

SENATE BILL REPORT

ESHB 1042

As of February 14, 2023

Title: An act relating to the creation of additional housing units in existing buildings.

Brief Description: Concerning the use of existing buildings for residential purposes.

Sponsors: House Committee on Housing (originally sponsored by Representatives Walen, Ryu, Barkis, Simmons, Duerr, Goodman, Bateman, Reed, Ramel, Peterson, Pollet, Doglio, Macri, Reeves, Mena, Tharinger, Wylie, Gregerson, Springer, Bergquist, Thai, Kloba, Santos and Ormsby).

Brief History: Passed House: 2/8/23, 96-0.

Committee Activity: Housing: 2/17/23.

Brief Summary of Bill

- Prohibits cities from imposing certain restrictions or requirements on existing buildings through ordinances, development and zoning regulations, or other official controls.

SENATE COMMITTEE ON HOUSING

Staff: Melissa Van Gorkom (786-7491)

Background: The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. The GMA establishes land use designation and environmental protection requirements for all Washington counties and cities. The GMA also establishes a significantly wider array of planning duties for 28 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA. These jurisdictions are sometimes said to be fully planning under the GMA.

The GMA directs fully planning jurisdictions to adopt internally consistent, comprehensive

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land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans are implemented through locally adopted development regulations, and both the plans and the local regulations are subject to review and revision requirements prescribed in the GMA. When developing their comprehensive plans, counties and cities must consider various goals set forth in statute.

Cities and counties that do not fully plan under the GMA may, under the state's optional planning statutes, adopt comprehensive plans, zoning ordinances, and other official controls regulating land uses within their boundaries. Land use regulations may generally include:

- the location and the use of buildings, structures, and land for residence, industry, trade, and other purposes;
- the height, construction, and design of buildings and structures;
- the size of yards, open spaces, lots, and tracts;
- the setback of buildings; and
- the subdivision and development of land.

State Building Code Council. The State Building Code Council (SBCC) is responsible for adopting, amending, and maintaining the State Building Code. The SBCC must regularly review updated versions of the model codes and adopt a process for reviewing proposed statewide and local amendments.

Summary of Bill: Beginning July 1, 2024, a city may not impose any of the following on an existing building through ordinances, development and zoning regulations, or other official controls:

- restrictions on housing unit density that prevent additional units in the building located within a zone that permits multifamily housing, so long as generally applicable health and safety standards can be met;
- parking requirements on the addition of dwelling or living units added within an existing building;
- permitting requirements beyond those requirements generally applicable to all residential development within the building's zone;
- design standard requirements, including setbacks, lot coverage, and floor area ratio requirements beyond those requirements generally applicable to all residential development within the building's zone;
- exterior design or architectural requirements beyond those necessary for health and safety of the use of the interior of the building, unless the building is listed on a local, state, or national historic register;
- prohibitions on the addition of housing units in any specific part of a building, unless the units would violate applicable building codes or health and safety standards;
- current energy code requirements solely due to the addition of new dwelling units; or
- a transportation concurrency or State Environmental Policy Act study based on the addition of residential units.

A city may not deny a building permit application for the addition of housing units to an

existing building due to the nonconformity of the existing structure including parking, height, setbacks, elevator size for gurney transport, or modulation, unless the city's legislative authority makes written findings that the nonconformity is causing a significant detriment to the surrounding area.

A city is not required to approve a building permit application for the addition of housing units within an existing building that cannot satisfy life safety standards.

By July 1, 2024, cities must incorporate the standards into their development and zoning regulations, and other official controls, or any conflicting local development regulations are superseded, preempted, and invalidated.

State Building Code Council. By January 1, 2024, the SBCC must amend the State Energy Code to waive the requirement for an existing building to meet current energy code requirements solely due to the addition of new dwelling units in the building.

Appropriation: None.

Fiscal Note: Requested on February 13, 2023.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.