

Bill summary: Substitute Senate Bill 5818

The 2022 session law [Substitute Senate Bill 5818](#) (SSB 5818) amends the Growth Management Act (GMA) and the State Environmental Policy Act (SEPA) to help address the state’s housing crisis by promoting housing construction in cities and limiting appeals of certain actions. SSB 5818 builds on legislation adopted in 2019 ([E2SHB 1923](#)) and 2020 ([SHB 2343](#)). The amendments to law passed in SSB 5818 apply to cities that are “fully planning” under the GMA. This document summarizes SSB 5818 and provides Ecology’s initial interpretation of several bill provisions in response to questions from cities. Contact Ecology at SEPAHELP@ecy.wa.gov or call 360-407-6922.

GMA amendments

Section 1 amends a 2019 GMA statute ([RCW 36.70A.600](#)) that encourages cities to set the stage for expansion of housing supply by selecting from a list of 25 specific actions [subsections (1)(a) – (y)].

The 2019 statute included a “SEPA appeals safe harbor” clause stipulating that adoption of ordinances and amendments to development regulations or other non-project actions were exempt from SEPA appeal, provided the city adopted these actions by April 1, 2023. SSB 5818 repeals the deadline, making this incentive permanent.

This statute also includes a “GMA appeals safe harbor” clause that precludes appeals to the Growth Management Hearings Board if city action under this statute occurs before April 1, 2023. SSB 5818 did *not* repeal this date and it remains in effect.

Section 2 amends the GMA housing element ([RCW 36.70A.070\(2\)](#)) to exempt from SEPA appeal the adoption of ordinances, development regulations, and other non-project actions that increase housing capacity, increase housing affordability, and mitigate displacement. To qualify for appeal protection, this section specifies that the non-project housing actions must not apply in critical areas or have a probable significant adverse impact on fish habitat.



Ecology recommends that in adopting such non-project actions, cities include in their recitals findings that the action increases housing capacity and affordability and mitigate displacement, will not decrease critical areas protections at the project level, and will not have probable significant adverse impact on fish habitat. This will provide certainty that the city’s actions are precluded from SEPA appeal.

SEPA Amendments

Section 3 amends a short SEPA statute ([RCW 43.21C.495](#)) that adds the “SEPA appeals safe harbor” provisions for consistency with the Growth Management Act provisions found in Sections 1 and 2.

Section 4 amends a 2019 SEPA statute ([RCW 43.21C.501](#)) that applies to specific types of housing projects (*unlike the “non-project” provisions in Sections 1 – 3*). In addition to a SEPA appeal protection for transportation (unless the department of transportation has found that the project will present significant adverse impacts to the state-owned transportation system), SSB 5818 adds that project

actions pertaining to residential, multifamily, or mixed-use development evaluated under SEPA by a city are exempt from appeal based on the evaluation of or impacts to either **aesthetics** or **light and glare**, so long as the project is subject to design review. "Design review" is defined as a formally adopted process by which projects are reviewed by a city for compliance with design standards.

Section 5 requires Ecology to update SEPA categorical exemption rules at [WAC 197-11-800\(1\)](#) to expand the existing exemption for four detached single family homes to add four attached homes as well. Ecology is also directed to amend the flexible exemption thresholds to make the changes included in the table below.

Project types	Fully planning GMA counties			All other counties
	Incorporated UGA	Incorporated and Unincorporated UGA	Other unincorporated areas	Incorporated and unincorporated areas
Single family residential	30 units	30 units	20 units	20 units
Single family residential project types with a total square footage of fewer than 1,500 square feet	100 units	30 units	20 units	20 units
Multifamily residential	200 units	60 units	25 units	25 units
Barn, loafing shed, farm equipment storage, produce storage or packing structure	40,000 square feet	40,000 square feet	40,000 square feet	40,000 square feet
Office, school, commercial, recreational, service, storage building, parking facilities	30,000 square feet and 90 parking spaces	30,000 square feet and 90 parking spaces	12,000 square feet and 40 parking spaces	12,000 square feet and 40 parking spaces
Fill or excavation	1,000 cubic yards	1,000 cubic yards	1,000 cubic yards	1,000 cubic yards

Ecology is also directed to add the following requirement if a jurisdiction wants to raise the exemption level: "The city, town, or county must document the result of its outreach with the department of transportation on impacts to state-owned transportation facilities, including consideration of whether mitigation is necessary for impacts to state-owned transportation facilities." Contact your [WSDOT regional Development Services office](#) to coordinate with WSDOT on potential impacts to state facilities.

As directed by the bill, Ecology will use [expedited rulemaking](#) to update SEPA regulations for categorical exemptions at WAC 197-11-800 by December 31, 2022.

Note that as part of this expedited rule-making, Ecology will remove parking from the SEPA checklist as directed by the 2020 Legislature in [ESHB 2343 \(Section 5\)](#). In that bill, Ecology was directed to remove parking from the elements of the environment and the environmental checklist the next time the agency updated SEPA rules. Contact Sarah Cassal at salu461@ECY.WA.GOV with questions about rule updates.

Section 6 creates a new section in SEPA to clarify that an applicant whose project qualifies as categorically exempt does not need to file a SEPA checklist if other information is available to establish that a project qualifies for an exemption.