



PROJECT MEMO

TO:	Scott Larson	DATE:	June 26, 2023
FROM:	Nicole Stickney Tri-Cities - (509) 380-5883	PROJECT NO.:	2230242.30
		PROJECT NAME:	Orting Comprehensive Plan Periodic Update
SUBJECT:	2023 Legislative Amendments to the GMA and Recommendations		

This memo supplements our previous memo (Dated June 16, 2023 “Gap Analysis (Task 1)”) and lists out the various GMA amendments and planning requirements for the City of Orting that were passed in the legislative session that ended earlier this year (2023).

We have only included the items which are applicable to Orting. Many of these changes are rather significant and so they are important to document at this time and this memo could be shared widely to the Planning Commission, City Council, and others seeking to understand the ramifications of the policy changes or shifts.

At the end of this memo, we also list out the other notable bills that were passed last year (and were included in the Commerce checklist attached to our previous memo) for tracking purposes.

HOUSE BILL 1042¹: THE CREATION OF ADDITIONAL HOUSING UNITS IN EXISTING BUILDINGS

Description: *Amends RCW 36.70B to allow conversion of existing commercial buildings to residential uses and offer increases in density.* The bill prohibits cities from denying a permit application for the addition of housing units within an existing multifamily or commercial building due to nonconformity with height, setback, parking, modulation, or elevator size *unless* it is a building code of life safety issue. When new residential units are proposed completely within an existing multifamily or commercial building, cities **must** allow a density bonus of 50% more than the zone otherwise allows. Further, cities may not require the addition of parking spaces, permitting requirements, or design standards not applied to all residential development in the zone, and may not impose exterior design or architectural requirements to the building. Cities also may not require a transportation concurrency study or SEPA review based on the addition of housing units within an existing building.

(Note: The state building code council is likewise required to adopt an amendment to the energy code that waives the requirement for the unchanged portions of an existing building to comply with the current energy code when additional housing units are added to the building.)

Discussion: This applies only in zones that allow multifamily housing. In this context “existing building” is a building that received a certificate of occupancy at least 3 years prior to an application to add housing units.

Recommendation: Revisions to Table 1, Development Standards in OMC 13-5-1 should be made; consider adding a footnote to the “Maximum density” column for the applicable zones (i.e. RMF and any other zones where multi family residential is an allowed use). Changes to Title 10, Building and Construction, may also be warranted.

¹ Descriptions in this memo are chiefly from (or adapted from) the Washington State Dept. of Commerce document “Growth Management Act Amendments 1995-2023” provided by the Growth Management Services Division

HOUSE BILL 1181: IMPROVING THE STATE'S CLIMATE RESPONSE THROUGH UPDATES TO THE STATE'S PLANNING FRAMEWORK

Description: **Climate Change and Resiliency** has been added as the 14th GMA goal. The city is required to:

- Add a greenhouse gas emissions reduction sub-element. The sub-element and implementing development regulations must identify actions the jurisdiction will take that will Result in reductions in overall GHG emissions generated by the transportation and land use systems within the jurisdiction but without increasing emissions elsewhere; result in reductions in vehicle miles traveled within the jurisdictions but without increasing emissions elsewhere; and prioritize reductions that would benefit overburdened communities in order to maximize the co-benefits of reduced air pollution and environmental justice.
- Add a resiliency sub-element. This requirement can be satisfied by adopting by reference a FEMA natural hazard mitigation plan that is in substantial conformance with this sub-element.
- Update the land use, capital facilities, park and recreation, utilities, and transportation elements to include certain climate change related topics, including a prohibition on denying a development permit because a project may cause the transportation level of service to fall below the minimum standard where multimodal mitigation is possible.
- Include consideration of environmental justice in order to avoid worsening environmental health disparities.

Discussion: Under HB 1170, Ecology is required to update and publish a statewide climate resilience strategy

Recommendation: AHBL will draft proposed new language that the city could incorporate into its Comprehensive Plan as a part of the periodic update process. Further, AHBL will move previous language (discussion, goals, policies, etc.) pertaining to the environment and hazards into a new Element in which the new sub-elements will be organized under called "Natural Environment."

HOUSE BILL 1216: CLEAN ENERGY SITING

Description: A new type of project designation was established: "Clean Energy Projects of Statewide Significance (CEPSS)". The department of Ecology is responsible for coordinating an optional coordinated permitted process for CEPSS projects. Cities (and counties) with development projects determined as eligible for the coordinated permit process within their jurisdiction **must** enter into an agreement with Ecology or the project proponent for expediting the completion of projects, including expedited permit process and environmental review processing.

The bill also directs lead agencies to complete an EIS for CEPSS projects within 24 months of a threshold determination and requires them to work collaboratively with agencies that have actions requiring SEPA review for the project to develop a schedule that includes a list of agency responsibilities, actions, and deadlines. The bill makes other SEPA changes related to the process of environmental review for CEPSS projects.

During a review of a project to construct or improve electric generation, transmission, or distribution facilities, a local government **may not require** a project applicant to demonstrate the necessity or utility of the project, other than to require as part of the completed project application the submission of documentation required by the

Federal Energy Regulatory Commission or other federal agencies with regulatory authority over electric power transmission and distribution needs, or the Utilities and Transportation Commission.

(Also note: a county additionally may not prohibit the installation of wind and solar resource evaluation equipment necessary for the design and environmental planning of a renewable energy project.)

Recommendation: AHBL will draft proposed new language that the city could incorporate into its Comprehensive Plan referring to this new project type. The city should additionally consider amendments to the Zoning Code and applicable sections of Title 15, Chapter 14 “Environmental Review” addressing exemptions for CEPSS projects.

HOUSE BILL 1293: STREAMLINING DEVELOPMENT REGULATIONS

Description: This bill clarifies design and project review standards and encourages expedited review of affordable dwelling units. The legislature directs that the city must have in place clear, objective, and understandable design review procedures and standards governing the exterior design of all new development. The term “design review” is further defined in statute. Design review (*defined as: “a formally adopted local government process by which projects are reviewed for compliance with design standards for the type of use adopted through local ordinance”*) of development projects must be reviewed concurrently with two or more project permits associated with the proposal and are limited to one public meeting.

The bill also added language to Ch. 36.70B RCW (Local Project Review Act) **encouraging** jurisdictions to consider prompt, coordinated, and expedited project review of general project permits and specifically projects that include affordable housing.

Discussion: It appears that Orting does not have an obligation to fast-track permits for affordable housing but there is an option to do so if desired.

Recommendation: The language in OMC 13-6-7 Architectural Design Review pertaining to procedures should be reviewed to ensure compliance with this requirements, together with the provisions of Title 15 “Development Code Administration” which identifies in Table 15-4-2 that “Architectural design review” is a type 2 Decision by the Planning Commission.

HOUSE BILL 1337: EXPANDING HOUSING OPTIONS BY EASING BARRIERS TO THE CONSTRUCTION AND USE OF ADUs

Description: All GMA cities **must** allow at least 2 ADUs per lot within urban growth areas in zones allowing single-family homes. The ADUs may be attached, detached, or a combination of both, or may be conversions of existing structures. The bill additionally places restrictions on local governments, including:

- The city can’t charge more than 50% of impact fees charged for the principal unit
- The city may not require the owner to occupy the property
- The city may not prohibit the ADU’s sale as independent units
- The city must allow an ADU of at least 100 square feet and must adjust zoning to be consistent with the bill with respect to bulk and scale regulations
- The city must set consistent parking requirements based on distance from transit and lot size
- ADUs will be allowed *up to lot lines abutting public alleys* and in converted existing structures

(Commerce additionally noted that local governments are protected from HOAs seeking to enforce private covenants against ADUs in conflict with the bill.)

Discussion: Orting currently allows ADUs in all residential zones (OMC Section 13-3-3) and the provisions of Section 13-5-6 apply. In order to comply with the state’s new legal requirements, some changes to Section 13-5-6 will need to be made.

Recommendation: OMC 13-5-6 “Accessory Dwelling Units” will need to be revised (**Deadline: June 30, 2025**). Additionally, revisions to Table 1, Development Standards in OMC 13-5-1 should be made; consider adding a footnote to the “Maximum density” column for the applicable zones. Finally, Revisions to Title 15, Chapter 6 “Impact Fees” will probably need to be made in addition to revisions to the referenced external documents.

HOUSE BILL 1544: SHORELINE MASTER PROGRAM (SMP) REVIEW SCHEDULES

Description: This bill amended Ch. 90.58 RCW (the Shoreline Management Act) and changed the Shoreline Master Program update schedule from 8 years to 10 years (aligning with comprehensive plan periodic update schedules) and also extended by one year the date by which the next round of SMP reviews and revisions are due.

Recommendation: No action required at this time. Timelines for SMP Revision are not set out in the Orting Municipal Code or the SMP itself.

SENATE BILL 5412: DECREASING LOCAL GOVERNMENT WORKLOAD

Description: The bill allows for a SEPA categorical exemption for residential development projects if:

- The City finds the proposed development is consistent with its development regulations; and
- The City has prepared environmental analysis that considers the project in the area proposed for the exemption and analyzes certain multimodal transportation impacts.

The environmental analysis must include documentation that the requirements for environmental analysis, protection, and mitigation for impacts have been adequately addressed for the exempted project. The City must also document its consultation with WSDOT regarding certain transportation impacts. Before finalizing the environmental analysis, the local government must provide at least 60 days public notice and the exemption is effective 30 days following adoptive action.

Recommendation: Title 15, Chapter 14 “Environmental Review” should be evaluated and potentially amended to document changes to RCW 43.21C that will become effective on July 23, 2023.

Moreover, it would also be a good idea to consider raising the SEPA Categorical Exemptions thresholds in OMC 15-14-3-2 as appropriate for the community.

SENATE BILL 5258: INCREASING THE SUPPLY AND AFFORDABILITY OF CONDOMINIUM UNITS AND TOWNHOUSES AS AN OPTION FOR HOMEOWNERSHIP

Description: Cities must amend short plat regulations / procedures to facilitate unit lot subdivisions (allowing the division of a parent lot into separately owned unit lots) . Additionally, impact fee schedules must now reflect the

proportionate impact of new housing units based on the square footage and number of bedrooms, or trips generated, in the housing unit, to produce a proportionally lower impact fee for smaller housing units.

(Also note: The bill also addresses requirements for condo associations and create a Down Payment Assistance Account fund)

Recommendation: More research will be needed. It appears that amendments to Title 12, Subdivision Regulations, will be needed. It will be important to address how utility connections would need to be accommodated if connections are not already provided for the individual units, in cases where construction may have already occurred. Finally, Revisions to Title 15, Chapter 6 “Impact Fees” will probably need to be made (in addition to revisions to the referenced external documents contained in that chapter).

SENATE BILL 5290: CONSOLIDATING LOCAL PERMIT REVIEW

The bill amended chapter 36.70B RCW, the Local Project Review Act, and included the following provisions which apply to Orting:

- Removes building permits for the types of project permits in the covered types of land use permits.
- Amended the process for jurisdictions to provide a written determination of completeness for project permit applications.
- Beginning January 1, 2025, jurisdictions must set certain permit decision timelines at 65, 100, and 170 days depending on the permit and other factors. When timelines are not met a portion of the permit fees must be refunded. Jurisdictions can set other deadlines but lose administrative appeal safe harbor protection.
- Provides additional measures that jurisdictions can take to facilitate prompt coordinate permit review.

Recommendation: More research will be needed. Consider seeking grant funding to support Orting’s transition to digital permit application systems, when funding is available from the state.

LIST OF NOTABLE BILLS FROM THE LEGISLATIVE SESSION ENDING IN 2022

HB 1220: Directs that jurisdictions must plan for and accommodate, rather than encourage the availability of, emergency and affordable housing

HB 1241: Changes the Periodic update cycles from 8 to 10 years

HB 1717: Establishes requirement for Tribal participation in planning

HB 2001: Expands the ability to build tiny houses

SB 5042: Changes the initial effective date of certain actions under the GMA

SB 5118: Supports successful reentry for juveniles, amending the definition of “essential public facilities”

SB 5235: Increases housing unit inventory by removing arbitrary limits on housing (the city can’t regulate the number of persons occupying a housing unit beyond that which is in the building code or for health / safety provisions)

SB 5818: Promotes housing construction in cities through amendments to and limiting appeals under SEPA and GMA

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