

FINAL BILL REPORT

ESHB 2321

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Synopsis as Enacted

Brief Description: Modifying middle housing requirements and the definitions of transit stop.

Sponsors: House Committee on Housing (originally sponsored by Representatives Bateman, Barkis, Duerr, Reed and Pollet).

House Committee on Housing
Senate Committee on Housing

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. Each city in a county must be included in a UGA. 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.

Fully planning counties and cities must review and, if necessary, revise their comprehensive plans every 10 years to ensure they comply with the GMA.

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.

Each comprehensive plan must include a plan, scheme, or design for certain mandatory elements, including a housing element. The housing element must ensure the vitality and character of established residential neighborhoods.

Minimum Density Requirements.

No later than six months after its next required comprehensive plan update, fully planning cities meeting population requirements must allow for the development of a minimum number of units on all residential lots as follows:

- Cities with a population of at least 75,000 must allow at least four units on all residential lots, at least six units on all residential lots within 0.25 miles walking distance of a major transit stop, and at least six units if two are affordable housing.
- Cities with a population of at least 25,000 but less than 75,000 must allow at least two units on all residential lots, at least four units on all residential lots within 0.25 miles walking distance of a major transit stop, and at least four units if one unit is affordable housing.
- Cities with a population less than 25,000, within a contiguous UGA with the largest city in a county with a population of more than 275,000, must allow two units on all residential lots.

A major transit stop is defined as a stop on a high-capacity transportation system, commuter rail stops, stops on rail or fixed guideway systems, and stops on bus rapid transit routes.

The density requirements do not apply to:

- lots designated with critical areas or their buffers;
- a watershed serving a reservoir for potable water if that watershed is listed as impaired or threatened under the federal Clean Water Act; or
- lots that have been designated urban separators by countywide planning policies.

A city must allow at least six of the nine types of middle housing and may allow accessory dwelling units to achieve the minimum density requirements. Middle housing is defined as buildings that are compatible in scale, form, and character with single-family houses and contain two or more attached, stacked, or clustered homes including duplexes, triplexes, fourplexes, fiveplexes, sixplexes, townhouses, stacked flats, courtyard apartments, and cottage housing. The GMA defines courtyard apartments as up to four attached dwelling units on two or three sides of a court.

A city subject to the minimum density requirements must include specific provisions for middle housing in its development regulations and may not require any standards for middle housing that are more restrictive than those required for detached single-family residences.

A city may apply any objective development regulations to middle housing that are required for detached single-family residences, including set-back, lot coverage, stormwater, clearing, and tree canopy and retention requirements to ensure compliance with existing ordinances intended to protect critical areas and public health and safety.

Fully planning cities are limited in their ability to establish minimum off-street parking requirements for middle housing and may not require: (1) off-street parking within 0.5 miles walking distance of a major transit stop; (2) more than one off-street parking space per unit for lots smaller than 6,000 square feet; and (3) more than two off-street parking spaces per unit for lots greater than 6,000 square feet. The limits do not apply if a city submits an empirical study that clearly demonstrates, and Commerce certifies, that parking limitations for middle housing are significantly less safe than if the jurisdiction's parking requirements were applied to the same location for the same number of detached houses.

Summary:

The minimum density requirements for residential lots within 0.25 miles walking distance of a major transit stop must be applied to any bus rapid transit stop under construction.

The exemption from minimum density requirements for lots with critical areas or their buffers is limited to that portion of a lot, parcel, or tract with a critical area or buffer except for critical aquifer recharge areas where a single-family detached house is an allowed use provided that any requirements to maintain aquifer recharge are met. Until June 30, 2026, any additional residential capacity required by lots, parcels, or tracts with critical areas or critical area buffers may not be considered an inconsistency with countywide planning policies, multicounty planning policies, or growth targets.

Lots created through the splitting of a single residential lot and areas designated as sole-source aquifers by the United States Environmental Protection Agency on islands in the Puget Sound are exempt from the middle housing and minimum density requirements.

A city with at least 25,000 population that is subject to minimum residential density requirements must allow at least six of the nine types of middle housing. A city with less than 25,000 population may choose the number of types of middle housing to allow to meet minimum residential density requirements. The four-unit limit in the definition of courtyard apartments is removed.

A city may not require more than one off-street parking space per unit for middle housing constructed on lots that are exactly 6,000 square feet before any zero lot line subdivisions or lot splits.

In applying objective development regulations to middle housing, fully planning cities may apply regulations related to set-back, lot coverage, stormwater, clearing, and tree canopy and retention requirements, and language related to compliance with existing ordinances intended to protect critical areas and public health and safety is removed.

Votes on Final Passage:

House 94 3
Senate 30 18 (Senate amended)
House 93 4 (House concurred)

Effective: June 6, 2024