

# HOUSE BILL REPORT

## E2SHB 1220

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### As Passed Legislature

**Title:** An act relating to supporting emergency shelters and housing through local planning and development regulations.

**Brief Description:** Supporting emergency shelters and housing through local planning and development regulations.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Peterson, Macri, Bateman, Ryu, Lekanoff, Fitzgibbon, Kloba, Davis, Lovick, Santos, Ortiz-Self, Simmons, Berg, Hackney, Chopp, Tharinger and Frame).

#### **Brief History:**

##### **Committee Activity:**

Local Government: 1/27/21, 2/9/21 [DPS];

Appropriations: 2/17/21, 2/18/21 [DP2S(w/o sub LG)].

##### **Floor Activity:**

Passed House: 3/3/21, 57-39.

Senate Amended.

Passed Senate: 4/10/21, 25-24.

House Concurred.

Passed House: 4/14/21, 57-40.

Passed Legislature.

#### **Brief Summary of Engrossed Second Substitute Bill**

- Updates the housing goals of the Growth Management Act (GMA) to include planning for and accommodating affordable housing.
- Requires GMA jurisdictions to address moderate, low, very low, and extremely low-income housing, moderate density housing options, and racially disparate impacts and displacement in the housing element of the comprehensive plan.
- Requires the Department of Commerce to provide the inventory and

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analysis of existing and projected housing needs required in the housing element of the comprehensive plan.

- Prohibits a city from preventing transitional housing or permanent supportive housing in zones where residential dwelling units or hotels are allowed, and from preventing indoor emergency shelters and indoor emergency housing in zones where hotels are allowed unless the city has an ordinance authorizing such shelters and housing in a majority of zones within 1 mile of transit.
- Directs GMA jurisdictions to consider certain policies that encourage the construction of accessory dwelling units to meet affordable housing goals.

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## HOUSE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Pollet, Chair; Duerr, Vice Chair; Berg and Senn.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Goehner, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Robertson.

**Staff:** Elizabeth Allison (786-7129).

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Local Government. Signed by 19 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Chopp, Cody, Dolan, Fitzgibbon, Frame, Hansen, Johnson, J., Lekanoff, Pollet, Ryu, Senn, Springer, Stonier, Sullivan and Tharinger.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Chandler, Dye, Hoff and Schmick.

**Minority Report:** Without recommendation. Signed by 10 members: Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke, Caldier, Harris, Jacobsen, Rude and Steele.

**Staff:** Jessica Van Horne (786-7288).

**Background:**

### Growth Management Act.

The Growth Management Act (GMA) is the state's comprehensive land use planning framework for counties and cities. The GMA establishes land use designation and environmental protection requirements for all Washington counties and cities, and a significantly wider array of planning duties for counties and the cities within that are obligated by population-based criteria or choice to satisfy all planning requirements of the GMA.

Counties that fully plan under the GMA are required to designate urban growth areas (UGAs) within their boundaries sufficient to accommodate a planned 20-year population projection range provided by the Office of Financial Management. 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. Each must permit urban densities and include greenbelt and open space areas.

### Comprehensive Plans.

The GMA directs jurisdictions that fully plan under the GMA to adopt internally consistent comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans must include specific planning elements, each of which is a subset of a comprehensive plan. Planning jurisdictions must implement comprehensive plans through locally adopted development regulations that conform to the plan.

The GMA also establishes 14 goals in a non-prioritized list to guide the development of comprehensive plans and development regulations of counties and cities that plan under the GMA. Examples include urban growth, housing, and economic development.

### Mandatory Housing Element.

Comprehensive plans must include a housing element that ensures the vitality and character of established residential neighborhoods. The housing element must include the following:

- an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth;
- a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including single family residences;
- identification of sufficient land for housing which includes government-assisted housing, housing for low-income families, manufactured housing, multifamily housing, and group homes and foster care facilities; and
- adequate provisions for existing and projected needs of all economic segments of the community.

### Adopted Moratoria and Interim Official Controls.

Growth Management Act jurisdictions that adopt a moratorium or interim zoning map, ordinance, or other official control without holding a public hearing on the proposed

moratorium or interim official control must hold a public hearing on the proposed moratorium or interim official control with 60 days of adoption, regardless of any received recommendations from the planning commission or the Department of Commerce (Commerce). Any moratorium or interim official control adopted is effective for no more than six months, or up to one year if a certain work plan is developed, but may be renewed for one or more six-month periods if a public hearing is held and findings of fact are made before renewal. Designations for critical areas, agricultural lands, forestlands, and mineral resource lands before such actions are taken in a comprehensive plan with development regulations adopted are exempt from such public hearing and other requirements if a public hearing is held on such proposed actions.

#### Local Planning for Accessory Dwelling Units.

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, are required to adopt ordinances encouraging the development of accessory dwelling units (ADUs) in single-family zones. The ordinances must incorporate in their development regulations, zoning regulations, or official controls model ordinance recommendations prepared by the Department of Community, Trade, and Economic Development, the predecessor to Commerce. The recommendations include standards and criteria regarding size, parking, design, and quantity of ADUs.

By July 1, 2021, any city within a county planning under the GMA that has not adopted or substantively amended its ADU regulations within the previous four years must adopt or amend ordinances, regulations, or other official controls that do not require the provision of off-street parking for ADUs within 0.25 mile of a major transit stop, with exceptions.

#### **Summary of Engrossed Second Substitute Bill:**

The housing goal guiding the development of comprehensive plans and development regulations for GMA jurisdictions is updated to provide that jurisdictions plan for and accommodate, rather than encourage the availability of, affordable housing.

Commerce must provide the inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth as required in the housing element of the comprehensive plan, including units for moderate, low, very low, and extremely low-income households as well as emergency housing, emergency shelters, and permanent supportive housing. Emergency housing, emergency shelter, and moderate-income household are defined.

The housing element of the comprehensive plan is updated to require jurisdictions to do the following:

- include, within the UGA boundary, moderate density housing options in addition to single-family residences in the housing element statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and

- development of housing;
- identify sufficient land and zoning capacities for housing including moderate, low, very low, and extremely low-income households; emergency housing, emergency shelters, and permanent supportive housing; and within the UGA boundary, consideration of duplexes, triplexes, and townhomes;
- when making adequate provisions for existing and projected needs of all economic segments of the community:
  - incorporate special consideration for low, very low, extremely low, and moderate-income households;
  - document programs and actions needed to achieve housing availability, including gaps in local funding, barriers such as development regulations, and other limitations;
  - consider housing locations in relation to employment location; and
  - consider the role of accessory dwelling units in meeting housing needs;
- identify local policies and regulations that result in racially disparate impacts, displacement, and exclusion in housing;
- identify and implement policies and regulations to address and begin to undo racially disparate impacts, displacement, and exclusion in housing;
- identify areas at higher risk of displacement from market forces that occur with changes to zoning development regulations and capital investments; and
- establish anti-displacement policies, with consideration given to the preservation of historical and cultural communities as well as investments in low, very low, extremely low, and moderate-income housing; equitable development initiatives; inclusionary zoning; community planning requirements; tenant protections; land disposition policies; and consideration of land that may be used for affordable housing;

Cities may not prohibit transitional housing or permanent supportive housing in any zones where residential dwelling units or hotels are allowed. Beginning September 30, 2021, cities may not prohibit indoor emergency shelters and indoor emergency housing in any zones where hotels are allowed, except for cities that have an adopted ordinance authorizing indoor emergency shelters and indoor emergency housing in a majority of zones within a 1-mile proximity to transit. Reasonable occupancy, spacing, and intensity of use requirements may be imposed by ordinance on permanent supportive housing, transitional housing, indoor emergency housing, and indoor emergency shelters for public health and safety purposes, but such requirements on occupancy, spacing, and intensity of use may not prevent the siting of a sufficient number of permanent supportive housing, transitional housing, or indoor emergency housing or shelters necessary to accommodate the need for such housing and shelter as provided by Commerce under comprehensive plan housing element requirements.

Any city ordinances or development regulations prohibiting building permit applications for or the construction of transitional housing or permanent supportive housing in any zones where residential dwelling units or hotels are allowed, or prohibiting such applications for

or the construction of indoor emergency shelters and housing in any zones where hotels are allowed, are exempt from public hearing and other requirements applicable to adopted moratoria or interim zoning controls under the GMA.

Cities and counties are directed to consider policies encouraging the construction of accessory dwelling units as a way to meet affordable housing goals. Policies may include:

- prohibiting owner-occupancy requirements;
- requiring the owner not to use the ADU for short-term rentals;
- prohibiting counting of ADU residents toward the number of unrelated residents on the lot;
- prohibiting minimum gross floor area requirements exceeding building codes;
- prohibiting maximum gross floor area requirements of certain dimensions;
- requiring the same ADU allowances regarding roof decks, balconies, and porches as for the principal unit;
- requiring certain abutting lot setbacks;
- requiring an amnesty program for owners with unpermitted ADUs to obtain permits;
- authorizing detached ADUs, ADUs on lots meeting minimum lot size, and ADUs on lots with nonconforming principal units, if the ADU would not increase the nonconformity;
- authorizing ADUs to be converted from existing structures even if in violation of current setback or lot coverage requirements;
- prohibiting public street improvements as a requisite to permitting ADUs; and
- authorizing new or separate utility connection requirements between the ADU and utility when necessary to be consistent with certain requirements, plans, or policies.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony (Local Government):**

(In support) It is incumbent upon cities across the state to look at every aspect of housing when looking at expected growth. House Bill 1220 asks cities to dig deeper into housing needs to see what levels of housing will be needed, including workforce housing, low to moderate housing, and emergency housing. The issue of homelessness will continue after the pandemic and for far too long until cities start building housing for all levels of income. It is important to make sure that the state is getting the information that it needs to properly plan to welcome the citizens of their communities. Jurisdictions have not always been required to plan for all economic segments of the community. The bill addresses racial discrimination in land use zoning, which was made for and built on racial exclusion. Even the Washington Constitution had limits on who could own property. Often times multi-

family units and increased density are concentrated in key areas in the city and this is something that should be looked at as well. This is why there is need to prevent exclusion of emergency shelters in cities. We do not want to see homeless folks lose their housing. There is a very brief policy window to make the changes proposed by the bill before cities and counties embark on their next comprehensive updates that must be done by 2024, and many jurisdictions have already launched this process. Over the life of the Growth Management Act, there have been circumstances where it has failed. One of those circumstances has been affordable housing needs affecting people with the lowest incomes. The current housing goal is very soft language with no mechanism for enforcement. We are in an exacerbated housing crisis and we cannot stand by and just encourage housing for people of all incomes. We must include diverse housing, including emergency shelters, and make sure anti-displacement efforts are centered. This bill is a long time coming. It will result in concrete improvement toward housing needs. Some communities really need the push this bill provides through legislation. There is a great number of homeless individuals and the crisis cannot be solved, planned for, or prevented if communities are not required to plan for housing needs. Planning for density alone will not meet those needs. Local government must specifically plan for and meet affordable housing needs. When new development and increased density comes, it forces people from the community and is done by design. Instead, the need is for intentional planning that accounts for diversity of needs.

Growing up in Bothell comes with great privilege. There are great teachers and access to the community. The city just keeps building single family dwellings, which contributes to sprawl, and sprawled communities have caused prices to skyrocket. There are no homes or townhomes in Bothell for less than \$500,000. There is a history of exclusion and racial discrimination. In the coming decades as population grows, we simply cannot rely on more sprawl.

In working on affordable housing and homelessness, how jurisdictions address homelessness and low incomes has been looked at. Most solutions focus on market-rate housing while many are cost burdened. There is no planning for shelters for those who become homeless. There has been significant opposition to adding shelters and various other types of housing needed. Without changes to the Growth Management Act, most jurisdictions would not do the required planning for homelessness.

(Opposed) None.

(Other) The bill has a number of key elements, including housing equity review elements. This is the right time to move forward on something like this, but some of the expectations may need to be refined a bit. It will cost some work at the local level but it is the right thing to do. There is support for the expectation to plan for certain middle-income housing types, but there is uncertainty on how to inventory or project emergency shelter or homeless needs. The mandate around authorizing emergency housing is an issue to engage on a bit more. It is necessary to stress the importance of providing funding. Cities are required by the bill to identify policies and regulations, and there is uncertainty around what is meant by

"practices." Further clarification is required on what is meant by "investments." There should be consideration for providing funding or consultants to help with the scope of the bill as small cities may struggle with the planning requirements in the bill.

**Staff Summary of Public Testimony (Appropriations):**

(In support) Land use and zoning practices have historically been exclusionary on the basis of race and income. This bill provides a method for correcting these historical practices. Funding should be provided to local governments to assist in updating their comprehensive plans as they account for racial and economic disparities in housing. The substitute bill helps local governments by shifting some costs to the state. Planning for low- and moderate-income housing options will help address the current homelessness crisis. Every jurisdiction should be planning for emergency shelters and permanent supportive housing. Without adequate shelter, it will be difficult to solve the current homelessness crisis. Some jurisdictions have put in place obstacles to development or bans on shelters and other affordable housing options. Lack of shelter disproportionately impacts people of color, who are more likely to experience homelessness. Requiring jurisdictions to allow for shelters and permanent supportive housing will not cost them money but will result in more efficient land usage and the maximization of state investments in affordable housing and homeless housing.

(Opposed) None.

(Other) Cities fully support reviewing zoning to account for racial and economic inequities. Cities have concerns about being required to authorize shelters and supportive housing in certain zones. The bill would require complex updates to the housing element of the comprehensive plan. Cities will incur costs to complete those updates over a four-year period.

**Persons Testifying (Local Government):** (In support) Representative Peterson, prime sponsor; Bryce Yadon, Futurewise; Patience Malaba, Housing Development Consortium of Seattle-King County; Kyler Parris; Cynthia Stewart, League of Women Voters of Washington; and Michele Thomas, Washington Low Income Housing Alliance.

(Other) Carl Schroeder, Association of Washington Cities; and Lyset Cadena, Cities of Burien and Everett.

**Persons Testifying (Appropriations):** (In support) Bryce Yadon, Futurewise; and Michele Thomas, Washington Low Income Housing Alliance.

(Other) Carl Schroeder, Association of Washington Cities.

**Persons Signed In To Testify But Not Testifying (Local Government):** None.

**Persons Signed In To Testify But Not Testifying (Appropriations):** None.