) Accessory dwelling units can also help to provide housing for
23 very low-income households. More than 10 percent of accessory
24 dwelling units in some areas are occupied by tenants who pay no rent
25 at all; among these tenants are grandparents, adult children, family
26 members with disabilities, friends going through life transitions,
27 and community members in need. Accessory dwelling units meet the
28 needs of these people who might otherwise require subsidized housing
29 space and resources.

30 (f) Accessory dwelling units can meet the needs of Washington's
31 growing senior population, making it possible for this population to
32 age in their communities by offering senior-friendly housing, which

1 prioritizes physical accessibility, in walkable communities near
2 amenities essential to successful aging in place, including transit
3 and grocery stores, without requiring costly renovations of existing
4 housing stock.

5 (g) Homeowners who add an accessory dwelling unit may benefit
6 from added income and an increased sense of security.

7 (h) Accessory dwelling units provide environmental benefits. On
8 average they are more energy efficient than single detached houses,
9 and they incentivize adaptive reuse of existing homes and materials.

10 (i) Siting accessory dwelling units near transit hubs, employment
11 centers, and public amenities can help to reduce greenhouse gas
12 emissions by increasing walkability, shortening household commutes,
13 and curtailing sprawl.

14 (2) The legislature intends to promote and encourage the creation
15 of accessory dwelling units as a means to address the need for
16 additional affordable housing options.

17 **Sec. 2.** RCW 36.70A.696 and 2021 c 306 s 2 are each amended to
18 read as follows:

19 The definitions in this section apply throughout RCW 36.70A.697
20 (~~and~~), 36.70A.698, and sections 3 and 4 of this act unless the
21 context clearly requires otherwise.

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

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

28 (3) "City" means any city, code city, and town located in a
29 county planning under RCW 36.70A.040.

30 (4) "County" means any county planning under RCW 36.70A.040.

31 (5) "Detached accessory dwelling unit" means an accessory
32 dwelling unit that consists partly or entirely of a building that is
33 separate and detached from a single-family housing unit, duplex,
34 triplex, townhome, or other housing unit and is on the same property.

35 (6) "Dwelling unit" means a residential living unit that provides
36 complete independent living facilities for one or more persons and
37 that includes permanent provisions for living, sleeping, eating,
38 cooking, and sanitation.

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) "Major transit stop" means:

5 (a) A stop on a high capacity transportation system funded or
6 expanded under the provisions of chapter 81.104 RCW;

7 (b) Commuter rail stops;

8 (c) Stops on rail or fixed guideway systems, including
9 transitways;

10 (d) Stops on bus rapid transit routes or routes that run on high
11 occupancy vehicle lanes; or

12 (e) Stops for a bus or other transit mode providing actual fixed
13 route service at intervals of at least fifteen minutes for at least
14 five hours during the peak hours of operation on weekdays.

15 ~~((8))~~ (9) "Owner" means any person who has at least 50 percent
16 ownership in a property on which an accessory dwelling unit is
17 located.

18 ~~((9))~~ (10) "Principal unit" means the single-family housing
19 unit, duplex, triplex, townhome, or other housing unit located on the
20 same lot as an accessory dwelling unit.

21 (11) "Short-term rental" means a lodging use, that is not a hotel
22 or motel or bed and breakfast, in which a dwelling unit, or portion
23 thereof, is offered or provided to a guest by a short-term rental
24 operator for a fee for fewer than 30 consecutive nights.

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

27 (1)(a) Cities and counties planning under this chapter must adopt
28 or amend by ordinance, and incorporate into their development
29 regulations, zoning regulations, and other official controls the
30 requirements of this section and of section 4 of this act, to take
31 effect six months after the jurisdiction's next periodic
32 comprehensive plan update required under RCW 36.70A.130.

33 (b) In any city or county that has not adopted or amended
34 ordinances, regulations, or other official controls as required under
35 this section, the requirements of this section and section 4 of this
36 act supersede, preempt, and invalidate any conflicting local
37 development regulations.

38 (2) Ordinances, development regulations, and other official
39 controls adopted or amended pursuant to this section and section 4 of

1 this act must only apply in the portions of towns, cities, and
2 counties that are within urban growth areas designated under this
3 chapter.

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

8 (4) Any action taken by a city or county to comply with the
9 requirements of this section or section 4 of this act is not subject
10 to legal challenge under this chapter or chapter 43.21C RCW.

11 (5) Nothing in this section or section 4 of this act requires or
12 authorizes a city or county to authorize the construction of an
13 accessory dwelling unit in a location where development is restricted
14 under other laws, rules, or ordinances as a result of physical
15 proximity to on-site sewage system infrastructure, critical areas, or
16 other unsuitable physical characteristics of a property.

17 (6) Nothing in this section or in section 4 of this act prohibits
18 a city or county from:

19 (a) Restricting the use of accessory dwelling units for short-
20 term rentals;

21 (b) Applying public health, safety, building code, and
22 environmental permitting requirements to an accessory dwelling unit
23 that would be applicable to the principal unit, including regulations
24 to protect ground and surface waters from on-site wastewater;

25 (c) Applying generally applicable development regulations to the
26 construction of an accessory unit, except when the application of
27 such regulations would be contrary to this section or to section 4 of
28 this act;

29 (d) Prohibiting the construction of accessory dwelling units on
30 lots that are not connected to or served by public sewers; or

31 (e) Prohibiting or restricting the construction of accessory
32 dwelling units in residential zones with a density of one dwelling
33 unit per acre or less that are within areas designated as wetlands,
34 fish and wildlife habitats, flood plains, or geologically hazardous
35 areas.

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

38 (1) In addition to ordinances, development regulations, and other
39 official controls adopted or amended to comply with section 3 of this

1 act and subsection (2) of this section, a city or county must comply
2 with a minimum of three of the following policies:

3 (a) The city or county may not establish a requirement for the
4 provision of off-street parking for accessory dwelling units;

5 (b) The city or county may not assess impact fees on the
6 construction of accessory dwelling units that are greater than 50
7 percent of the impact fees that would be imposed on the principal
8 unit;

9 (c) The city or county may not require the owner of a lot on
10 which there is an accessory dwelling unit to reside in or occupy the
11 accessory dwelling unit or another housing unit on the same lot; and

12 (d) The city or county must allow at least two accessory dwelling
13 units on all lots that are located in all zoning districts within an
14 urban growth area that allow for single-family homes in the following
15 configurations:

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

18 (ii) Two attached accessory dwelling units; or

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

21 (2) Through ordinances, development regulations, and other
22 official controls adopted or amended to comply with section 3 of this
23 act and subsection (1) of this section, a city or county must also
24 comply with all of the following policies:

25 (a) The city or county must permit accessory dwelling units in
26 structures detached from the principal unit;

27 (b) The city or county must allow an accessory dwelling unit on
28 any lot that meets the minimum lot size required for the principal
29 unit;

30 (c) The city or county may not establish a maximum gross floor
31 area requirement for accessory dwelling units that is less than 1,000
32 square feet;

33 (d) The city or county may not establish roof height limits on an
34 accessory dwelling unit of less than 24 feet, unless the height
35 limitation that applies to the principal unit is less than 24 feet,
36 in which case a city or county may not impose roof height limitation
37 on accessory dwelling units that is less than the height limitation
38 that applies to the principal unit;

39 (e) A city or county may not impose setback requirements, yard
40 coverage limits, tree retention mandates, restrictions on entry door

1 locations, aesthetic requirements, or requirements for design review
2 for accessory dwelling units that are more restrictive than those for
3 principal units;

4 (f) A city or county must allow detached accessory dwelling units
5 to be sited at a lot line if the lot line abuts a public alley,
6 unless the city or county routinely plows snow on the public alley;

7 (g) A city or county must allow accessory dwelling units to be
8 converted from existing structures, including but not limited to
9 detached garages, even if they violate current code requirements for
10 setbacks or lot coverage;

11 (h) A city or county may not prohibit the sale or other
12 conveyance of a condominium unit independently of a principal unit
13 solely on the grounds that the condominium unit was originally built
14 as an accessory dwelling unit; and

15 (i) A city or county may not require public street improvements
16 as a condition of permitting accessory dwelling units.

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

19 (1) No restrictive covenant or deed restriction created after the
20 effective date of this section and applicable to a property located
21 within an urban growth area may impose any restriction or prohibition
22 on the construction, development, or use on a lot of an accessory
23 dwelling unit that the city or county in which the urban growth area
24 is located would be prohibited from imposing under section 4 of this
25 act.

26 (2) For the purposes of this section, "urban growth area" has the
27 same meaning as in RCW 36.70A.030.

28 (3) A city or county issuing a permit for the construction of an
29 accessory dwelling unit may not be held civilly liable on the basis
30 that the construction of the accessory dwelling unit would violate a
31 restrictive covenant or deed restriction that was created after the
32 effective date of this section and that is contrary to subsection (1)
33 of this section.

34 **Sec. 6.** RCW 43.21C.495 and 2022 c 246 s 3 are each amended to
35 read as follows:

36 (1) Adoption of ordinances, development regulations and
37 amendments to such regulations, and other nonproject actions taken by
38 a city to implement: The actions specified in section 2, chapter 246,

1 Laws of 2022 unless the adoption of such ordinances, development
2 regulations and amendments to such regulations, or other nonproject
3 actions has a probable significant adverse impact on fish habitat;
4 and the increased residential building capacity actions identified in
5 RCW 36.70A.600(1), with the exception of the action specified in RCW
6 36.70A.600(1)(f), are not subject to administrative or judicial
7 appeals under this chapter.

8 (2) Adoption of ordinances, development regulations and
9 amendments to such regulations, and other nonproject actions taken by
10 a city or county consistent with the requirements of sections 3 and 4
11 of this act are not subject to administrative or judicial appeals
12 under this chapter.

13 **Sec. 7.** RCW 36.70A.280 and 2011 c 360 s 17 are each amended to
14 read as follows:

15 (1) The growth management hearings board shall hear and determine
16 only those petitions alleging either:

17 (a) That, except as provided otherwise by this subsection, a
18 state agency, county, or city planning under this chapter is not in
19 compliance with the requirements of this chapter, chapter 90.58 RCW
20 as it relates to the adoption of shoreline master programs or
21 amendments thereto, or chapter 43.21C RCW as it relates to plans,
22 development regulations, or amendments, adopted under RCW 36.70A.040
23 or chapter 90.58 RCW. Nothing in this subsection authorizes the board
24 to hear petitions alleging noncompliance (~~(with RCW 36.70A.5801)~~)
25 based on a city or county's actions taken to implement the
26 requirements of sections 3 and 4 of this act within an urban growth
27 area;

28 (b) That the (~~twenty-~~) 20-year growth management planning
29 population projections adopted by the office of financial management
30 pursuant to RCW 43.62.035 should be adjusted;

31 (c) That the approval of a work plan adopted under RCW
32 36.70A.735(1)(a) is not in compliance with the requirements of the
33 program established under RCW 36.70A.710;

34 (d) That regulations adopted under RCW 36.70A.735(1)(b) are not
35 regionally applicable and cannot be adopted, wholly or partially, by
36 another jurisdiction; or

37 (e) That a department certification under RCW 36.70A.735(1)(c) is
38 erroneous.

1 (2) A petition may be filed only by: (a) The state, or a county
2 or city that plans under this chapter; (b) a person who has
3 participated orally or in writing before the county or city regarding
4 the matter on which a review is being requested; (c) a person who is
5 certified by the governor within (~~sixty~~) 60 days of filing the
6 request with the board; or (d) a person qualified pursuant to RCW
7 34.05.530.

8 (3) For purposes of this section "person" means any individual,
9 partnership, corporation, association, state agency, governmental
10 subdivision or unit thereof, or public or private organization or
11 entity of any character.

12 (4) To establish participation standing under subsection (2)(b)
13 of this section, a person must show that his or her participation
14 before the county or city was reasonably related to the person's
15 issue as presented to the board.

16 (5) When considering a possible adjustment to a growth management
17 planning population projection prepared by the office of financial
18 management, the board shall consider the implications of any such
19 adjustment to the population forecast for the entire state.

20 The rationale for any adjustment that is adopted by the board
21 must be documented and filed with the office of financial management
22 within ten working days after adoption.

23 If adjusted by the board, a county growth management planning
24 population projection shall only be used for the planning purposes
25 set forth in this chapter and shall be known as the "board adjusted
26 population projection." None of these changes shall affect the
27 official state and county population forecasts prepared by the office
28 of financial management, which shall continue to be used for state
29 budget and planning purposes.

30 NEW SECTION. **Sec. 8.** A new section is added to chapter 36.70A
31 RCW to read as follows:

32 (1) By December 31, 2023, the department must revise its
33 recommendations for encouraging accessory dwelling units to include
34 the provisions of sections 3 and 4 of this act.

35 (2) During each comprehensive plan review required by RCW
36 36.70A.130, the department must review local government comprehensive
37 plans and development regulations for compliance with sections 3 and
38 4 of this act and the department's recommendations under subsection
39 (1) of this section.

1 NEW SECTION. **Sec. 9.** The following acts or parts of acts are
2 each repealed:

- 3 (1) RCW 35.63.210 (Accessory apartments) and 1993 c 478 s 8;
- 4 (2) RCW 35A.63.230 (Accessory apartments) and 1993 c 478 s 9;
- 5 (3) RCW 36.70A.400 (Accessory apartments) and 1993 c 478 s 11;
- 6 (4) RCW 36.70.677 (Accessory apartments) and 1993 c 478 s 10; and
- 7 (5) RCW 43.63A.215 (Accessory apartments—Development and
8 placement—Local governments) and 1993 c 478 s 7."

9 Correct the title.

EFFECT: (1) Changes the deadline for a city or county to adopt specific provisions for accessory dwelling units (ADUs) within urban growth areas (UGAs) from July 1, 2024, to six months after the jurisdiction's next required update of its comprehensive plan.

(2) Requires local ordinances and regulations for ADUs adopted under the act to apply only within a UGA.

(3) Limits the option for cities and counties to allow two ADUs on each single-family residential lot to lots located within a UGA.

(4) Limits the exemption for actions taken under the act from appeals to the growth management hearings board to those actions taken within a UGA only.

(5) Requires the department of commerce to revise its recommendations for encouraging ADUs to include the ADU policies and regulations required under the act.

(6) Requires the department of commerce to review each local jurisdiction's comprehensive plan update for compliance with the ADU recommendations.

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