

HOUSE BILL REPORT

HB 1133

As Reported by House Committee On:
Housing

Title: An act relating to establishing limitations on detached accessory dwelling units outside urban growth areas.

Brief Description: Establishing limitations on detached accessory dwelling units outside urban growth areas.

Sponsors: Representatives Chapman, Low, Peterson, Wylie and Tharinger.

Brief History:

Committee Activity:

Housing: 1/17/23, 1/26/23 [DPS].

Brief Summary of Substitute Bill

- Authorizes counties planning under the Growth Management Act to allow detached accessory dwelling units (ADUs) outside of urban growth areas if the ADU is subject to development regulations that include certain limits.

HOUSE COMMITTEE ON HOUSING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Peterson, Chair; Leavitt, Vice Chair; Klicker, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Barkis, Chopp, Entenman, Hutchins, Low, Reed and Taylor.

Minority Report: Without recommendation. Signed by 2 members: Representatives Alvarado, Vice Chair; Bateman.

Staff: Audrey Vasek (786-7383).

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.

Background:

Growth Management Act.

The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. The GMA establishes land use designation and environmental protection requirements for all Washington counties and cities. The GMA also establishes a significantly wider array of planning duties for 28 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA. These jurisdictions are sometimes said to be "fully planning" under the GMA.

The GMA directs fully planning jurisdictions to adopt internally consistent, comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans are implemented through locally adopted development regulations, and both the plans and the local regulations are subject to review and revision requirements prescribed in the GMA. In developing their comprehensive plans, counties and cities must consider various goals set forth in statute.

Cities and counties that do not fully plan under the GMA may, under the state's optional planning statutes, adopt comprehensive plans, zoning ordinances, and other official controls regulating land uses within their boundaries.

Land use regulations may generally include: the location and the use of buildings, structures, and land for residence, industry, trade, and other purposes; the height, construction, and design of buildings and structures; the size of yards, open spaces, lots, and tracts; the set-back of buildings; the subdivision and development of land; parking requirements; and adoption of standard building codes and fire regulations.

Urban Growth Areas.

Counties that fully plan under the GMA are required to designate, in consultation with cities, urban growth areas (UGA) 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 the UGAs. Counties and cities must permit urban densities and provide sufficient land capacity suitable for development within the UGAs. Urban governmental services cannot generally be extended to rural areas except in limited circumstances necessary to protect basic public health, public safety, and the environment.

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 home, duplex, triplex, townhome, or other housing unit. 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, must have ADU provisions incorporated in their development regulations, zoning regulations, or official controls. These provisions must be consistent with a 1993 report from the predecessor agency to the Department of Commerce (the Department of Community, Trade, and Economic Development), that provided recommendations to encourage the development and placement of ADUs in areas zoned for single-family residential use. The recommendations include standards and criteria regarding size, parking, design, and quantity of ADUs. Local communities have some flexibility to adapt these recommendations to local needs and preferences.

As of July 1, 2021, fully planning cities under the GMA may not require the provision of off-street parking for ADUs within a quarter mile of a major transit stop, such as a high-capacity transportation system stop, a rail stop, or certain bus stops, unless the city determines that on-street parking is infeasible for the ADU.

Summary of Substitute Bill:

Counties planning under the GMA may allow detached ADUs outside of the UGAs if the ADU is subject to development regulations that include the following limits:

- No parcel may have more than one attached or detached ADU.
- The detached ADU is subject to water supply requirements in the state building code.
- The applicant must provide documentation that the septic system can handle the additional demand placed on the system by the detached ADU.
- The floor area of the detached ADU does not exceed the floor area that the county could authorize as an expansion of the primary dwelling to create an attached ADU, but is not greater than 1,296 square feet. The floor area excludes garages, porches, and unfinished basements.
- The detached ADU must be constructed such that exterior materials, roof form, window spacing, and proportions approximate those of the primary dwelling, unless the ADU is a mobile or manufactured home.
- The detached ADU must use the same driveway as the primary dwelling.
- The detached ADU must be sited to prevent loss of land that is defined as "agricultural land" or "forestland" under the GMA.
- A parcel may not be subdivided for the purposes of avoiding the limits on development regulations described in the bill.

The authority of a county to allow detached ADUs outside of the UGAs is in addition to other county authority under the GMA and does not:

- affect or modify the validity of any county ordinance authorizing ADUs adopted prior

- to the effective date of the bill;
- exclude other means of authorizing ADUs in urban or rural areas, if consistent with the bill; and
- exclude other innovative techniques authorized under certain other provisions of the GMA, if consistent with the bill.

The GMA definition section for accessory dwelling units is amended to apply to the provisions of the bill.

Substitute Bill Compared to Original Bill:

The substitute bill revises the original bill's list of limits on county development regulations for detached ADUs outside of the UGAs by:

- amending the language prohibiting parcels from having more than one detached ADU to instead prohibit parcels from having more than one attached or detached ADU;
- adding that the detached ADU must be sited to prevent loss of land that is defined as "agricultural land" or "forestland" under the GMA; and
- adding that the parcel may not be subdivided for the purposes of avoiding the limits on development regulations described in the bill.

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) Housing supply and affordability is a statewide issue. Washington state has a housing crisis. ADUs are an affordable way to provide housing, and detached ADUs are often more affordable than attached ADUs. It doesn't make sense why an attached ADU would be allowable but a detached ADU would not.

Some counties restrict detached ADUs outside of the UGAs, and in some counties the growth management hearings board does not allow detached ADUs outside of the UGAs. This creates inequity between counties where detached ADUs are allowed outside of the UGAs and counties where they are not. This bill would allow detached ADUs outside of the UGAs, while still providing guardrails.

In some areas where detached ADUs are not allowed, illegal ADUs are common. Sometimes people will build barns and shops on their properties and run electricity and water to the structure to create what is essentially an illegal ADU. At the time of sale, this

becomes a problem. These structures have to dismantled, but later they are often built back up.

(Opposed) There are concerns about environmental impacts of detached ADUs outside of the UGAs. This could lead to sprawl in rural areas and negative impacts to farmland. This bill would essentially allow up to three ADUs per lot including the allowed attached ADUs. The lot should not be able to be subdivided once the ADU has been built.

Persons Testifying: (In support) Brent Ludeman, Building Industry Association of Washington; Alex Hur, Master Builders Association of King and Snohomish Counties; Paul Jewell, Washington State Association of Counties; and Bill Clarke, Washington Realtors and Kittitas County.

(Opposed) Bryce Yadon, Futurewise.

Persons Signed In To Testify But Not Testifying: None.