

FINAL BILL REPORT

SSB 5818

C 246 L 22
Synopsis as Enacted

Brief Description: Promoting housing construction in cities through amendments to and limiting appeals under the state environmental policy act and growth management act.

Sponsors: Senate Committee on Housing & Local Government (originally sponsored by Senators Salomon, Liias, Kuderer, Saldaña and Short).

Senate Committee on Housing & Local Government
House Committee on Environment & Energy

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.

Counties that fully plan under the GMA must designate urban growth areas (UGAs), within which urban growth must be encouraged and outside of which growth may occur only if it is not urban in nature. Planning jurisdictions must include within their UGAs sufficient areas and densities to accommodate projected urban growth for the succeeding 20-year period.

The GMA also 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. When developing their comprehensive plans, counties and cities must consider various goals set forth in statute.

Comprehensive Plan—Mandatory Housing Element. The comprehensive plan of a fully planning county or city must consist of a map or maps and descriptive text covering

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.

objectives, principles, and standards used to develop the plan. The plan must be an internally consistent document and all elements must be consistent with the future land-use map. Each comprehensive plan must include a plan, scheme, or design for certain enumerated elements, including a mandatory housing element. The housing element must ensure the vitality and character of established residential neighborhoods and, among other requirements:

- include an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth, including emergency housing, emergency shelters, and permanent supportive housing;
- include a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including middle housing options;
- identify sufficient capacity of land for all housing types;
- identify and implement policies and regulations to address and begin to undo racially disparate impacts, displacement, and exclusion in housing; and
- identify areas at higher risk of displacement from market forces that occur with changes to zoning development regulations and capital investments.

Planning Actions to Increase Residential Building Capacity. Fully planning cities are encouraged to take an array of specified planning actions to increase residential building capacity. Specified planning actions include, for example:

- authorizing middle housing types on parcels in one or more zoning districts that permit single-family residences unless unfeasible to do so;
- authorizing cluster zoning or lot size averaging in all zoning districts that permit single-family residences;
- adopting increases in categorical exemptions to the State Environmental Policy Act (SEPA) for residential or mixed-use development;
- adopting a form-based code in one or more zoning districts that permit residential uses;
- authorizing a duplex on each corner lot within all zoning districts that permit single-family residences;
- authorizing accessory dwelling units in one or more zoning districts in which they are currently prohibited;
- adopting ordinances authorizing administrative review of preliminary plats; and
- 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.

In general, ordinances and other nonproject actions taken to implement these specified planning actions, if adopted by April 1, 2023, are not subject to administrative or judicial appeal under SEPA or legal challenge under the GMA.

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.

The information collected through the SEPA review process may be used to condition a proposal mitigating environmental impacts or to deny a proposal when significant adverse environmental impacts are identified. Any appeal brought under SEPA must be linked to a specific governmental action.

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 (DOT) and the project meets certain additional criteria.

State Environmental Policy Act—Rule-Based Categorical Exemptions. Under SEPA, certain nonproject actions are categorically exempt from threshold determinations and environmental impact statement in rule. Examples of categorical exemptions include various kinds of minor new construction and minor land use decisions.

Summary: State Environmental Policy Act—Exemption from Appeal. Any nonproject action taken by a fully planning city to implement certain optional planning actions to increase residential building capacity is permanently exempt from administrative and judicial appeal under SEPA.

The adoption of ordinances, development regulations and amendments to such regulations, and other nonproject actions taken by a fully planning city that increase housing capacity and affordability and mitigates displacement as required under the mandatory housing element of the city's comprehensive plan, and that apply outside of critical areas, are exempt from administrative and judicial appeal under SEPA unless the adoption of such ordinances, development regulations, or other nonproject actions has a probable significant adverse impact on fish habitat.

The exemption from appeal under SEPA for any project action related to a residential, multifamily, or mixed-use development on the basis of or impacts to the transportation elements of the environment is clarified as only applying if DOT has not found the project will present significant adverse impacts to the state-owned transportation system. Any project action related to a residential, multifamily, or mixed-use development is exempt from appeal under SEPA on the basis of or impacts to the aesthetics element of the environment if the project is subject to adopted design review requirements at the local government level. Any project action related to a residential, multifamily, or mixed-use development is also exempt from appeal under SEPA on the basis of or impacts to the light

and glare 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—Categorical Exemptions. The Department of Ecology must undergo expedited rulemaking to modify rule-based categorical exemptions to SEPA, specifically as follows:

- add four attached single-family residential units to the current exemption for certain types of construction;
- create a new exemption level for single-family residential project types with a total square footage of fewer than 1500 square feet in incorporated UGAs of at least 100 units;
- increase the exemption level for multifamily residential project types in incorporated UGAs from 60 units to 200 units; and
- add the following sentence to the categorical exemptions for minor new construction: "The city, town, or county must document the result of its outreach with the department of transportation on impacts to state-owned transportation facilities, including consideration of whether mitigation is necessary for impacts to state-owned transportation facilities."

State Environmental Policy Act—Miscellaneous. Any applicant whose project qualifies as exempt under SEPA is not required to file an environmental checklist if other information is available to establish that a project qualifies for an exemption.

Votes on Final Passage:

Senate	44	5	
House	97	1	(House amended)
Senate	43	6	(Senate concurred)

Effective: June 9, 2022