

Growth Management Act Rulemaking for Housing and Urban Growth Areas

Introduction

The Department of Commerce (Commerce) is pleased to share initial draft changes to the Washington Administrative Code (WAC) Chapters 365-196 and 199. These changes incorporate multiple new and revised state laws relating to housing, permitting, development regulations, urban growth areas and rural development. The draft changes are available for review [here](#).

Commerce will consider comments and recommendations as we continue to refine the draft rules expected out this summer. Once we file the Proposed Rule-Making Order (CR-102) notice to publish the text of the proposed rule, Commerce will host a formal public hearing on the proposed changes and collect feedback.

Project Background and Scope

This rulemaking reflects new statutory requirements to support planning for urban growth areas, residential infill, a variety of housing types, and considerations of racially disparate impacts, displacement, and exclusion in local housing policies.

Since 2019, the Legislature has passed a variety of housing bills to address the underproduction of housing, to streamline the local permitting process and to require an enhanced approach to planning for and accommodating housing in local comprehensive plans. The bills create new roles for Commerce as we work with local governments to support the periodic update of local comprehensive plans and development regulations as required by RCW 36.70A.130.

HB 1220, in particular, significantly changes the manner in which local governments must plan for housing under the GMA. Local governments must plan for moderate density housing, a wider variety of housing types, and identify barriers to affordable housing and actions to address affordable housing gaps. They must also develop policies that begin to undo discriminatory and exclusive zoning practices and establish new anti-displacement policies that consider equitable development, investments in affordable housing, and preservation of historical and cultural communities. These are important steps in addressing systemic racism and unjust governmental policies related to housing, economics and infrastructure. HB 1110 and HB 1337 require changes to development regulations, allowing middle housing in certain cities and requiring accessory dwelling units in urban growth areas, each with specific details that are addressed in these rules.

This rulemaking process also incorporates changes to planning requirements for urban growth areas and rural development. These topics are essential to understanding land capacity and development potential to overcome historic housing underproduction and future housing needs. Commerce has also created some new WAC sections to make the organizational structure easier to use.

Commerce intends to address statutory changes adopted in the 2024 legislative session as part of this project if those changes relate to the subject of this rulemaking effort. Any such proposed changes will be incorporated as draft changes before formal public review later this year.

The scope of this project is limited to recent GMA legislation. Commerce will undertake a separate rulemaking process to address new requirements to plan for climate change in [HB 1181](#).

For information about Commerce’s duty to promulgate these rules and the role of GMA rules, please refer to the [GMA Rulemaking Scope](#) for housing.

Legislation addressed in this Rulemaking process

Bills Included in WAC Update	Bill Title	Year Passed
HB 1042	Allows converting existing buildings for residential purposes.	2023
HB 1043	Revises the record-keeping rules for apartment owners and associations.	2023
HB 1110	Increase middle housing in areas traditionally dedicated to single-family detached housing.	2023
HB 1220	Requires Commerce to project housing needs by income segment, and requires local government to plan for and accommodate these needs through comprehensive planning and development regulations.	2021
HB 1293	Streamlines local design review processes, requiring “clear and objective” standards that do not reduce development capacity otherwise allowed.	2023
HB 1326	Waives municipal utility connection charges for certain properties.	2023
HB 1337	Allows two ADUs per lot in all urban growth areas, with exceptions.	2023
HB 1377	Provides bonus density for affordable housing development on property owned by a religious organization.	2019
HB 1695	Defines affordable housing for purposes of using surplus public property for public benefit.	2023
HB 1923	Adds definitions related to housing under the GMA. Sets parking limits for certain types of developments and reduces the opportunity for appeals under SEPA for actions that increased housing supply. Requires cities to allow permanent supportive housing in areas where multi-family housing is allowed.	2019
HB 2001	Expands the ability to build tiny houses.	2022

HB 2321	Modifies Middle Housing requirements, trailer bill to HB 1110	2024
SB 5042	Provides an effective date of actions that expand an urban growth area, establish a community or resort, or change a land designation.	2022
SB 5258	Requires local governments to publish a schedule of impact fees which reflects the proportionate impact of new housing units.	2023
SB 5275	Enhances opportunity in limited areas of more intense rural development (LAMIRD), providing that any development or redevelopment of building size, scale, use or intensity may be permitted within a LAMIRD, with exceptions.	2022
SB 5290	Makes changes to local government procedures for new housing permit processing, clarifying timelines around complete permit applications.	2023
SB 5536	Recognizes opioid treatment programs, recovery residences, and harm reduction programs as essential public facilities for the purpose of local land use regulations.	2023
SB 5593	Requires that counties consider patterns of development when reviewing urban growth areas under the GMA, in addition to other criteria.	2022
SB 5818	Requires the Washington State Department of Ecology to update SEPA rules relating to categorical exemptions for residential development, and limits appeals under the state environmental policy act and GMA.	2022
SB 5834	Concerning urban growth area swaps.	2024
SB 6617	Adds new requirements related to accessory dwelling unit (ADU) parking.	2020

You can find a summary of most of these bills on our website: [Summary of Growth Management Act Amendments: 1995-2023](#).

Informal Listening Sessions and Opportunity for Comment

Commerce will hold two informal listening sessions to share the draft changes and hear questions and feedback. The dates are:

- March 19, 2024 at 4:00 PM
- April 1, 2024 at 11:00 AM

For more information and to sign up, click [here](#).

In addition, a formal hearing and public comment period will take place in fall 2024.

For project updates, sign up here [Housing Rulemaking Contact List \(smartsheet.com\)](https://smartsheet.com).

The full rulemaking schedule is available here: [GMA Housing Rulemaking Schedule - Updated.pdf \(wa.gov\)](https://wa.gov)

Changes to WAC 365-196 by Part

The Washington Administrative Code is organized, in part, by agency, with Commerce covered by Title 365 WAC. We present these changes by section within WAC 365-196 and WAC 365-199. They are organized for ease of navigation. The proposed changes are briefly presented by part below:

Part 1: General Considerations.

- No changes proposed.

Part 2: Definitions.

- Proposed changes in section 365-196-200 incorporate definitions from the Project Review Act RCW 36.70B for reference. It also incorporates new definitions related to the scope of this rulemaking and found within HB 1110, HB 1923, HB 1220, HB 2343, HB 5593, HB 1695 and RCW 84.36.043 concerning transitional housing.
- Proposed changes in section 365-196-210 incorporate additional definitions for phrases used within the WAC and/or found within the statute that were not defined within the bills but needed clarification. Many of these definitions were previously vetted through engagement processes.
- All new definitions were contemplated in the context of similar or competing definitions within the WACs and RCWs.

Part 3: Urban Growth Areas and Countywide Planning Policies.

- Proposed changes in sections 365-196-300 to 365-196-350 include implementation of ESSB 5593, concerning a new ability to swap or right-size urban growth areas.
- Proposed changes in section 365-196-325 relates to a jurisdictions' role in considering housing need in the land capacity analysis (HB 1220).
- Other proposed changes update the rule to incorporate guidance on HB 1110, HB 5593, HB 1043 (vesting) and HB 1695.
- Some small but significant changes in these sections include the flexibility to measure density in other measures of intensity than units per lot and incorporating the allocation of housing needs and displacement risk into planning policies.

Part 4: Features of the Comprehensive Plan.

- The centerpiece of changes in this part relates to a new requirement that jurisdictions plan for and accommodate housing for all economic segments of the community (HB 1220). There are significant changes and additions to the section on the housing element (WAC 365-196-410) to provide guidance on the implementation of HB 1220.
- Other bills implemented within this section include HB 1695, HB 1110, SB 5275 and SB 5042.

- Changes to the capital facility element include consideration of how the availability of infrastructure can undue racially disparate impacts and encourage infill housing.
- Changes to the rural element incorporate new guidance for local areas of more intense rural development or LAMIRDs.
- As a reminder, while HB 1181 created a new element and requires updates to many elements of the comprehensive plan, that implementation will occur during a separate rule making process.

Part 5: Consistency and Coordination.

- Most of this part is unchanged.
- Proposed changes in this section incorporate SB 5536 which relates to recognizing opioid treatment programs, recovery residences and harm reduction programs as essential public facilities for the purpose of local land use regulations.

Part 6: Reviewing, Amending and Updating Comprehensive Plans and Development Regulations.

- Most of the changes in this part relate to implementation of HB 1220, expanding opportunity for housing types and affordability, and beginning to undo racially disparate impacts.
- This part also incorporates SB 5593 and SB 5042.
- Some significant changes include guidance on the effective date of comprehensive plan amendments related to expansions of the UGA or a LAMIRD, creation of a new master-planned resort or new fully contained community, and the removal of certain resource designations.

Part 7: Relationship of Growth Management Planning to Other Laws.

- The Washington State Department of Transportation (WSDOT) recommended the proposed changes in this part.
- The proposed changes add references to state regulations and permits to increase the usability of the WAC for local planners and are not significant.

Part 8: Development Regulations.

- The major changes from this section come from SB 5290 relating to permitting processes.
- It also incorporates changes from HB 1110, SB 5258, HB 1042, SB 5818, HB 1337, HB 1923, SB 6617, HB 2321, HB 2001, HUD's Fair Housing Disparate Impact Standard, RCW 36.120.020 and RCW 82.02.060(3).
- A new section, 365-196-872, Housing on property owned or controlled by religious organizations, was added to implement HB 1377 and 1754. This is a rapidly changing area of planning.
- A new section, 365-196-875, Minimum residential parking requirements, was added to implement HB 1110, HB 1337 and HB 1923.

- There are duplicate sections implementing SB 5290, which accounts for changes that occur on January 1, 2025. In the future we will strike the superseded language that expired in 2024.

Additional Changes: WAC 365-199

- This WAC addresses procedures for making a determination of compliance for jurisdictions seeking voluntary reversion to partial planning status.
- New parts and sections are added to this WAC which will repeal the existing sections to reorganize this title to accommodate new procedures for the approvals and certifications established in HB 1110.
- New sections include approval processes for substantially similar alternative actions for middle housing, extensions for certain areas at risk of displacement, and extensions for lack of infrastructure capacity.
- A new section for the certification of parking studies to implement HB 1110 and HB 1337 is also included. However we are still working on some of the parking study requirements and changes to this section will be completed before the next round of public review.