

---

ENGROSSED SUBSTITUTE HOUSE BILL 1042

---

State of Washington

68th Legislature

2023 Regular Session

**By** House 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)

READ FIRST TIME 01/23/23.

1 AN ACT Relating to the creation of additional housing units in  
2 existing buildings; adding a new section to chapter 35A.21 RCW;  
3 adding a new section to chapter 35.21 RCW; and adding a new section  
4 to chapter 19.27A RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 35A.21  
7 RCW to read as follows:

8 (1)(a) Code cities must adopt or amend by ordinance, and  
9 incorporate into their development regulations, zoning regulations,  
10 and other official controls the requirements of subsection (2) of  
11 this section by July 1, 2024.

12 (b) Beginning July 1, 2024, the requirements of subsection (2) of  
13 this section apply and take effect in any code city that has not  
14 adopted or amended ordinances, regulations, or other official  
15 controls as required under this section and supersede, preempt, and  
16 invalidate any conflicting local development regulations.

17 (2) Through ordinances, development regulations, zoning  
18 regulations, or other official controls as required under subsection  
19 (1) of this section, code cities may not:

20 (a) Impose a restriction on housing unit density that prevents  
21 the addition of housing units constructed entirely within an existing

1 building envelope in a building located within a zone that permits  
2 multifamily housing, provided that generally applicable health and  
3 safety standards, including but not limited to building code  
4 standards and fire and life safety standards, can be met within the  
5 building;

6 (b) Impose parking requirements on the addition of dwelling units  
7 or living units added within an existing building;

8 (c) Impose permitting requirements on the use of an existing  
9 building for residential purposes beyond those requirements generally  
10 applicable to all residential development within the building's zone;

11 (d) Impose design standard requirements, including setbacks, lot  
12 coverage, and floor area ratio requirements, on the use of an  
13 existing building for residential purposes beyond those requirements  
14 generally applicable to all residential development within the  
15 building's zone;

16 (e) Impose exterior design or architectural requirements on the  
17 residential use of an existing building beyond those necessary for  
18 health and safety of the use of the interior of the building, unless  
19 the building is listed on a local historic register through a local  
20 preservation ordinance, the Washington heritage register as described  
21 in RCW 27.34.220, or the national register of historic places as  
22 defined in the national historic preservation act of 1966 (Title 1,  
23 Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now  
24 or hereafter amended;

25 (f) Prohibit the addition of housing units in any specific part  
26 of a building, unless the addition of the units would violate  
27 applicable building codes or health and safety standards;

28 (g) Require a building used for residential purposes to meet the  
29 current energy code solely because of the addition of new dwelling  
30 units within the building;

31 (h) Deny a building permit application for the addition of  
32 housing units to an existing building due to the nonconformity of the  
33 existing structure including, but not limited to, nonconformity  
34 regarding parking, height, setbacks, elevator size for gurney  
35 transport, or modulation, unless the legislative authority of the  
36 code city makes written findings that the nonconformity is causing a  
37 significant detriment to the surrounding area; or

38 (i) Require a transportation concurrency study under RCW  
39 36.70A.070 or an environmental study under chapter 43.21C RCW based  
40 on the addition of residential units within an existing building.

1 (3) Nothing in this section requires a code city to approve a  
2 building permit application for the addition of housing units  
3 constructed entirely within an existing building envelope in a  
4 building located within a zone that permits multifamily housing in  
5 cases in which the building cannot satisfy life safety standards.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 35.21  
7 RCW to read as follows:

8 (1)(a) Cities must adopt or amend by ordinance, and incorporate  
9 into their development regulations, zoning regulations, and other  
10 official controls the requirements of subsection (2) of this section  
11 by July 1, 2024.

12 (b) Beginning July 1, 2024, the requirements of subsection (2) of  
13 this section apply and take effect in any city that has not adopted  
14 or amended ordinances, regulations, or other official controls as  
15 required under this section and supersede, preempt, and invalidate  
16 any conflicting local development regulations.

17 (2) Through ordinances, development regulations, zoning  
18 regulations, or other official controls as required under subsection  
19 (1) of this section, cities may not:

20 (a) Impose a restriction on housing unit density that prevents  
21 the addition of housing units constructed entirely within an existing  
22 building envelope in a building located within a zone that permits  
23 multifamily housing, provided that generally applicable health and  
24 safety standards, including but not limited to building code  
25 standards and fire and life safety standards, can be met within the  
26 building;

27 (b) Impose parking requirements on the addition of dwelling units  
28 or living units added within an existing building;

29 (c) Impose permitting requirements on the use of an existing  
30 building for residential purposes beyond those requirements generally  
31 applicable to all residential development within the building's zone;

32 (d) Impose design standard requirements, including setbacks, lot  
33 coverage, and floor area ratio requirements, on the use of an  
34 existing building for residential purposes beyond those requirements  
35 generally applicable to all residential development within the  
36 building's zone;

37 (e) Impose exterior design or architectural requirements on the  
38 residential use of an existing building beyond those necessary for  
39 health and safety of the use of the interior of the building, unless

1 the building is listed on a local historic register through a local  
2 preservation ordinance, the Washington heritage register as described  
3 in RCW 27.34.220, or the national register of historic places as  
4 defined in the national historic preservation act of 1966 (Title 1,  
5 Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now  
6 or hereafter amended;

7 (f) Prohibit the addition of housing units in any specific part  
8 of a building, unless the addition of the units would violate  
9 applicable building codes or health and safety standards;

10 (g) Require a building used for residential purposes to meet the  
11 current energy code solely because of the addition of new dwelling  
12 units within the building;

13 (h) Deny a building permit application for the addition of  
14 housing units to an existing building due to the nonconformity of an  
15 existing structure including, but not limited to, nonconformity  
16 regarding parking, height, setbacks, elevator size for gurney  
17 transport, or modulation, unless the legislative authority of the  
18 city makes written findings that the nonconformity is causing a  
19 significant detriment to the surrounding area; or

20 (i) Require a transportation concurrency study under RCW  
21 36.70A.070 or an environmental study under chapter 43.21C RCW based  
22 on the addition of residential units within an existing building.

23 (3) Nothing in this section requires a city to approve a building  
24 permit application for the addition of housing units constructed  
25 entirely within an existing building envelope in a building located  
26 within a zone that permits multifamily housing in cases in which the  
27 building cannot satisfy life safety standards.

28 NEW SECTION. **Sec. 3.** A new section is added to chapter 19.27A  
29 RCW to read as follows:

30 By January 1, 2024, the state building code council shall adopt  
31 by rule an amendment to the current energy code that waives the  
32 requirement for an existing building used for residential purposes to  
33 meet the current energy code solely because of the addition of new  
34 dwelling units within the building.

--- END ---