

SENATE BILL REPORT

3SHB 1491

As Reported by Senate Committee On:
Housing, March 26, 2025

Title: An act relating to promoting community and transit-oriented housing development.

Brief Description: Promoting transit-oriented housing development.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Reed, Richards, Berry, Duerr, Cortes, Doglio, Ryu, Fitzgibbon, Alvarado, Davis, Ramel, Parshley, Mena, Peterson, Nance, Macri, Fosse, Kloba, Ormsby, Scott, Pollet, Hill, Obras and Simmons).

Brief History: Passed House: 3/5/25, 58-39.

Committee Activity: Housing: 3/14/25, 3/26/25 [DPA-WM, w/oRec].

Brief Summary of Amended Bill

- Requires cities planning under the Growth Management Act to allow new residential and mixed-use development within a station area at certain transit-oriented development (TOD) densities.
- Establishes a new 20-year Multi-Family Property Tax Exemption (MFTE) Program for multifamily residential housing within a station area that meets TOD affordability requirements.
- Requires a local government to reduce certain impact fees by 50 percent if the project is within a station area and claiming the 20-year MFTE Program tied to the TOD affordability requirements.
- Requires the Department of Commerce develop model TOD ordinances and administer a grant program to assist cities in providing the infrastructure, planning, and staffing necessary to implement the TOD requirements.

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.

SENATE COMMITTEE ON HOUSING

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.
Signed by Senators Bateman, Chair; Alvarado, Vice Chair; Orwall, Salomon and Trudeau.

Minority Report: That it be referred without recommendation.
Signed by Senators Goehner, Ranking Member; Gildon.

Staff: Melissa Van Gorkom (786-7491)

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. Fully planning jurisdictions must include within their UGAs sufficient areas and densities to accommodate projected urban growth for the succeeding 20-year period.

Comprehensive Plans and Development Regulations. 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.

When developing their comprehensive plans, counties and cities must consider various goals set forth in statute. The transportation goal encourages efficient multimodal transportation systems based on regional priorities and coordinated with county and city transportation plans. The housing element must ensure the vitality and character of established residential neighborhoods. Fully planning counties and cities must review and, if necessary, revise their comprehensive plans every ten years. Fully planning counties meeting certain criteria, and cities within those counties with a population of at least 6000, must complete an implementation progress report detailing the progress they have achieved in implementing their comprehensive plan five years after the review and revision of their comprehensive plan.

Residential Building. Fully planning cities are encouraged to take an array of specified planning actions to increase residential building capacity. All project actions that propose to

develop one or more residential housing units within the incorporated areas in a UGA or middle housing within the unincorporated areas in a UGA are categorically exempt from the State Environmental Policy Act (SEPA) if certain criteria are satisfied.

Affordable Housing Incentive Programs. Jurisdictions that fully plan under the GMA are authorized to enact or expand affordable housing incentive programs (programs) to provide for the development of low-income housing units through development regulations. These programs may include provisions pertaining to:

- density bonuses within the UGA;
- height and bulk bonuses;
- fee waivers or exemptions;
- parking reductions; and
- expedited permitting.

Programs may be implemented through development regulations, conditions on rezoning or permit decisions, or both, on one or more of the following types of development: residential, commercial, industrial, and mixed-use.

Programs enacted or expanded must comply with various requirements, including a commitment to continuing affordability for at least 50 years and measures, such as covenants, to enforce continuing affordability and income standards applicable to low-income units constructed. However, a local government may accept payments in lieu of continuing affordability if the jurisdiction determines that the payment achieves a result equal to or better than providing the affordable housing on-site.

Definition. Affordable housing means residential housing whose monthly costs, including utilities and telephone, do not exceed 30 percent of the monthly income of a household whose income is:

- 60 percent of the median income for the county where the household is located for rental housing; or
- 80 percent of the median income for the county where the household is located for owner-occupied housing.

Multi-Family Property Tax Exemption. The multi-family property tax exemption (MFTE) exempts real property associated with the construction, conversion, or rehabilitation of qualified, multiple-unit residential structures. Property owners must submit an application for the tax exemption to the designated city or county. To qualify for an exemption, the housing project must be located in a residential targeted area designated by a qualifying county or city. The city or county may include additional eligibility requirements for the tax exemptions. Tax exemptions available under the statute include:

- 8-year exemption;
- 12-year exemption if the applicant commits to renting or selling at least 20 percent of the multiple-family housing units as affordable housing to low and moderate-income households;

- 20-year exemption if the applicant commits to renting at least 20 percent of the dwelling units to low-income households for a term of 99 years, subject to certain population, high capacity transit, and zoning requirements; and
- 20-year exemption if the applicant commits to selling at least 25 percent of the units to a qualified nonprofit organization or local government that will assure permanent affordable homeownership.

The MFTE does not include the value of land or nonhousing-related improvements. At the conclusion of the exemption period, the value of the new housing, construction, conversion, or rehabilitation improvements must be considered as new construction for property tax purposes as though the property was not exempt under the MFTE Program. No new MFTE applications may be approved on or after January 1, 2032, or any extensions of existing tax exemptions on or after January 1, 2046.

Impact Fees. Impact fees are one-time charges assessed by a local government on new development activities to help pay for the increased services that will be required because of new growth and development. Development activity includes any construction or expansion of a building or use, any change in use of a building, or any change in the use of land, that creates an additional need for public facilities. Approval of a new development may be conditioned on the payment of impact fees.

Local governments planning under the GMA are authorized to impose impact fees for public streets and roads, publicly owned parks and recreation facilities, school facilities, and fire protection facilities. Impact fees may only be used on public facilities included in the capital facilities element of the comprehensive plan. The public facilities must be reasonably related to the new development, must reasonably benefit it, and must be designed to provide service areas to the community at large.

Common Interest Communities. A common interest community (CIC) is a form of real estate in which each unit owner or homeowner has an exclusive interest in a unit or lot and a shared or undivided interest in common area property. In Washington, several statutes govern residential CICs, such as condominiums and homeowners' associations. Generally these groups can regulate or limit the use of property by its members.

Summary of Amended Bill: Growth Management Act Definitions. Floor area ratio (FAR) means a measure of development intensity equal to building square footage divided by the developable property square footage.

Station area means a bus station area or a rail station area.

A bus station area is comprised of all lots within a UGA that are fully or partially within 0.25 miles walking distance of a stop on a fixed route bus system that:

- is designated as a bus rapid transit stop in a transit development plan;
- has been issued an environmental determination under SEPA; and

- features fixed transit assets that indicate permanent, high-capacity service, including elevated platforms or enhanced stations, off-board fare collection, dedicated lanes, busways, or traffic signal priority.

A rail station area is comprised of all lots within a UGA that are:

- fully or partially within 0.5 miles walking distance of an entrance to a train station with a stop on a light rail system, a commuter rail stop in a city with a population greater than 15,000, or a stop on a rail trolley operated west of the crest of the Cascade Mountains; or
- fully or partially within 0.25 miles walking distance of an entrance to a train station with a commuter rail stop in a city with a population no greater than 15,000.

Workforce housing means rental housing with monthly costs that do not exceed 30 percent of the monthly income of a household whose income is at or below 80 percent of the median income for the county where the household is located.

Density Requirements. A fully planning city must allow new residential and mixed-use development at a density of at least 3.5 FAR, on average, within a rail station area and at a density of at least 2.5 FAR, on average, within a bus station area. However, a city that exempts up to 25 percent of bus station areas may not impose a FAR of less than 3.0, on average, in the remaining bus station areas. Cities must adopt regulations that allow for greater building height and increased density in all bus station areas for developments built with all mass timber products. Within any station area, an additional 1.5 FAR in excess of the density required must be allowed for a building in which all units are affordable or workforce housing for at least 50 years or are dedicated to permanent supportive housing. Multifamily housing units with at least three bedrooms may not be counted toward FAR limits, but a city may require the units comply with affordability requirements to be eligible.

Cities may by ordinance designate parts of a station area to enact or enforce FARs that are more or less than the density requirement, if the average maximum FAR for all residential and mixed-use areas in the station area is no less than the required density.

Cities may exclude from the density requirements any portion of a lot that is designated as a shoreline environment or a critical area and any lot that:

- is nonconforming with development regulations for lot dimensions, unless an applicant demonstrates that the nonconforming lot may be developed in compliance with development regulations;
- contains a designated landmark or is located within a historic district previously established under a local preservation ordinance;
- has been designated as containing urban separators by countywide planning policies;
- is an industrial, manufacturing, or agricultural designated lot that either is limited to one dwelling unit per lot or only allows housing for individuals and their families responsible for caretaking, farm work, security, or maintenance; or
- is in a tsunami inundation area as mapped by the Department of Natural Resources.

For cities subject to a growth target that limits the maximum residential capacity of the jurisdiction, any additional residential capacity required may not be considered an inconsistency with the countywide planning policies, multicounty planning policies, or growth targets.

Affordability Requirements. Buildings constructed within a station area must maintain transit-oriented development (TOD) affordability requirements for at least 50 years as follows:

- at least 10 percent of all units must be affordable housing;
- at least 10 percent of all units must be workforce housing if at least 10 percent of the units are family sized units with more than two bedrooms; or
- at least 20 percent of all rental units must be workforce housing.

Buildings are exempt from the affordability requirements if:

- the building is constructed on a lot in which a density that meets or exceeds the density requirements was authorized prior to January 1, 2025;
- the building is subject to affordability requirements, with a lower income threshold or a greater amount of required affordable housing, that were enacted prior to January 1, 2025; or
- a city has enacted or expands a mandatory affordable housing incentive program that requires a minimum amount of affordable housing to be provided by residential development, either on-site or through an in-lieu payment.

A city that has enacted an affordable housing incentive program prior to January 1, 2025, that requires public benefits, such as school capacity, affordable housing, green space, or green infrastructure, in return for additional development allowances, may continue to require such public benefits if the additional development capacity otherwise would have triggered the public benefits requirements.

Multifamily Property Tax Exemption. A city must approve a 20-year MFTE for multifamily residential housing within a station area that meets the TOD affordability requirements. The governing authority of city with a station area must adopt and implement standards and guidelines for new construction and rehabilitation of qualifying buildings which include:

- application process and procedures;
- income and rent standards for affordable units that meets the TOD affordability requirements;
- requirements that address demolition of existing structures and site utilization; and
- building requirements that comply with the TOD density and development requirements.

The applicant must record a covenant or deed restriction that ensures the continuing rental or sale of units subject to the affordability requirements for a period of no less than 50 years

and include policies to maintain public benefit if the property is converted to a use other than permanently affordable housing.

Impact Fees. The local ordinance by which impact fees are imposed must provide a 50 percent reduction of impact fees for system improvements of public streets, roads, and certain bicycle and pedestrian facilities if the project is within a station area and claiming the 20-year MFTE Program in a station area.

Transit-Oriented Development Requirements. Fully planning cities may not enact or enforce any development regulation within a station area that:

- prohibits the siting of multifamily residential housing on lots where any other residential use is permissible;
- imposes a maximum FAR less than the density requirements unless the city has adopted an exemption of up to 25 percent of bus station areas; or
- imposes a maximum residential density measured in units per acre or other metric of land area within a station area.

Cities may apply any objective development regulations within a station area that are required for other multifamily residential uses in the same zone, including tree canopy and retention requirements.

A fully planning city may adopt a modification to the station area boundaries after consultation with and approval by the Department of Commerce (Commerce).

TOD regulations may not require:

- alteration, displacement, or limitation of industrial or agricultural uses or industrial, manufacturing, or agricultural areas within a UGA;
- a city to issue a building permit if other federal, state, or local requirements for a building permit are not met; or
- off-street parking for residential or mixed-use development within a station area, except for off-street parking that is permanently marked for the exclusive use of individuals with disabilities or for the short-term, exclusive use of delivery vehicles.

The prohibition against off-street parking requirements does not apply:

- if the city provides Commerce with an empirical study prepared by a credentialed transportation or land use planning expert that clearly demonstrates, and Commerce finds and certifies, that the limits on off-street parking in a defined area will be significantly less safe for vehicle drivers or passengers, pedestrians, or bicyclists than if the jurisdiction's parking requirements were applied to the same location without increased TOD and density requirements; or
- to any portion of a city within a one-mile radius of a commercial airport with at least 9 million annual enplanements.

If a residential or mixed-use development in a station area provides parking, cities may

require:

- a share of any provided residential parking to be distributed between units designated as affordable housing and units offered at market rate; and
- the cost of unbundled parking charges to be included in the monthly cost for rental units designated as affordable housing.

All project actions that propose to develop residential or mixed-use development within a station area are categorically exempt from SEPA.

Compliance. The deadline for fully planning cities to comply with the TOD requirements is based on the date of the city's next comprehensive plan update. Any city required to review its comprehensive plan by December 31, 2024, must comply by the earlier of December 31, 2029, or its first implementation progress report due after December 31, 2024. Any city required to review its comprehensive plan after December 31, 2024, must comply no later than six months after its first comprehensive plan update due after December 31, 2024. Thereafter, all fully planning cities must comply at each comprehensive plan update or implementation progress report following the completion or funding of any major transit stop that would create a new station area.

Commerce may approve station area plans and implementing regulations adopted prior to June 30, 2026, as substantially similar to the TOD requirements.

Commerce must develop a model TOD ordinance by June 30, 2027, which will supersede, preempt, and invalidate local development regulations if a city does not implement the requirements by its deadline.

A city may apply to Commerce for a deadline extension from the density requirements in any areas at high risk of displacement, based on a city's antidisplacement analysis or an antidisplacement map. Commerce must review the city's analysis and certify a five-year extension for areas at high risk of displacement. The city must create an implementation plan that identifies the antidisplacement policies available to residents to mitigate displacement risk. During the extension, the city may delay implementation or enact alternative FAR requirements within any areas at high risk of displacement. Commerce may recertify an extension for additional five-year periods based on evidence of ongoing displacement risk.

Grant Program. Subject to appropriation, Commerce must establish and administer a grant program to assist cities in providing:

- the infrastructure necessary to accommodate development at TOD densities within station areas, including water, sewer, stormwater, transportation, and parks and recreation facilities;
- station area planning or other predevelopment costs necessary for implementation of station area plans; and
- the staffing necessary to implement TOD requirements.

Common Interest Communities. New governing documents and declarations of CICs, such as condominiums and homeowner associations, located fully or partially within a station area may not prohibit the construction or development of multifamily housing or TOD density that must be permitted by cities or require off-street parking inconsistent or in conflict with TOD requirements.

EFFECT OF HOUSING COMMITTEE AMENDMENT(S):

- Updates the definition of a major transit stop to exclude a high capacity transportation system funded stop that solely serves express bus service or serves express bus service and other bus services not otherwise meeting the definition of a major transit stop.
- Requires cities adopt regulations that allow for greater building height and increased density in bus station areas for developments built with all mass timber products.
- Adds an affordability option for 10 percent of all residential units to be workforce housing if at least 10 percent of the units are family-sized units with more than two bedrooms.
- Requires the applicant to record a covenant or deed restriction for the 20-year MFTE program tied to the TOD affordability requirements for a period of no less than 50 years.
- Amends the MFTE provisions to clarify the programs and requirements that apply to station areas.
- Requires a local government to reduce certain impact fees by 50 percent if the project is within a station area and claiming the 20-year MFTE program tied to the TOD affordability requirements.
- Makes technical changes.

Appropriation: The bill contains a null and void clause requiring specific funding be provided in an omnibus appropriation act.

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 Third Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: We don't have enough homes for people who need housing, and the most affordable and sustainable way to meet housing needs is to put housing near transit. Working families are paying taxes to support transit infrastructure and this bill ensures that they see the best return on those investments by creating housing with easy access to the places where they work. While a lot of cities are creating upzones around transit, some are not, and every jurisdiction should

have the same base understanding of what the requirements are. The more similar jurisdictions are regarding affordability requirements, the better the outcomes tend to be for development, and this helps create that line.

This bill will also create a large number of jobs for workers in the building and construction trades to construct the buildings and businesses that will help our communities thrive. TOD helps us add significantly more homes while simultaneously reducing sprawl, cutting pollution, and making communities more affordable for a range of incomes. Our city is very supportive of TOD because maximizing our state's investments in transit systems is just really good public policy.

We appreciate that this recognizes the varying levels of density based on the level of transit service and allows flexibility on how cities designate a station area. Interested in seeing a bump around station area walksheds and creating a higher FAR or unit counts in those areas. If we get this right we could see up to 70 percent more production. Please ensure this works for developers and provides for mixed-income communities. This would result in more housing supply by leveraging investments in transit to pair upzones and infill with modest but important affordability requirements to help cities achieve the dense, vibrant, healthy and diverse urban neighborhoods envisioned with TOD. Over half of the homes we need must be affordable to help ensure that as communities grow they remain available to all income levels. In the past, Sightline had concerns that requiring affordable housing would backfire, but this year the bill reduces that risk by creating a new MFTE to compensate for the cost of those units, this is funded inclusionary zoning and is a win-win situation for more market rate homes as well as affordable housing.

OTHER: This bill is a way to unlock a lot of investments for housing opportunities which will help us make the best use of transportation infrastructure. TOD development has only been possible in the last six years and the affordability and TOD requirements could limit our ability to fund the infrastructure needed around TOD. Some of this work is already being done by cities and we want to capture density increases and build to that level. This bill provides support for cities that are already doing this but would provide a floor for cities that are not. Adding affordability requirements adds costs that may make it harder to build rather than easier so we would like to look at how to get that cost down so building can start sooner. We would like to refine the MFTE idea as it relates to the affordability requirement.

Concerns regarding the affordability requirements which are not going to provide a lot on some smaller projects and the exemption under (7)(b)(iii) will allow the City of Seattle to use its program to get out from any required inclusion of low-income housing in those buildings because they use the in-lieu fees instead. If affordable housing requirements are not compatible with the market it will push development away from transit. The Legislation needs to include incentives, the 20 MFTE is a great addition but is not enough. TOD provides housing for people who would rather live in the community with a walkable mixed-use community that are otherwise living in single-family dwelling units which may

also free up other housing opportunities.

Persons Testifying: PRO: Representative Julia Reed, Prime Sponsor; Bryce Yadon, Futurewise ; Mary Lou Pauly, Mayor, City of Issaquah; Nicholas Carr, Office of the Governor; Geoff Anderson, AIAWA (American Institute of Architects WA Council); Michele Thomas, Washington Low Income Housing Alliance; Dan Bertolet, Sightline Institute; Kira Munson, Washington State Labor Council, AFL-CIO.

OTHER: Karl Almgren, City of Lynnwood; Dave Andersen, Washington Department of Commerce; Toby Thaler; Bill Clarke, Washington REALTORS; McKenzie Darr, NAIOPWA.

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