

# HOUSE BILL REPORT

## E2SHB 1167

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**As Passed House:**

March 4, 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:**

**Committee Activity:**

Housing: 1/19/23, 2/2/23 [DPS];

Appropriations: 2/15/23, 2/21/23 [DP2S(w/o sub HOUS)].

**Floor Activity:**

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

**Brief Summary of Engrossed Second Substitute Bill**

- Requires any design review of housing development permit applications to be conducted administratively without a public meeting, with certain exceptions.
- Prohibits a city from imposing any development regulations for middle housing that are more restrictive than those for detached single-family residences, unless otherwise required by state law.
- 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 (Council) to convene a work group to recommend a mechanism in the International Residential Code for adopting by reference provisions for multiplex housing contained in

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*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.*

the International Building Code.

- Directs the Council to convene a work group to recommend modifications and limitations that would allow a single-exit stairway to serve multifamily residential structures up to six stories above grade plane.
- 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.

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## HOUSE COMMITTEE ON HOUSING

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Peterson, Chair; Alvarado, Vice Chair; Leavitt, Vice Chair; Klicker, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Barkis, Bateman, Chopp, Entenman, Hutchins, Low, Reed and Taylor.

**Staff:** Serena Dolly (786-7150).

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Housing. Signed by 23 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg, Chopp, Connors, Couture, Davis, Fitzgibbon, Hansen, Lekanoff, Pollet, Riccelli, Rude, Ryu, Sandlin, Senn, Simmons, Slatter, Springer, Stonier and Tharinger.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Dye and Schmick.

**Minority Report:** Without recommendation. Signed by 6 members: Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Chandler, Harris and Steele.

**Staff:** Jackie Wheeler (786-7125).

### **Background:**

#### Project Permits.

Before developing land, a developer must obtain permits from the local government that

allow the development. These permits can include land use permits, environmental permits, building permits, and others, and are known as project permits. All counties and cities are required to combine the environmental review process with the project permit review process.

The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. The GMA establishes a wide 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 referred to as fully planning under the GMA.

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. In 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.

Fully planning counties and cities must comply with additional project permit processing requirements, including establishing an integrated or consolidated permit process that:

- provides for a written determination of completion to an applicant within 28 days of receipt of the application;
- provides for notice of the application to the public, and to relevant departments and agencies, within 14 days of the determination of completeness;
- provides for 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 for 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.

Some jurisdictions have created design review boards to evaluate projects. The boards may include volunteers with backgrounds in architecture, urban design, and planning. Other jurisdictions rely on staff to conduct an administrative review of designs or employ a hybrid process, in which some project designs are approved administratively, and others are approved by a design review board.

## 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 Engrossed Second Substitute Bill:**

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.

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.

Middle housing is defined as buildings that are compatible in scale, form, and character with single-family homes and contain two or more attached, stacked, or clustered homes, duplexes, triplexes, fourplexes, fiveplexes, sixplexes, cottage housing, stacked flats, townhouses, or courtyard apartments.

Beginning six months after its next comprehensive plan update, a fully planning city or county may only require an administrative review to determine whether a housing development permit application is in compliance with design standards. The administrative design review must be conducted by the planning director or the planning director's designee based solely on objective design and development standards and 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 to recommend 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 work group must provide its recommendations to the Council in time for the Council to adopt or amend rules or codes as necessary for implementation in the 2024 IRC. The Council must adopt the additions and amendments necessary to apply the new mechanism in the IRC by July 1, 2026. Multiplex housing is defined as a building with at least three but no more than six dwelling units in a single structure with common walls and floors and a functional primary street entrance, with no more than three stories above grade plane.

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. The work group must provide its 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. 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.

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. In 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:** None.

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

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

**Staff Summary of Public Testimony (Housing):**

(In support) With the current housing crisis, the state needs to make it easier to build housing. If local jurisdictions are going to invest in transit, they need to invest in housing near transit, too. This is especially important for people with disabilities. Limiting some of the local requirements will make it easier to build without sacrificing environmental and life safety standards. Setbacks significantly reduce the amount of floor space in a building, and stairwells take up space that could be used for living and make it difficult to build on narrow lots. There is no evidence that the changes in the bill would impact fire and life safety, and many countries allow taller residential buildings with single stairways. The bill still requires environmental review as part of the city's comprehensive planning process.

(Opposed) The reduction in life safety standards is very concerning, and the bill removes requirements for two stairways in some residential buildings. Building codes also are used to comply with federal laws, including federal fair housing laws.

**Staff Summary of Public Testimony (Appropriations):**

(In support) This is a good bill that will streamline the process to build a variety of housing options. There is support for the work group to review how to apply residential building codes to multiplex housing. The opportunity for certain buildings to be built with one stairwell will reduce costs and allow for more units to be built in the same space. It is a

balance of efficiency and safety standards. While there is support for the categorical exemption for urban infill development within a quarter mile of a community core location, it should be expanded to half a mile, which is less than 10-minutes walking distance to a park, school, or rapid transit stop.

(Opposed) None.

(Other) There are still improvements to be made to this bill that will provide better direction to the State Building Code Council and allow enough time for the work to be completed.

**Persons Testifying (Housing):** (In support) Representative Davina Duerr, prime sponsor; Alex Hur, Master Builders Association of King and Snohomish Counties; Josie Cummings, Building Industry Association of Washington; Joe Kunzler; Mary Connolly, South Sound Housing Affordability Partners; Mason Thompson, City of Bothell; Bryce Yadon, Futurewise; Scott Bonjukian; and Dan Bertolet, Sightline Institute.

(Opposed) Andy Higgins, Washington Association of Building Officials.

**Persons Testifying (Appropriations):** (In support) Alex Hur, Master Builders Association of King and Snohomish Counties.

(Other) Stoyan Bumbalov, State Building Code Council.

**Persons Signed In To Testify But Not Testifying (Housing):** None.

**Persons Signed In To Testify But Not Testifying (Appropriations):** Briahna Murray, City of Bellevue.