

Housing Rulemaking Listening Sessions

Proposed changes to
WACs 365-196 and 365-199

Growth Management Services Housing Team

MARCH 19, 2024 AND APRIL 1, 2024



Washington State
Department of
Commerce

We strengthen communities



HOUSING AND HOMELESSNESS



INFRASTRUCTURE AND BROADBAND



SMALL BUSINESS ASSISTANCE



ENERGY



PLANNING AND TECH ASSISTANCE



COMMUNITY SERVICES



CRIME VICTIMS AND PUBLIC SAFETY



ECONOMIC DEVELOPMENT

Today's Conversation

Welcome, background and context

- Dave Andersen

Highlights of draft changes

- Laura Hodgson – WAC 365-196, Parts 1-5
- Anne Fritzel – WAC 365-196, Parts 6-8
- Dave Osaki – WAC 365-199

Question, answers and comments

Next steps and timeline

WAC 365-196 Parts

- 1: General Considerations
- 2: Definitions
- 3: Urban Growth Areas
- 4: Features of a Comp Plan
- 5: Consistency & Coordination
- 6: Reviewing, Amending & Updating Comp Plans
- 7: Relationship of GMA to Other Laws
- 8: Development Regulations

WAC 365-199

Approval & Certification

The Role of GMA Rulemaking



The GMA and Commerce's WAC Rulemaking

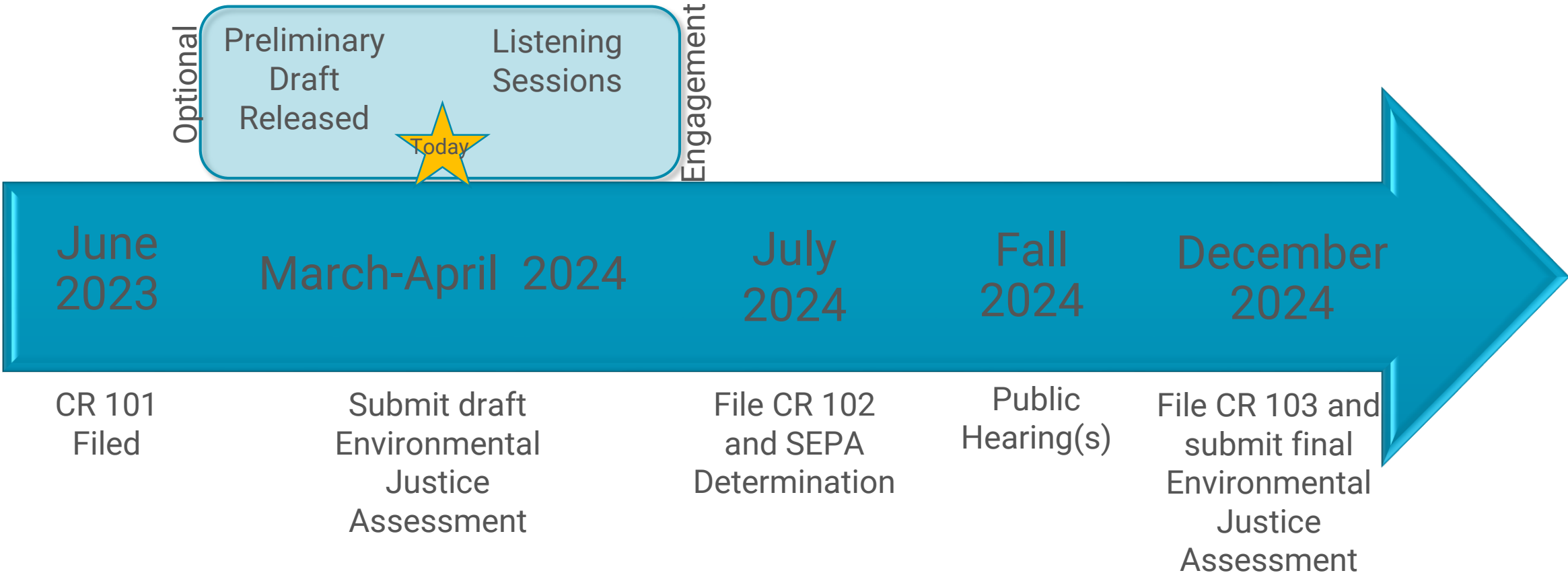
What is GMA?

What are WACs?

What is Commerce's role?

Why are we updating the WACs?

Housing Rulemaking Schedule



Questions and Comments?

Background, process and context



Part 1: General Considerations

Part 2: Definitions

WAC 365-196-100 General considerations (no changes)

WAC 365-196-200 Statutory definitions

- Incorporates statutory definitions from all bills under the scope
- Adds definitions from the Project Review Act RCW 36.70B

WAC 365-196-210, Definitions of terms as used in this chapter

- Additional definitions for terms or phrases used within the WAC and/or found within the statute that were not defined within the bills
- Examples: adequate provisions, all economic segments, displacement, displacement risk, net-zero urban growth area swaps, etc.

Part 3: Urban Growth Areas and Countywide Planning Policies

WAC 365-196-300 Urban density

- Densities sufficient to allow housing for various income levels (HB 1220)

WAC 365-196-305 Countywide planning policies

- Distribution of housing needs by income level in policies (HB 1220)

WAC 365-196-310 Urban growth areas

- Conditions for UGA revisions for patterns of development (SB 5593)
- Population projections from Commerce (HB 1220)
- UGA expansion effective dates (SB 5042)

Part 3: Urban Growth Areas and Countywide Planning Policies

WAC 365-196-320 Provide urban services

- Risk of displacement associated with capital investments (HB 1220)

WAC 365-196-325 Provide sufficient land capacity suitable for development

- Land capacity for all income levels (HB 1220)

WAC 365-196-340 Identification of lands useful for public purposes

- Identify surplus public property for public benefit purposes (HB 1695)

WAC 365-196-345 New fully contained communities

- Effective date of actions that establish a new fully contained community (SB 5024)

Part 4: Features of the Comprehensive Plan

WAC 365-196-405 Land use element

- Consider surplus public property (HB 1695)
- Densities and allowed housing types should allow housing that can meet the different income levels in 20-year projections (HB 1220)

WAC 365-196-410 Housing element

- Jurisdictions must plan for and accommodate housing for all economic segments of the community (HB 1220)
- Reflects guidance produced by Commerce in 2023
 - E.g., minimum standards for using countywide projections of housing needs from Commerce and allocating them to individual jurisdictions.

Part 4: Features of the Comprehensive Plan

WAC 365-196-415 Capital facilities element

- Where lack of infrastructure limits infill development, cities required to allow middle housing must plan for adequate infrastructure (HB 1110 and HB 1337)

WAC 365-196-420 Utilities element

- Recommendation to waive connection charges for affordable housing (HB 1220)

WAC 365-196-425 Rural element

- When development may happen in LAMIRDs (SB 5275)

WAC 365-196-430 Transportation element

- When identifying system needs, consider improvements to address racially disparate impacts (HB 1220)

WAC 365-196-460 Master planned resorts AND -480 Natural resource lands

- Effective date of changes (SB 5042)

Part 5: Consistency and Coordination

WAC 365-196-550 Essential public facilities

- Adds opioid treatment programs, recovery residences and harm reduction programs as essential public facilities (SB 5536)

Questions and Comments?

WAC 365-196 Part 1 to 5



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

WAC 365-196-600 Public participation

- Adding direction to engage those who may have been impacted by racially disparate impacts, displacement, or exclusion to help identify policies and regulations that contributed to or resulted in these impacts, and identify policies and regulations to address and begin to undo those impacts. RCW 36.70A.070(2)(e) and (f). (HB 1220).

WAC 365-196-610 Periodic review and update of comp plans and development regulations

- Adding assess housing needs needed at each income level (HB 1220).

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

WAC 365-196-640 Comprehensive plan amendment procedures

- Adding language that the effective date of certain actions is after the appeal period closes (UGA expansions, new master planned communities, etc.) SB 5042 (laws of 2022).

WAC 365-196-650 Comprehensive plan implementation strategy

- Should address “adequate provisions” to “plan for and accommodate” housing for all.
 - RCW 36.70A.070(2) housing element, and RCW 36.70A.020(4), housing goal.

Part 7: Relationship of Growth Management Planning to Other Laws

WAC 365-196-735 State and regional authorities

- Added statutory rules and requirements associated maintaining state highways under the Public Highways and Transportation Act.

Part 8: Development Regulations

WAC 365-196-820 Subdivisions

- Adds unit lot subdivisions (SB 5258, 2023).

WAC 365-196-835 Relocation assistance for low-income tenant

- No changes proposed, but may connect to anti-displacement policies required in housing element. RCW 59.18.440

Part 8: Development Regulations

WAC 365-196-845 Local project review and development agreements (two sections, one expires in 2024)

- Adding permit exempt from review and repurpose of existing building – HB 1042 or interior alteration only (SB 5290).
- Adding detail on timing. Complete permit applications

WAC 365-196-850 Impact fees

- Adding exemption for early learning facilities and proportionate impact fees.
- May consider Proportional system development charges.

WAC 365-196-860 Treatment of residential structures occupied by persons with handicaps

- Adding Federal Fair housing laws about neutral policy with a disproportionate impact on a protected class

Part 8: Development Regulations

WAC 365-196-870 Affordable housing incentives

- Significant recommendations to address affordable housing needs

NEW SECTION: 365-196-872, Housing on property owned or controlled by religious organizations

- Implements HB 1377 – regarding regulation of outdoor encampments and HB 1754 regarding bonus densities (legislative report in 2030)

NEW SECTION: 365-196-875, Minimum parking requirements

- Significant new language from HB 1110, HB 1337, HB 1923, and SB 6015
- RCW 36.70A.620 – parking maximums
- Empirical parking studies for allowing more parking where prohibited by middle housing / ADU laws

Part 8: Development Regulations

WAC 365-196-880 Accessory dwelling units

- Significant changes to address 1337 and other bills

WAC 365-196-890 Minimum residential density

- Implements middle housing rules, significant new sections

Questions and Comments?

WAC 365-196 Parts 6 - 8



WAC 365-199: Housing Approval and Certification Procedures - Applicability

HB 1110 Middle Housing (2023)

- Certification of Empirical Parking Study (RCW 36.70A.635(7))*
- Approval of “substantially similar” Alternative Action (RCW 36.70A.636(3)(b) and (c))
- If alternative density provision is implemented (RCW 36.70A.635(4))
 - Certification of extension for areas at risk of displacement (RCW 36.70A.637)
 - Certification of extension for areas lacking infrastructure capacity (RCW 36.70A.638)

HB 1337 Accessory Dwelling Units (2023)

- Certification of Empirical Parking Study (RCW 36.70A.681(2)(b))*

** Consultant currently working on empirical parking study guidance document for middle housing and ADU's.*

WAC 365-199: Housing Approval and Certification Procedures - General process

- 1. Jurisdiction Files Notice of Intent to apply for approval or certification***
- 2. Jurisdiction Files Formal Application Submittal***
- 3. Certification/Approval Review and Decision Process***
- 4. Subsequent Extension Process (if applicable)**

** Public notice process accompanies all steps (e.g. publish notice in the Washington State Register, Post Materials on Commerce website, Notify state agencies)*

WAC 365-199: Housing Approval and Certification Procedures

Empirical parking study guidance is being prepared by a consultant

- Tentatively to be completed by end of May 2024, following its own public comment period

Interim application forms being developed for use until WAC Update process is completed

Next Steps and Schedule

- Read drafts and additional background and submit comments at: https://www.ezview.wa.gov/site/alias__2011/37901/overview.aspx
- Feedback Due: **May 3, 2024**
- Receive and incorporate public and stake holder input: **May – June 2024**
- Incorporate additional bills passed in 2024 within scope: **April – June 2024**
- File Proposed Rulemaking (CR 102) and SEPA: **July 2024**
- Public Hearing(s): **August - September 2024**
- Review public comments and develop Concise Explanatory Response to Comments document: **October - November 2024**
- File Rule-Making Order (CR 103): **December 2024**

Questions and Comments?



Thank you!



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