

# SENATE BILL REPORT

## SHB 2343

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As Reported by Senate Committee On:  
Housing Stability & Affordability, February 28, 2020

**Title:** An act relating to urban housing supply.

**Brief Description:** Concerning urban housing supply.

**Sponsors:** House Committee on Environment & Energy (originally sponsored by Representatives Fitzgibbon, Frame, Macri, Doglio, Tharinger and Pollet).

**Brief History:** Passed House: 2/16/20, 93-2.

**Committee Activity:** Housing Stability & Affordability: 2/24/20, 2/28/20 [DPA].

### Brief Summary of Amended Bill

- Modifies and adds to the list of planning actions that certain cities are encouraged to take to increase residential building capacity.
- Modifies the date by which certain planning actions must be taken for those actions to be exempt from administrative or judicial appeal under the Growth Management Act and the State Environmental Policy Act (SEPA).
- Changes the frequency and level of transit service that triggers a cap on minimum residential parking requirements for certain affordable and market rate multifamily housing units.
- Exempts certain project actions from appeal under SEPA on the basis of impacts to the aesthetics element of the environment if the project is subject to design review at the local government level.
- Directs the Department of Ecology to remove parking as an element of the environment and as a component of the environmental checklist the next time it amends SEPA rules.
- Modifies reporting requirements and dates for the Washington Center for Real Estate Research regarding housing supply and affordability metrics for certain fully planning cities under the GMA.

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### SENATE COMMITTEE ON HOUSING STABILITY & AFFORDABILITY

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Majority Report:** Do pass as amended.

Signed by Senators Kuderer, Chair; Das, Vice Chair; Zeiger, Ranking Member; Fortunato, Assistant Ranking Member; Darneille, Saldaña and Warnick.

**Staff:** Brandon Popovac (786-7465)

**Background:** Growth Management Act. The Growth Management Act (GMA) is the comprehensive land-use planning framework for counties and cities in Washington. Originally enacted in 1990 and 1991, the GMA establishes land-use designation and environmental protection requirements for all Washington counties and cities.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. 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.

Planning Actions. In 2019, the Legislature encouraged fully planning cities to take an array of specified planning actions to increase residential building capacity. Specified planning actions include, for example:

- authorizing development of an average of at least 25 residential units per acre in one or more areas of not fewer than 500 acres in cities with a population greater than 40,000, or areas of not fewer than 250 acres in cities with a population less than 40,000, that include one or more bus stops served by scheduled bus service of at least four times per hour for 12 or more hours per day;
- authorizing accessory dwelling units on all lots located in zoning districts that permit single-family residences, subject to certain restrictions; and
- authorizing a minimum net density of six dwelling units per acre in all residential zones.

In general, ordinances and other nonproject actions taken to implement these specified actions, if adopted by April 1, 2021, are not subject to administrative or judicial appeal under either the GMA or SEPA.

Any fully planning city with a population over 20,000 planning to take at least two of the specified planning actions between July 28, 2019, and April 1, 2021, is eligible to apply to the Department of Commerce (Commerce) for planning grant assistance up to \$100,000, subject to appropriation.

Limits on Minimum Residential Parking Requirements. For housing units that are affordable to very low-income or extremely low-income individuals and are located within 0.25 miles of a transit stop that receives transit service at least four times per hour for 12 or more hours per day, minimum residential parking requirements may be no greater than one parking space per bedroom or 0.75 spaces per unit.

State Environmental Policy Act. SEPA establishes a review process for state and local governments to identify environmental impacts that may result from governmental decisions, such as the issuance of permits or the adoption of land-use plans. The SEPA environmental review process involves a project proponent or the lead agency completing an environmental checklist to identify and evaluate probable environmental impacts. Government decisions that the SEPA checklist process identifies as having significant adverse environmental impacts must then undergo a more comprehensive environmental analysis in the form of an environmental impact statement.

State Environmental Policy Act—Exemption from Appeal Based on the Transportation Element of the Environment. A project action pertaining to residential, multifamily, or mixed-use development evaluated under SEPA by a city, county, or town planning fully under the GMA is exempt from appeals under SEPA based on the evaluation of or impacts to transportation elements of the environment, so long as the project does not present significant adverse impacts to state highways as determined by the Department of Transportation, and the project meets certain additional criteria.

State Environmental Policy Act—Parking as an Element of the Environment. Under SEPA, the Department of Ecology (Ecology) is directed to adopt a list of elements of the environment that must be considered in an analysis under SEPA, as well as an environmental checklist to be used by lead agencies to carry out their environmental review. Ecology has adopted rules that specify that parking is an element of the environment, as well as a component of the environmental checklist that government agencies use to help determine whether a project will have significant environmental impacts.

Washington Center for Real Estate Research. The Washington Center for Real Estate Research (Center) at the University of Washington provides continuing research, education, and technical assistance to licensed real estate brokers and sales persons, educational institutions, state and local governments, the real estate industry, and the general public. In 2019, the Legislature directed the Center to produce a report every two years that compiles housing supply and affordability metrics for fully planning cities under the GMA with a population of 10,000 or more. The initial report due October 15, 2020, must be a compilation of objective criteria relating to development regulations, zoning, income, housing and rental prices, housing affordability programs, and other metrics, including the percentage of cost-burdened households in each qualifying city. The subsequent report due October 15, 2022, must include data related to planning actions taken by cities as authorized by the Legislature in 2019. The report due October 15, 2024, must include relevant data relating to buildable lands reports and updates to comprehensive plans under the GMA. The Center is required to collaborate with the Housing Finance Commission (HFC) and Office of Financial Management to develop metrics for the reports, and also to submit reports to the legislative committees with jurisdiction on housing issues.

**Summary of Amended Bill:** Planning Actions. The list of actions that cities planning fully under the GMA are encouraged to take to increase residential building capacity are modified and added to, including:

- changing the minimum zoning district size to 200 acres in cities with a population more than 40,000 and 100 acres in cities with a population of fewer than 40,000 for development of at least 25 residential units per acre;

- adding quadplexes, sixplexes, stacked flats, and townhouses as types of housing authorized on parcels in one or more zoning districts that permit single-family residences unless unfeasible to do so;
- authorizing a duplex, triplex, quadplex, sixplex, stacked flat, townhouse, or courtyard apartment on one or more parcels for which they are not currently authorized;
- clarifying that the calculation of net density, for actions related to authorizing a minimum net density of six dwelling units per acre in all residential zones, does not include the square footage of certain areas otherwise prohibited from development;
- authorizing one or more zoning districts of medium density in which individual lots may be no larger than 3500 square feet, and single-family residences may be no larger than 1200 square feet;
- separating the single action related to authorizing accessory dwelling units (ADUs) into the following four separate actions:
  1. authorizing ADUs in one or more zoning districts in which they are currently prohibited;
  2. removing minimum parking requirements related to ADUs;
  3. removing owner occupancy requirements related to ADUs; and
  4. adopting new square footage requirements related to ADUs that are less restrictive than existing square footage requirements related to ADUs.
- adopting maximum allowable exemption levels under SEPA for certain minor new construction;
- adopting standards for administrative approval of final plats;
- adopting ordinances authorizing administrative review of preliminary plats;
- adopting other permit process improvements where changes to local regulations and ordinances will result in a more efficient permit process;
- updating use matrices and allowable use tables that eliminate conditional use permits for all housing types, including single-family homes, townhomes, multifamily housing, low-income housing, and senior housing, except for essential public facilities;
- allowing off-street parking to compensate for lack of on-street parking when private roads are utilized or a parking demand study shows that less parking is required;
- developing local programs that offer homeowners a combination of financing, design, permitting, or construction support to build accessory dwelling units (ADUs); and
- developing local programs that offer homeowners a combination of financing, design, permitting, or construction support to convert a single-family home into a duplex, triplex, or quadplex where those housing types are authorized.

A city may condition these local programs on a requirement to provide the ADU for affordable home ownership or rent the ADU or to provide a certain number of newly created units for affordable home ownership or to rent a certain number of the newly created units for a defined period of time to either tenants in a housing subsidy program as defined in RCW 43.31.605(14) or to tenants whose income is less than eighty percent of the city or county median family income. If the city includes an affordability requirement under either program, it must provide additional incentives, such as:

- density bonuses;
- height and bulk bonuses;
- fee waivers or exemptions;
- parking reductions; or

- expedited permitting.

The minimum population requirement for a city to be eligible for planning grants from Commerce in connection with taking certain actions to increase residential building capacity is eliminated.

The time period by which cities must take certain planning actions to increase residential building capacity for those actions to be exempt from administrative or judicial appeal under the GMA and SEPA, is extended from April 1, 2021, to April 1, 2023.

Limits on Minimum Residential Parking Requirements. For market rate multifamily housing units located within 0.25 miles of a transit stop receiving service from at least one route that provides service at least four times per hour for 12 or more hours per day, minimum residential parking requirements may be no greater than one parking space per bedroom or 0.75 space per unit. A city or county may establish parking requirements beyond these standards if it has determined that a particular housing unit is in an area with a lack of access to street parking capacity or with physical space impediments, or other reasons exist that make on-street parking infeasible for the unit. The frequency of transit service triggering a cap on minimum residential parking requirements for certain affordable housing units is reduced from four times per hour to two times per hour.

State Environmental Policy Act—Exemption from Appeal for Certain Project Actions. Any project action related to a residential, multifamily, or mixed-use development is exempt from appeal under SEPA on the basis of impacts to the aesthetics element of the environment if the project is subject to adopted design review requirements at the local government level. "Design review" is defined as a formally adopted local government process by which projects are reviewed for compliance with design standards for the type of use adopted through local ordinance.

State Environmental Policy Act—Rule-making Related to Parking. Ecology must remove parking as an element of the environment and as a component of the environmental checklist within agency rule the next time Ecology amends rules implementing SEPA.

Miscellaneous. Permanent supportive housing for purposes of the GMA is clarified and further defined as subsidized, leased housing with no limit on length of stay that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent supportive housing is paired with on-site or off-site voluntary services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident's health status, and connect the resident of the housing with community-based health care, treatment, or employment services. Permanent supportive housing is subject to all rights and responsibilities under the Residential Landlord-Tenant Act.

Washington Center for Real Estate Research. The biennial report due by the Center regarding the compilation of housing supply and affordability metrics is modified to be a series of reports. The initial report due October 15, 2020, is modified to include employment and housing affordability by housing tenure metrics, while removing development regulation and zoning metrics, as part of its compilation of objective criteria. The initial report may also include city-specific median income data for those cities implementing the multifamily tax exemption program. An additional report is required and due on October 15, 2021, and must include an analysis of the private rental housing market for each area outlining the number of units, vacancy rates, and rents by unit type, where possible. This report's analysis should separate market rate multifamily rental housing developments and other smaller scale market rate rental housing and also incorporate data from the HFC on subsidized rental housing in the area consistent with the the initial report. The report due October 15, 2022, must also include detailed information on development regulations, levies and fees, and zoning related to housing development. The report due October 15, 2024, is clarified as a biennial report.

#### **EFFECT OF HOUSING STABILITY & AFFORDABILITY COMMITTEE AMENDMENT(S):**

- Adds quadplexes, sixplexes, stacked flats, and townhouses to two items on the list of actions fully planning cities under the GMA are encouraged to take, specifically the action to authorize such housing on each parcel in one or more zoning districts that permit single-family residences unless there is a documented physical constraint to make this unfeasible and the proposed action to authorize such housing on parcels where it is not authorized.
- Adds the following to the list of actions cities are encouraged to take:
  1. Adopting maximum allowable SEPA exemptions for certain minor new construction;
  2. Adopting standards for administrative approval of final plats;
  3. Adopting ordinances authorizing administrative review of preliminary plats;
  4. Adopting permit process improvements;
  5. Updating use matrices and tables to eliminate conditional use permits for all housing types, except for essential public facilities;
  6. Allowing flexibility for on-street and off-street parking standards when private roads are proposed;
  7. Developing local programs that offer financing, design, permitting, or construction for homeowners to build ADUs, with the option for the city to impose an affordability requirement for home ownership or when renting the unit; and
  8. Developing local programs that offer financing, design, permitting, or construction for homeowners to convert a single-family home into a duplex, triplex, or quadplex where such housing is authorized, with the option for the city to impose an affordability requirement for home ownership or when renting the unit.
- Modifies the requirement that the Washington Center for Real Estate Research produce a report every two years regarding housing supply and affordability metrics for certain fully planning cities under the GMA by requiring a series of reports that will also include an analysis of the private rental housing market and may include

city-specific median income data for cities implementing the multifamily tax exemption program.

- Makes a technical fix to an internal reference to SEPA.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Substitute House Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: This bill is a continuation and update of the work accomplished in E2SHB 1923 last session, which is a successful and collaborative model that the state should continue to build on effectively. The underlying policy of the bill is for cities to identify housing policies that are priorities and then the state to provide financial support and legal support for cities to adopt those policy priorities. Cities still have to go through a robust public process. 53 cities of already taken advantage of the underlying law and this bill would expand and add new policy options while extending timelines so that more cities can take advantage.

The bill is designed to create construction of new homes for families of all income levels and in all communities across the state. It simply uses existing tools that are already available to local government to create housing affordability and continues to rely on the same zoning and public involvement process that are part of current comprehensive plans and development regulations. Other stakeholders might want to include additional voluntary options to improve the bill such as broadening missing middle housing options, authorizing cities to help spur new construction where there are single-family homes. By extending bill deadlines and getting rid of population thresholds, some communities that were not able to take advantage of the grant moneys may do so.

State support for encouraging mixed-use density is critical. New housing jobs and services must be carefully planned and well designed in partnership with current residents. New rapid transit stations will provide cities the opportunity to consider substantial increases in housing and mixed use development and redevelopment.

CON: The bill would create competition between wealthy investors and local residents for housing stock. Tiny homes, mobile homes, fourplexes, and cottage houses are already available or permitted in single-family neighborhoods. Affordable housing options through community land trust purchased by the state or cities should be pursued since affordability would remain forever. The bill provides opportunities to global investors while locals lose more options to own and become subject to increased rents.

To increase the housing supply as a one-size fits all solution to the housing shortage by allowing duplexes, triplexes, and courtyard apartments on any parcel encourages the dismantling of single family neighborhoods. This bill only benefits developers and provides no affordability options. Some cities are still providing tax exemptions to developers of

market rate luxury housing and I think maybe there has only been one affordable housing project that has been given a 12-year exemption. This bill will also deny citizens the right to appeal under SEPA or the GMA and takes away decision making from the experts at the Department of Ecology.

This bill would not increase housing significantly but would significantly restrict legitimate SEPA appeals by citizens, specifically it would make the design review board decisions in the cities final regarding aesthetic environmental impacts. Some design review boards do not have the expertise nor the charge to make certain determinations. The bill would benefit from encouraging cities to mediate an effective process for developer and citizen engagement before design review begins and establishing an expedited SEPA appeal process parallel with design review. We need refinement rather than elimination of protections from adverse impacts under SEPA. Some design review boards rotate membership from one meeting to the next, providing an inconsistent process and a lack of sustained attention to development and community concerns. Other city staff assigned to the design review board have made incorrect assumptions about the application of SEPA protections.

The bill should include a definition of affordable housing ownership that includes both single-family homes and condominiums. The bill will create less stability and affordability and more homelessness in King County. Seattle developers are building 92 percent of new units as luxury units. The bill removes requirements and legal appeals eliminating the only way that citizens can hold cities and developers accountable and responsible.

This bill represents a supply side philosophy that has come from a unholy union between developers and progressives to essentially burn the middle class in order to provide affordable housing. Providing incentives to developers to make it easier to develop property raises the price of housing as it promotes development of market rate housing and not affordable housing. The bill will prevent neighbors from being able to exercise their rights under SEPA or the GMA to question nearby developments.

Potentially increasing density on every residential property in cities begs the questions of whether sewer and storm water systems and infrastructure can handle that kind of growth. The bill does not require or encourage cities to engage or conduct outreach with citizens to discuss future development. Citizens have a right to protect property values and control should be left to local jurisdictions.

OTHER: The provision that exempts SEPA appeals on the basis of aesthetics of any project subject to local design review will open up development to high-rise towers without mitigation of any resulting loss of daylight and privacy to neighboring residents. Nearby residents will be forced to use electric light for the majority of the year's daylight hours, not be able to participate in any solar energy program, and need even more electricity to cool, heat, and light their homes throughout the year. Given the proximity of new neighbors, privacy rights to feel safe and secure will be lost. Depriving residents of daylight and privacy is known to have both physical and mental health impacts.

**Persons Testifying:** PRO: Steve Gano, Building Industry Association of Washington; Bryce Yadon, Futurewise; Scott Hazlegrove, Master Builders Association of King and Snohomish Counties; Jeannette McKague, Washington Realtors; Kelli Curtis, Councilmember, City of



Kirkland; Carl Schroeder, Association of Washington Cities.

CON: Phyllis Booth, citizen; Colleen Bradford, citizen; Jeffrey Booth, Sr., citizen; Tony Hacker, citizen; Wallis Bolz, citizen; Jean Jensen, citizen; David Ward, citizen; Martin Kaplan, Queen Anne Community Council; Arthur West, citizen.

OTHER: Megan Kruse, Fischer Studio Building.

**Persons Signed In To Testify But Not Testifying:** No one.