



BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND

AB 6156
November 1, 2022
Study Session

AGENDA BILL INFORMATION

TITLE:	AB 6156 (Corrected November 7, 2022) : Briefing on New Growth Management Act Housing Requirements and Implementing E2SHB 1220	<input checked="" type="checkbox"/> Discussion Only <input type="checkbox"/> Action Needed: <input type="checkbox"/> Motion <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution
RECOMMENDED ACTION:	Receive briefing. No action necessary.	

DEPARTMENT:	Community Planning and Development
STAFF:	Jeff Thomas, Interim Director Alison Van Gorp, Deputy Director Adam Zack, Senior Planner
COUNCIL LIAISON:	Salim Nice
EXHIBITS:	n/a
CITY COUNCIL PRIORITY:	1. Prepare for the impacts of growth and change with a continued consideration on environmental sustainability.

AMOUNT OF EXPENDITURE	\$ n/a
AMOUNT BUDGETED	\$ n/a
APPROPRIATION REQUIRED	\$ n/a

EXECUTIVE SUMMARY

The purpose of this agenda item is to provide an overview of the new housing requirements for the Growth Management Act under E2SHB 1220 and how they relate to the City’s Comprehensive Plan Update. In addition, the City Council will be asked to provide preliminary input for a comment letter on the preferred affordable housing target allocation option being considered by the King County Growth Management Planning Council (GMPC).

- On March 1, 2022, the City Council approved [Resolution No. 1620](#) ratifying the housing and employment growth targets for the upcoming Comprehensive Plan update. The housing growth target is ~~1,369~~1,239 dwelling units by 2044. The employment growth target is 1,300 jobs by 2044.
- Subsequently the WA State Legislature adopted [Engrossed Second Substitute House Bill 1220](#) (E2SHB 1220). This bill amended the Growth Management Act (GMA) to establish new requirements for the City’s Comprehensive Plan Housing Element. The City will need to address these new requirements during the update of the Comprehensive Plan currently underway.
 - A requirement established in E2SHB 1220 is that the City must adopt affordable housing unit targets and demonstrate that the Comprehensive Plan can accommodate the targets ([RCW 36.70A.070\(2\)](#)).
 - Another requirement is that the City must identify policies and regulations that result in racially disparate impacts, displacement, and exclusion in housing ([RCW 36.70A.070\(2\)\(e\)](#)) and policies to address and begin to undo racially disparate impacts, displacement, and exclusion in housing caused by local policies, plans, and actions ([RCW 36.70A.070\(2\)\(f\)](#)).

- The Washington State Department of Commerce (Commerce) is preparing guidance for complying with the affordable housing targets and requirement to identify policies with racially disparate impacts. The guidance is expected by the end of the year.
- The King County Growth Management Planning Council (GMPC) is currently working on determining the affordable housing targets for cities in King County. The City is participating in this process.

BACKGROUND

The City is in the process of conducting a periodic update of the Comprehensive Plan. The update is required by the Growth Management Act (GMA) and must be completed by December 31, 2024. As part of the periodic update, the City is required to update the Housing Element to incorporate the new requirements established by [E2SHB 1220](#).

In addition, the City Council has an opportunity to provide preliminary input to the King County Growth Management Planning Council (GMPC) on the preferred option for affordable housing targets (see [Issue/Discussion section](#), page 7).

New GMA Requirement: Housing Needs

Counties and cities planning under the GMA must inventory and analyze housing needs for households of all income levels (moderate, low, very low, and extremely low-income households as well as emergency housing, emergency shelters, and permanent supportive housing). The City must also demonstrate that sufficient capacity of land for that housing is available, and that “adequate provisions” are made for the existing and projected needs of all economic segments of the community. Adequate provisions will include consideration of moderate density housing options. These requirements are established in [RCW 36.70A.070\(2\)\(a\)-\(d\)](#). (See page 2.)

New GMA Requirement: Racially Disparate Impacts, Displacement, and Exclusion

Another change to the GMA from E2SHB 1220 is that the comprehensive plan must include policies that identify housing policies that have resulted in racially disparate impacts, displacement, and exclusion. It must also include policies and regulations that address and begin to undo racially disparate impacts, displacement, and exclusion in housing. These requirements are established in [RCW 36.70A.070\(2\)\(e\)-\(h\)](#).

Department of Commerce Guidance

The Washington State Department of Commerce (“Commerce”) was directed to analyze countywide housing needs and develop guidance to assist local jurisdictions with the implementation of the new housing element requirements. The guidance provided by Commerce will clarify the steps required to comply with the new housing element requirements established by E2SHB 1220. In other words, E2SHB 1220 tells cities what must be done, and the Commerce guidance will tell cities how to satisfy the new requirements. Commerce staff have been working to develop this guidance over the last 15 months and a final draft is expected by the end of the year.

A draft guidance document for evaluating racially disparate impacts was recently made available for review. Draft guidance for accommodating affordable housing targets is expected soon. City staff expect that the new requirements will require more extensive work on the Housing Element than initially planned. The comprehensive plan scope of work and schedule will likely need some adjustments to account for the additional work proscribed by the Commerce guidance. Staff plans to brief the City Council on changes to the scope and schedule during a Comprehensive Plan status report in early 2023.

HOUSING NEEDS

E2SHB 1220 directed Commerce to supply two types of housing need projections that jurisdictions must plan for and accommodate in updated comprehensive plans. The two housing need projections Commerce will provide to counties are:

1. By income level: 0-30%, 31-50%, 51-80%, 81-120%, and >120% of area median income (AMI), and
2. Special needs housing: emergency housing, emergency shelters, and permanent supportive housing.

The City enacted temporary amendments to respond to the special needs housing requirements by adopting [Ordinance No. 22C-14](#). Permanent amendments are expected to be adopted once Commerce has provided the need projection and guidance for satisfying the requirements. Staff expects that the City can make the necessary permanent amendments related to special needs housing before the temporary amendments adopted by Ordinance No. 22C-14 expire in March 2023. If more time is needed, the temporary amendments can be renewed.

Discussed below are the following topics regarding the new housing requirements:

- Affordable Housing Need Allocation Options
- Accommodating Affordable Housing Targets
- Moderate Density

Affordable Housing Need Allocation Options

Once Commerce developed countywide affordable housing needs, the counties must allocate affordable housing targets to the cities. In King County, the GMPC will decide on the affordable housing target allocation for cities in the County. The GMPC is a formal body, consisting of elected officials from King County, Seattle, Bellevue, other cities and towns in King County, special purpose districts, and the Port of Seattle who assist in developing a collaborative set of framework policies to guide development of each jurisdiction's comprehensive plan.

King County staff developed three options for the GMPC to consider for allocating affordable housing targets to cities in the County. The GMPC provided direction for developing affordable housing allocation options by [2021 GMPC Motion 21-1](#). The affordable housing targets will be informed by local data and the methodology and county-level affordable housing need provided by Commerce. An [Online Dashboard](#) was prepared to illustrate the three options. County staff are also developing a recommendation to the GMPC regarding the Countywide Planning Policy (CPP) amendments necessary to implement affordable housing allocations.

In a report to the GMPC dated September 28, 2022 ([see Table 2, page 5](#)), three allocation options are summarized below and will be further explained during the City Council presentation.

Option 1

- All countywide housing needs are accommodated through new housing production
- Total new units allocated to each jurisdiction is limited to their share of planned countywide housing growth
- All jurisdictions allocate the same percentage shares of their net new housing growth target by income level, including units for moderate, low, very low, and extremely low-income households
- Similar to an allocation process used in King County before the countywide planning policies (CPPs) were amended in 2012

Option 2

- Each jurisdiction should plan to provide the same percentage share of their total housing supply at each income level as needed countywide by 2044

- Allocations of need are based in part on the estimated 2020 housing supply by affordability level. Jurisdictions with less low-income housing are thus allocated higher amounts in lower AMI bands
- Allocations do not assume that all net new countywide housing needs will be met through new housing production
- Similar to the way jurisdictions were guided to project their share of countywide need in the 2021 amended CPPs

Option 3

- All countywide housing needs are accommodated through new housing production
- Total new units allocated to each jurisdiction is limited to their share of planned countywide housing growth
- All jurisdictions initially receive a total new unit allocation that is equal to their percent share of total countywide growth
- Then, uses three different weighting factors to adjust the total new unit need allocation within a jurisdiction:
 1. Percent share of housing that’s currently affordable at 0-80 percent AMI
 2. Percent share of housing that’s currently income restricted at 0-80 percent AMI
 3. Subregional ratio of low-wage jobs to low-wage workers
- Place different weights on each of the factors: 50% weight on share of housing that’s affordable, 25% weight each on share of housing that’s income-restricted, and low wage job import/export o
 - Reason for this weighting is that homes that are affordable is a more stable and place-based indicator. Workers are more likely to move than housing units are, and more renters find housing on the broader housing market that’s not income restricted.
- This final allocation is then divided into different income levels by analyzing how many units currently exist in each jurisdiction at each income level, and then placing more of that jurisdiction’s allocation at income levels where they have less housing than the countywide average.

The affordable housing allocation options were discussed in the Housing Needs Assessment presented to the City Council on September 6, 2022 ([AB 6107](#), page 56-57).

The three affordable housing target options in number of housing units by income segment are provided in Table 1, below. Please note, the affordable housing target options are different income-level-based distributions of the ~~1,369~~1,239-unit overall housing growth target adopted in 2021.

Table 1. Affordable Housing Target Options

Income Segment	Option 1 Target*	Option 2 Target*	Option 3 Target*
0-30% AMI	545 <u>520</u>	1,323 <u>1,288</u>	587 <u>542</u>
31-50% AMI	206 <u>194</u>	1,026 <u>1,015</u>	228 <u>200</u>
51-80% AMI	100 <u>87</u>	1,464 <u>1,459</u>	551 <u>489</u>
81-100% AMI	68 <u>58</u>	309 <u>311</u>	3 <u>1</u>
101-120% AMI	77 <u>65</u>	35 <u>25</u>	0 <u>1</u>
120+% AMI	373 <u>315</u>	(-) 2,786 <u>(-) 2,858</u>	0 <u>6</u>
Total	1,369<u>1,239</u>	1,371<u>1,240</u>	1,369<u>1,239</u>

*Targets expressed in dwelling units.

Source: King County 2022, ~~Mercer Island Housing Needs Assessment, 2022~~ [jurisdictional housing need options dashboard](#), retrieved November 1, 2022.

The affordable housing targets are broken out by income band, relative to the area median income (AMI). According to the U.S. Census Bureau, the King County AMI was \$99,158 and the Mercer Island AMI was \$150,506 in 2020. The Census Bureau AMI is not adjusted for household size. Affordable housing programs typically consider AMI by household size per U.S. Department of Housing and Urban Development (HUD)

guidelines. The Census Bureau AMI is provided for reference in Table 2, below. Table 2 shows the income ranges for each income band in King County and Mercer Island based on the U.S. Census Bureau 2020 AMI.

Table 2. Income Segments Relative to Area Median Income

Income Segment		King County AMI ¹ Range ^{2, 4}	Mercer Island AMI ¹ Range ^{3, 4}
Extremely Low	0-30% AMI	\$0 - 29,747	\$0 – 45,151
Very Low	31-50% AMI	\$30,738 – 49,579	\$46,656 – 75,253
Low	51-80% AMI	\$50,570.58 – 79,326.40	\$76,758 – 120,404.80
Moderate	81-100% AMI	\$80,317.98 – 99,158	\$121,909 – 150,506
Middle	101-120% AMI	\$100,149.58 – 118,989.60	\$152,011 – 180,607
High	120+% AMI	\$118,990 +	\$180,608 +

Notes:

1. Area Median Income (AMI).
2. King County’s 2020 AMI is \$99,158 (source: U.S. Census Bureau).
3. Mercer Island’s 2020 AMI is \$150,506 (source: U.S. Census Bureau).
4. AMI ranges to qualify for affordable housing vary by household size.

Accommodating Affordable Housing Targets

In addition to setting affordable housing targets, the GMA requires the City to identify sufficient capacity of land to accommodate the targets ([RCW 36.70A.070\(2\)\(c\)](#)). Commerce is preparing guidance for how cities and counties can meet this requirement. This guidance is expected to be available by the end of the year.

To some extent, the City will be able to accommodate its affordable housing targets in the available residential development capacity. The City’s available residential density is determined in the [King County Urban Growth Capacity report](#) (UGC report). The UGC report breaks residential capacity into categories by density. Those different density levels will help to accommodate housing for different economic segments because higher-density development tends to be more affordable. The exact degree to which the City can accommodate its affordable housing need in its existing development capacity will be outlined in the Commerce guidance. Table 3 summarizes the City’s residential capacity by density level as provided in the UGC Report.

Table 3. Mercer Island Residential Capacity by Density Level

Density Level	Assumed Densities (low/high – units/acre)	Net Capacity in Dwelling Units
High	100.6/167.8	528
Medium High	26	535
Medium Low	22.7	10
Low	4.6 / 6.1	235
Very Low	2.6 / 3.3	120
Total	-	1,429

Source: King County Urban Growth Capacity Report Adopted December 14, 2021, Ratified April 6, 2022.

Moderate Density

E2SHB 1220 enacted a new requirement that cities must include consideration of moderate density as a planning tool in urban growth areas ([RCW 36.70A.070\(2\)\(b\)](#)). Moderate density housing is typically composed of triplexes, townhomes, courtyard apartments, and cottage clusters. These housing types often bridge the gap between low-density single-family homes and higher-density midrise apartment buildings. Moderate density can be combined with other planning tools such as multifamily tax exemption, height bonuses, and incentives to accommodate the projected housing need. In addition to considering policies for moderate density, cities are required to identify capacity for moderate density housing ([RCW 36.70A.070\(2\)\(c\)](#)). The

guidance from Commerce will outline how cities can demonstrate moderate density capacity and to what extent moderate density must be considered in housing policies.

Under current zoning in Mercer Island, moderate density housing types are only allowed in multifamily and mixed-use zones. Multifamily and mixed-use zones also allow higher-density housing such as midrise apartment buildings. Minimum lot sizes and land use regulations in single-family zones preclude siting moderate density housing types such as duplexes, triplexes, and townhomes in single-family zones ([Chapter 19.02](#) Mercer Island City Code (MICC)). Accessory dwelling units are allowed in single-family zones, allowing some moderate density housing options.

Single-family residential zones range in density from 2.9 dwelling units per acre (15,000 square foot minimum lot size) to 5.2 dwelling units per acre (8,400 square foot minimum lot size) ([MICC 19.02.020](#)). In multifamily zones, the maximum density ranges from 26 dwelling units per acre (MF-2 zone) to 38 dwelling units per acre (MF-3 zone) ([MICC 19.03.010](#)). The largest mixed-use area, Town Center, does not have a maximum density but the density in this zone is limited to approximately 100 dwelling units per acre by the other design requirements. There are no zones in the City with a maximum density between 5.2 dwellings per acre and 26 dwellings per acre.

The Commerce guidance for E2SHB 1220 is expected to include direction for how the City must evaluate housing policies regarding moderate density housing and the requirements of RCW 36.70A.070(2)(b) and (c). That guidance, in conjunction with the affordable housing targets and racially disparate impacts evaluation, will likely require more extensive work on the Housing Element than initially planned in the Comprehensive Plan update scope of work. Staff will include moderate density planning requirements when preparing updates to the scope of work.

RACIALLY DISPARATE IMPACTS, DISPLACEMENT, AND EXCLUSION

During the Comprehensive Plan update, the City is required to identify policies that result in racially disparate impacts, displacement, and exclusion in housing ([RCW 36.70A.070\(2\)\(e\)-\(h\)](#)). Commerce has released draft guidance for meeting this requirement (see link under 'Further Reading' below). The draft guidance defines racially disparate impacts as "When policies, practices, rules or other systems result in a disproportionate impact on one or more racial groups." The draft guidance defines displacement as, "The process by which a household is forced to move from its community because of conditions beyond their control."

- Physical displacement: Households are directly forced to move for reasons such as eviction, foreclosure, natural disaster, or deterioration in housing quality.
- Economic displacement: Households are compelled to move by rising rents or costs of home ownership like property taxes.
- Cultural displacement: Residents are compelled to move because the people and institutions that make up their cultural community have left the area."

Finally, the draft guidance defines exclusion in housing as, "The act or effect of shutting or keeping certain populations out of housing within a specified area, in a manner that may be intentional or unintentional, but which leads to non-inclusive impacts."

In addition to identifying policies with racially disparate impacts, displacement, and exclusion in housing, E2SHB 1220 requires the City to adopt amendments to begin to undo those impacts during the Comprehensive Plan update. The draft guidance provides a framework for evaluating policies, including steps to objectively identify potential impacts. The draft Commerce guidance indicates that the requirement to identify and respond to racially disparate impacts will involve some additional research work not originally included in the Comprehensive Plan update scope of work.

COMPREHENSIVE PLAN PERIODIC UPDATE: ADJUSTED SCHEDULE

Staff is in the process of scoping the new GMA requirements to incorporate them into the Comprehensive Plan update schedule. This additional work is expected to push back the Comprehensive Plan update adoption by several months and possibly to the end of 2024. The Comprehensive Plan update should still be adopted prior to the December 31, 2024, deadline due to the flexibility built into the project schedule when it was adopted.

As a reminder, the approved Comprehensive Plan update scope of work anticipated adoption of the update in April 2024, which was two months before the original due date of June 30, 2024. In 2022, the state pushed back the Comprehensive Plan periodic review due date for cities in King County to December 31, 2024 ([E2SHB 1241](#)). The revised deadline will ensure that the Comprehensive Plan update is adopted prior to the GMA deadline. Staff plans to brief the City Council on potential scope and schedule changes in early 2023.

FURTHER READING

- [RCW 36.70A.070 Mandatory Elements](#)
- [E2SHB 1220 Final Bill Report \(WA Legislature\)](#)
- [2021 Legislative Changes to the Housing Laws \(Commerce\)](#)
- [Draft Racially Disparate Impacts Guidance \(Commerce\)](#)
- July 27 GMPC Meeting Materials:
 - [July 27, 2022, Report on Affordable Housing Targets](#)
 - [July 27, 2022, County Staff Presentation](#)
 - [July 27, 2022, GMPC Meeting Video](#)
- September 28 GMPC Meeting Materials:
 - [September 28, 2022, Report on Affordable Housing Targets](#)
 - [September 28, 2022, County Staff Affordable Housing Targets Presentation](#)
 - [September 28, 2022, Report on Racially Disparate Impacts](#)
 - [September 28, 2022, Racially Disparate Impacts County Staff Presentation](#)
 - [September 28, 2022, GMPC Meeting Video](#)

ISSUE/DISCUSSION

King County staff and the Growth Management Planning Council (GMPC) are working on establishing affordable housing targets for cities in the County. The GMPC discussed the topic at their [July 27 and September 28 meetings](#).

King County is currently accepting comments on the three proposed allocation options for affordable housing targets ([Table 1, page 4](#)). The GMPC will review the comments received at its November 30 meeting.

In advance of this GMPC meeting, City staff will prepare a draft comment letter for City Council review at its November 15 regular meeting. To assist with the preparation of this draft comment letter, staff are seeking preliminary Council input, specifically on the following points:

1. Affordable Housing Target Options:
 - **Option 1 is Mercer Island's preferred allocation method.** This method is the most attainable and is the most consistent with market realities. Option 1 sets a reasonable expectation that cities will plan for housing affordable to households with income below the median income while leaving room for cities to continue to plan for housing households above the median income the housing.
 - **Option 3 is Mercer Island's second choice in allocation methods.** This option is consistent with the established housing growth target. The higher unit targets for the lower-income brackets are ambitious but attainable.

- **Option 2 is not recommended for Mercer Island.** Option 2 appears to assume that existing market-rate units would be replaced by below-market-rate units at a significant rate. The replacement of market-rate units with below-market-rate units as envisioned in Option 2 is beyond what local governments can achieve with the tools and resources available.
2. All guidance for the implementation of E2SHB 1220 should be clear, concise, measurable, and achievable. As the County updates the expectations and requirements for compliance, it should be tethered to the realities facing cities in King County. When establishing updated requirements, the County should acknowledge that many smaller cities have limited resources.
 3. King County should advocate for additional resources from the state to implement and accomplish all components of E2SHB 1220. By setting affordable housing targets, local jurisdictions will become policy laboratories. This housing policy research and development should be adequately supported by the state to ensure it is productive.

NEXT STEPS

On November 15 the City Council will consider a draft comment letter to the GMPC regarding E2SHB 1220 implementation in advance of the GMPC meeting on November 30.

In Q1 2023, staff will brief the City Council on updates from Commerce and GMPC, including any guidance implementation received and/or affordable housing targets issued. Staff will also present any necessary amendments for City Council consideration to the approved scope of work, master schedule and public participation plan for the 2024 Comprehensive Plan periodic update.

RECOMMENDED ACTION

Receive briefing. No action necessary.