

Increase Housing Supply & Affordability



Actions Local Governments Can Take Under E2SHB 1923

On May 9, 2019, Governor Jay Inslee signed into law [E2SHB 1923](#), legislation to increase residential building capacity in cities. The bill is designed to address the statewide housing shortage by encouraging cities planning under the Growth Management Act (GMA) to facilitate new housing. The new law goes into effect July 28, 2019.

Planning Grants

To support cities taking actions specified by the bill, E2SHB 1923 establishes a Growth Management Planning and Environmental Review Fund. With the creation of this new fund, local governments meeting certain criteria may seek grants or loans from the Department of Commerce for the costs associated with implementation of this act. E2SHB 1923 provides funding via a \$2.50 document recording fee.

Commerce is authorized to award grants of up to \$100,000 to cities with a population larger than 20,000 that either take two actions listed below (Option A) or develop a housing action plan (Option B).

The new law also authorizes Commerce to award grants in excess of \$100,000 for applications “with extraordinary potential to increase housing supply or regulatory streamlining.”

More details on how cities and counties can apply for this grant assistance through the Department of Commerce will be available later this year.

SEPA Appeals and Legal Challenges Under GMA

Additionally, E2SHB 1923 protects local governments from certain legal appeals under the State Environmental Policy Act (SEPA) or legal challenges under GMA when they adopt any of the actions specified in the new law to accommodate new housing. With only one exception¹, these actions are exempt from SEPA appeals and legal challenges under GMA if adopted by April 1, 2021. This provision should help reduce the risk of lengthy and costly appeals when cities choose to pursue these changes.

Implement 2 or More Actions to Increase Housing Supply and Affordability

E2SHB 1923 lays out the following optional actions municipalities can take to increase residential building capacity. Cities planning to take at least two of these actions prior to April 1, 2021 are eligible to apply for planning grant assistance from the Department of Commerce:

- **Zone to allow an average of at least 50 homes per acre around train stations** served by commuter or light rail;
 - **Authorize an average of at least 25 homes per acre around bus stops with frequent service** (defined as specified areas that include at least one bus stop served by scheduled bus service of at least four times per hour for 12 or more hours per day);
 - **Allow at least one duplex, triplex, or courtyard apartment** on each parcel in one or more areas zoned for single-family residences, unless a city documents a specific physical constraint that would make this requirement infeasible on a parcel;
 - **Allow cluster zoning or lot size averaging** in single-family zones. "Lot size averaging" is a development tool that puts buildable land to more efficient use by allowing smaller lots on constrained sites while complying with the underlying zoning.
- "Cluster zoning" is a development option that provides density bonuses in exchange for public amenities such as open space;
- **Authorize accessory dwelling units (ADUs)** on all parcels containing single-family homes, provided lots are at least 4,356 square feet in size. Furthermore, a city's ADU regulations may not provide for on-site parking requirements, owner-occupancy requirements, or square footage limitations below 1,000 square feet for the ADU and must not prohibit the separate rental or sale of ADUs and the primary residence.
 - **Adopt a subarea plan** using the planned action ordinance provisions under [RCW 43.21C.420](#). This tool allows upfront SEPA review in order to facilitate environmental review of subsequent individual development projects;
 - **Adopt a planned action** pursuant to [RCW 43.21C.440 \(1\) \(b\) \(ii\)](#), except that an environmental impact statement pursuant to [RCW 43.21C.030](#) is not required for such an action;

- **Expand categorical exemptions from SEPA review**, pursuant to [RCW 43.21C.229](#), for certain homebuilding projects proposed to fill in an urban growth area;
- **Adopt a form-based code** in one or more zoning districts that permit residential uses. “Form-based code” means a land development regulation that uses physical form, rather than separation of use, as the organizing principle for the code;
- **Allow a duplex on each corner lot** within all single-family zones;
- **Allow subdivision into the maximum number of lots authorized in [chapter 58.17 RCW](#)**; and
- **Establish a minimum density of six homes per acre in all residential zones**, where the residential development capacity will increase within the city.

OPTION B ➤

Develop a Housing Action Plan

Cities that develop a housing action plan may also apply for planning grant assistance from the Department of Commerce. The housing action plan should:

- Quantify existing and projected housing needs for all income levels, including extremely low-income households, with documentation of housing and household characteristics and cost-burdened households;
- Develop strategies to increase the supply of housing and variety of housing types needed to serve the housing needs identified in the above point;
- Analyze population and employment trends with documentation of projections;
- Consider strategies to minimize displacement of low-income residents resulting from redevelopment;
- Review and evaluate the current housing element adopted pursuant to [RCW 36.70A.070](#), including an evaluation of success in attaining planned housing types and units, achievement of goals and policies, and implementation of the schedule of programs and actions;
- Provide for participation and input from community members, community groups, local builders, local real estate agents, nonprofit housing advocates, and local religious groups; and
- Include a schedule of programs and actions to implement the recommendations of the housing action plan.

Other Measures Contained in E2SHB 1923

SEPA Exemption for Transportation

A project action pertaining to residential, multifamily, or mixed-use development where impact fees are paid is exempt from SEPA appeals related to transportation impacts, provided the project does not present significant adverse impacts to the state-owned transportation system.

Exemption From Appeals

Until July 1, 2029, a proposed development may not be challenged in administrative or judicial appeals for noncompliance with SEPA, so long as a complete application has vested and sets aside or requires the occupancy of at least 10% of the dwelling units for low-income households (as considered affordable by a city's housing programs).

Housing Supply and Affordability Study

Every two years, the Washington Center for Real Estate Research at the University of Washington will produce a study that compiles housing supply and affordability metrics for each city with a population of 10,000 or more planning under GMA. The initial study must be completed by October 15, 2020. The study must include a compilation of objective criteria related to development regulations, zoning, income, housing and rental prices, the percentage of cost-burdened households, and other metrics. This data will highlight actions cities have taken to increase residential building capacity and should help inform discussions about housing at both the state and local levels.

¹ The one exception is, "adopt a subarea plan pursuant to RCW 43.21C.420," which remains subject to administrative or judicial appeal under chapter 43.21C RCW.