

SENATE BILL REPORT

E2SHB 1167

As of March 12, 2023

Title: An act relating to residential housing regulations.

Brief Description: Concerning residential housing regulations.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Duerr, Low, Walen, Reed, Bateman, Ramel, Fitzgibbon, Taylor, Macri, Gregerson, Wylie, Pollet, Kloba and Tharinger).

Brief History: Passed House: 3/4/23, 95-0.

Committee Activity: Local Government, Land Use & Tribal Affairs: 3/14/23.

Brief Summary of Bill

- Requires that, beginning six months after its next comprehensive plan update, a fully planning city or county may only require an administrative design review to determine whether a housing development permit application is in compliance with any applicable design standards.
- Prohibits a city from imposing any development regulations for middle housing that are more restrictive than those for detached single-family residences with certain exceptions.
- Requires the Department of Commerce to develop and administer a grant program to assist counties and cities in adopting preapproved accessory dwelling unit plans.
- Directs the State Building Code Council to convene one work group to recommend a mechanism in the International Residential Code for adopting by reference, provisions for multiplex housing contained in the International Building Code, and another work group to recommend modifications and limitations to allow a single-exit stairway to serve multifamily residential structures up to six stories above grade plane.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

- Requires the Office of Regulatory and Innovation Assistance to contract for the development of an optional standard plan set that meets or exceeds all energy code regulations for residential housing subject to the International Residential Code.

SENATE COMMITTEE ON LOCAL GOVERNMENT, LAND USE & TRIBAL AFFAIRS

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Background: Growth Management Act. The Growth Management Act (GMA) is the comprehensive land use planning framework for county and city governments in Washington. Enacted in 1990 and 1991, the GMA establishes numerous planning requirements for counties and cities obligated by mandate or choice to fully plan under the GMA—planning jurisdictions—and a reduced number of directives for all other counties and cities. Twenty-eight of Washington's 39 counties, and the cities within those counties, are planning jurisdictions.

When a fully planning county or city is reviewing a project, its comprehensive plan and development regulations must serve as the basis for the project permit review. When determining if a proposed project is consistent with the comprehensive plan and development regulations, the county or city must consider the type of land use, the level of development or density proposed, and the availability of infrastructure needed to service the development.

Project Permits. Before developing land, a developer must obtain permits from the local government allowing the development. These permits can include land use permits, environmental permits, building permits, and others, and are known as project permits. Fully planning counties and cities must comply with additional project permit processing requirements, including establishing an integrated or consolidated permit process that:

- provides a written determination of completion to an applicant within 28 days of receipt of the application;
- provides notice of the application to the public, and to relevant departments and agencies, within 14 days of the determination of completeness;
- provides an optional consolidated process for reviewing two or more project permit applications relating to a proposed project as part of a single process, with a designated permit coordinator for all of the project permits and allowing no more than one open record hearing and one closed record appeal on the project;
- allows any required open record hearing or public meeting on the project to be combined with any other public meeting or hearing that may be held on the project by another agency;
- provides a single report containing all of the decisions made on all project permits

- included in the consolidated process, as well as any recommendations on project permits that do not require an open record predecision hearing and any mitigation required under the State Environmental Policy Act;
- requires no more than one consolidated open record hearing on appeal if the local government allows appeals; and
 - requires a notice of decision on the project permit within 120 days, unless the county or city has adopted a longer time period after making written findings that a longer time period is required to process a specific application or project type.

Counties and cities that do not plan under the GMA may choose to incorporate some or all of the integrated or consolidated permit process into their permitting processes.

Design Review. Design review is 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. Design review focuses on the appearance of new construction, site planning, and items such as landscaping, signage, and other aesthetic issues. A design element is an optional element of a comprehensive plan, and many jurisdictions have included design elements in their comprehensive plans.

State Building Code. The State Building Code (Code) establishes minimum performance standards and requirements for construction and construction materials in the state, consistent with accepted standards of engineering, fire, and life safety. The Code comprises a number of model codes and standards, developed and published by international and national organizations, which are adopted by reference in the State Building Code Act (Act). Model codes and standards adopted in the Act include the International Building Code (IBC), the International Residential Code (IRC), and the Energy Code.

The IBC establishes minimum requirements for all buildings except detached one- and two-family dwellings and townhouses up to three stories. The IRC comprises all building, plumbing, mechanical, fuel gas, and electrical requirements for one- and two-family dwellings and townhouses up to three stories.

The State Building Code Council (Council) is responsible for adopting, amending, and maintaining the model codes and standards adopted by reference in the Act. Amendments to the model codes and standards adopted by the Council are codified in the Washington Administrative Code. The Council reviews updated editions of each model code and standard every three years.

Summary of Bill: Beginning six months after its next comprehensive plan update, a fully planning city may not impose any development regulations for middle housing that are more restrictive than those for detached single-family residences, unless otherwise required by state law, including shoreline regulations, building codes, energy codes, electrical codes, or critical areas protection. A city may apply any objective development regulations that are required for detached single-family residences, including setback and tree canopy and

retention requirements. Beginning July 1, 2026, cities may not require more than a single stairway in residential buildings of six or fewer stories if the conditions in the IBC are met.

Cities and counties may adopt regulations that create a simple, low-cost, expedited permit process for development of single-family, duplex, triplex, or accessory dwelling housing units with less than 1,801 square feet per unit in locations designated for residential housing. The expedited process should:

- make it easy for an applicant to submit and receive approval for all permits required to build housing units; and
- lower costs and simplify the building of housing units tailored to be priced for extremely low-income, low-income, or moderate-income households.

Beginning six months after its next comprehensive plan update, a fully planning city or county may only require an administrative design review to determine whether a housing development permit application is in compliance with any applicable design standards. Administrative design review means a development permit process whereby an application is reviewed, approved, or denied by the planning director, or the planning director's designee, based solely on objective design and development standards without a public meeting or hearing, unless such review is otherwise required by state or federal law, or the structure is a designated landmark or historic district established under a local preservation ordinance.

The Department of Commerce must develop and administer a grant program to provide direct financial assistance to counties and cities for the adoption of preapproved accessory dwelling unit (ADU) plans. A preapproved ADU plan is a selection of architectural plans that have been reviewed by county or city code officials and approved for compliance with applicable building codes. When a preapproved ADU plan is submitted for permit approval, the county or city's review of the preapproved plan may not be more than administrative.

The Council must convene a work group for the purpose of simplifying the production of middle housing by recommending a mechanism in the IRC that adopts by reference the provisions for multiplex housing in the IBC. The mechanism must include those sections from the IBC necessary to ensure public health, safety, and general welfare in multiplex housing, and may not reduce any requirements for multiplex housing contained in the IBC.

The Council must convene a second workgroup to recommend modifications and limitations to the IBC that would allow a single exit stairway to serve multifamily residential structures up to six stories above grade plane. The recommendations must include considerations for water supply, the presence of a professional fire department, and any other provisions necessary to ensure public health, safety, and general welfare.

Both work groups must provide their recommendations to the Council in time for the Council to adopt or amend rules or codes as necessary for implementation in the 2024 IBC. The Council must adopt the additions and amendments to rules or codes as necessary by

July 1, 2026.

The Office of Regulatory and Innovation Assistance must contract with an external consultant or entity to develop an optional standard plan set that demonstrates a prescriptive compliance pathway that meets or exceeds all energy code regulations for residential housing subject to the IRC. The standard plan set may be used, but is not required, by local governments and building industries. When developing the standard plan set, the consultant must seek feedback from cities, counties, building industries, and building officials. The standard plan set must be completed by June 30, 2024.

Appropriation: The bill contains a null and void clause requiring specific funding be provided in an omnibus appropriation act.

Fiscal Note: Available. New fiscal note requested on March 7, 2023.

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

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