

# HOUSE BILL REPORT

## SHB 2343

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### As Passed Legislature

**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:**

**Committee Activity:**

Environment & Energy: 1/16/20, 1/28/20 [DPS].

**Floor Activity:**

Passed House: 2/16/20, 93-2.

Senate Amended.

Passed Senate: 3/3/20, 36-11.

House Concurred.

Passed House: 3/7/20, 92-5.

Passed Legislature.

### Brief Summary of Substitute Bill

- Modifies the list of planning actions that certain cities are encouraged to take in order to increase residential building capacity.
- Changes the date by which certain planning actions must be taken in order for those actions to be exempt from administrative or judicial appeal under the Growth Management Act and the State Environmental Policy Act (SEPA), from April 1, 2021, to April 1, 2023.
- Changes the frequency of transit service that triggers a cap on minimum residential parking requirements for certain affordable housing units.
- Sets caps on minimum residential parking requirements for certain market rate multifamily housing units located near transit services.
- Modifies the definition of "permanent supportive housing."
- Directs the Department of Ecology to initiate the rulemaking process to remove parking as an element of the environment and as a component of the environmental checklist.

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*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.*

- Requires the Washington Center for Real Estate Research at the University of Washington to address certain specific housing topics within its existing obligation to produce ongoing reports on the Washington housing market.

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## HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Fitzgibbon, Chair; Lekanoff, Vice Chair; DeBolt, Ranking Minority Member; Boehnke, Doglio, Fey, Goehner, Mead, Robinson and Shewmake.

**Staff:** Robert Hatfield (786-7117).

### **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.

Legislation enacted within the GMA in 2019 encouraged fully planning cities to take an array of specified planning actions in order to increase residential building capacity. 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 the State Environmental Policy Act (SEPA).

#### Limits on Minimum Residential Parking Requirements.

For affordable 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.

The 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 the SEPA by a city, county, or town planning fully under the GMA is exempt from appeals under the SEPA on the basis of 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 the 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 the SEPA, as well as an environmental checklist that will be used by lead agencies in carrying 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.

**Summary of Substitute Bill:**

Planning Actions to Increase Residential Building Capacity.

The following changes are made to the list of actions that cities planning fully under the Growth Management Act (GMA) are encouraged to take in order to increase residential building capacity:

- The existing action of authorizing residential development of at least 25 units per acre in certain circumstances is changed, from a minimum zoning district size of 500 acres in cities with a population greater than 40,000 and 250 acres in cities with a population of fewer than 40,000, to a minimum zoning district size of 200 acres in cities with a population greater than 40,000 and 100 acres in cities with a population of fewer than 40,000.
- The existing action related to authorizing a minimum net density of six dwelling units per acre in all residential zones is modified to specify that the calculation of net density does not include the square footage of certain areas that are otherwise prohibited form development.
- The single action related to authorizing accessory dwelling units (ADUs) is changed to four separate, more specific actions:
  - authorize ADUs in one or more zoning districts in which they are currently prohibited;
  - remove minimum parking requirements related to ADUs;
  - remove owner-occupancy requirements related to ADUs; and
  - adopt new square footage requirements related to ADUs that are less restrictive than existing square footage requirements related to ADUs.

The following additions are made to the list of actions that cities planning fully under the GMA are encouraged to take in order to increase residential building capacity:

- authorize a duplex, triplex, or courtyard apartment on one or more parcels for which they are not currently authorized;
- authorize one or more zoning districts of medium density in which individual lots may be no larger than 3,500 square feet and single-family residences may be no larger than 1,200 square feet;
- adopt maximum allowable exemption levels pursuant to the rules adopted by the Department of Ecology (Ecology) related to categorical exemptions under SEPA;
- adopt standards for administrative approval of final plats;
- adopt ordinances authorizing administrative review of preliminary plats;
- adopt other permit process improvements where it is demonstrated that the code, development regulation, or ordinance changes will result in a more efficient permit process for customers;
- update use matrices and allowable use tables that eliminate conditional use permits and administrative conditional use permits for all housing types, including single-family homes, townhomes, multifamily housing, low-income housing, and senior housing, but excluding essential public facilities; and
- allow 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 for the project;
  - develop a local program that offers homeowners a combination of financing, design, permitting, or construction support to build accessory dwelling units; and
  - develop a local program that offers 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.

The minimum population requirement, related to eligibility for planning grants from the Department of Commerce in connection with taking certain actions to increase residential building capacity, is eliminated.

The date is changed by which cities must take certain planning actions to increase residential building capacity in order for those actions to be exempt from administrative or judicial appeal under the GMA and the State Environmental Policy Act (SEPA), from April 1, 2021, to April 1, 2023.

#### Limits on Minimum Residential Parking Requirements.

The frequency of transit service that triggers a cap on minimum residential parking requirements for certain affordable housing units is changed, from four times per hour to two times per hour.

For market rate multifamily housing units that are located within 0.25 miles of a transit stop that receives transit 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. Counties, as well as cities, may establish a requirement for the provision of more than one parking space per bedroom for market rate multifamily housing, if the jurisdiction has determined a particular

housing unit to be in an area with a lack of access to street parking capacity, physical space impediments, or other reasons supported by evidence that would make on-street parking infeasible for the unit.

Definition of Permanent Supportive Housing.

The definition of "permanent supportive housing" is modified to provide that permanent supportive housing is 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.

The Washington Center for Real Estate Research.

The existing obligation for the Washington Center for Real Estate Research to produce ongoing reports on Washington's housing supply is modified. The scope of the report due in October 2020 is expanded to include criteria related to employment and housing tenure.

The report due in October 2021 is required to include an analysis of the private rental housing market for each area.

The report due in October 2022 must include detailed information on development regulations, levies and fees, and zoning related to housing development.

State Environmental Policy Act – Rule-making Related to Parking.

Ecology is directed to initiate the rule-making process to remove parking as an element of the environment within WAC 197-11-444 and as a component of the environmental checklist within WAC 197-11-960 the next time Ecology amends the rules adopted under the SEPA.

**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:**

(In support) The option to add duplexes and triplexes is appreciated. There are some additional options that could be considered, one of which is having local governments implement a faster permitting process.

Engaging in some of the public engagement necessary to implement some of the options in the most recently enacted affordable housing bill will be difficult to complete by 2021, so there is support for extending the deadline to 2023 in this bill.

House Bill 1923 from 2019 offered a promising framework in which the state works in partnership with local governments to encourage a variety of additional housing supply options. The flexibility related to Accessory Dwelling Units (ADUs) is appreciated, since the earlier treatment of ADUs was very prescriptive. The bill currently has a cap on parking requirements for certain forms of affordable housing, but not on market rate housing, which could have the effect of promoting more luxury near mass transit; it might be good to have a parking cap on market rate housing, too.

One of the big challenges in looking at how to add density to cities is in looking at what legal impediments there are to adding that density. This bill simplifies things and adds the opportunity for lots of good projects to take place, while also preserving existing buildings. One real estate investor has never before looked at acquiring single family dwellings for redevelopment, because nothing could be done with them, but this bill changes that.

It is important to maintain the sense of urgency that cities need to act now. There may need to be a few tweaks related to parking minimums and maximums.

The extension of the deadline for cities to take certain actions is helpful. There are other possible improvements to be made, such as encouraging cities to look at how their permitting process is set up.

(Opposed) It would be good to repeal the language that prohibits appeals under the State Environmental Policy Act (SEPA) and the Growth Management Act (GMA). Home ownership is the largest investment most people make and is the main way for building capital for retirement. Citizens need the ability defend the environment. The prohibitions against appeal are inconsistent with democracy itself. Taking away appeal rights moves the state in the direction of authoritarianism. There may be ways to streamline the appeal process, and there is support for that. Without the right to appeal, the illegal behavior of one southern Puget Sound city would have been able to stand.

The bill takes away the ability of people to have real input into how their cities develop. One city's comprehensive plan process took years to develop, with lots of public input, but House Bill 1923 from 2019 and this bill undermine that process. Essentially, the bill makes all neighborhoods the same and doesn't reflect individual neighborhood character. Why go to the trouble of writing a comprehensive plan if it can be overridden by the elements of this bill? There is no guarantee that the increased housing brought about by this bill will be affordable or that people will not be displaced.

There is opposition to allowing duplexes, courtyard apartments, and triplexes in single family neighborhoods. This practice spreads density throughout single family neighborhoods and sets up development away from transit, which is counter to the overall goal of the bill. One city's comprehensive plan calls for density in specific areas that are near services and close to transit, and this bill puts development in areas without these attributes. The bill also furthers the need to have cars to get around. In one city, buses stop running at 7:00 in the evening,

many streets do not have sidewalks, and walking to buses can be a safety issue in the dark and the rain. The Legislature should consider the unintended consequences of these provisions.

The premise of the YIMBY (yes in my backyard) movement is the result of an unholy alliance between housing advocates and developers. The supply-side rationale does not effectively provide affordable housing. This kind of supply-side economics supports developers and squeezes the middle class. The state does need more affordable housing but that will not be addressed by market rate housing. People will be stripped of their rights to live in a nice neighborhood and stripped of their appeal rights under the SEPA and the GMA. The approach in this bill will rob the most productive members of the society who have worked very hard for what they have attained.

The Department of Housing and Urban Development definition of affordable housing is housing that costs no more than 30 percent of your income. Only a small percentage of houses in one city are affordable. Supporters of this kind of housing believe that any additional housing translates to lower rents, but this is just trickle-down economics and does not work. This approach produces only a 1 percent or 2 percent per year turnover, which is very slow. The methods used in this bill are not really effective at getting housing to lower-income people.

(Other) It would be great to have additional options for local governments. It would be good to make one additional change regarding aesthetics in the bill.

**Persons Testifying:** (In support) Representative Fitzgibbon, prime sponsor; Jay Arnold, City of Kirkland; Carl Schroeder, Association of Washington Cities; Alex Hur, Master Builders Association of King and Snohomish Counties; Greg Rock, Rock Ventures; Bryce Yadon, Futurewise; and Jeanette McKague, Washington REALTORS.

(Opposed) Judith Bardin; Bob Jacobs; Walter Jorgensen; Jay Elder; and Arthur West

(Other) Mike Ennis, Association of Washington Business; and Jan Himebaugh, Building Industry Association of Washington

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