

# HOUSE BILL REPORT

## 2SHB 2071

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### As Amended by the Senate

**Title:** An act relating to residential housing regulations.

**Brief Description:** Concerning residential housing regulations.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Duerr, Bateman, Fitzgibbon, Berry, Reed, Ormsby, Ramel, Pollet and Kloba).

**Brief History:**

**Committee Activity:**

Housing: 1/15/24, 1/18/24 [DPS];

Appropriations: 2/1/24, 2/3/24 [DP2S(w/o sub HOUS)].

**Floor Activity:**

Passed House: 2/12/24, 63-34.

Senate Amended.

Passed Senate: 2/27/24, 36-13.

### Brief Summary of Second Substitute Bill

- Directs the Washington State Building Code Council to convene two technical advisory groups: one to recommend changes needed to apply the Washington State Residential Code to multiplex housing and another to recommend changes needed to the International Building Code to allow smaller dwelling units.
- Requires the Office of Regulatory and Innovation Assistance to contract for the development of an optional standard energy code plan set that meets or exceeds all energy code regulations for residential housing subject to the International Residential Code.
- Requires certain cities and counties to modify setback and gross floor area requirements for retrofits of existing buildings to be used for residential housing and for new residential construction meeting passive house requirements.

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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.*

- Prohibits certain cities and counties from requiring off-street parking for residential projects if tree retention or protection requirements otherwise make a proposed residential development infeasible.

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## HOUSE COMMITTEE ON HOUSING

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Peterson, Chair; Alvarado, Vice Chair; Leavitt, Vice Chair; Barkis, Bateman, Chopp, Entenman, Hutchins, Reed and Taylor.

**Minority Report:** Without recommendation. Signed by 3 members: Representatives Klicker, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Low.

**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 22 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Connors, Assistant Ranking Minority Member; Berg, Callan, Chopp, Davis, Fitzgibbon, Harris, Lekanoff, Pollet, Riccelli, Rude, Ryu, Senn, Simmons, Slatter, Springer, Stonier and Tharinger.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Corry, Ranking Minority Member; Couture, Assistant Ranking Minority Member.

**Minority Report:** Without recommendation. Signed by 5 members: Representatives Chambers, Assistant Ranking Minority Member; Dye, Sandlin, Schmick and Wilcox.

**Staff:** Emily Stephens (786-7157).

### Background:

#### Washington State Building Code.

The Washington 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 State 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.

The IBC currently requires dwelling units to have a minimum of 190 square feet of habitable space and at least one room with no less than 120 square feet of net floor area.

National Healthy Housing Standard.

The National Healthy Housing Standard (Standard) is published by the National Center for Healthy Housing and the American Public Health Association. The Standard recommends minimum performance requirements for housing including: duties of owners and occupants; structure, facilities, plumbing, and space requirements; safety and personal security; lighting and electrical systems; thermal comfort, ventilation, and energy efficiency; moisture control, solid waste, and pest management; and chemical and radiological agents. The Standard recommends that each dwelling unit provide privacy and adequate space for sleeping and living and that every habitable room have a minimum floor area of 70 square feet.

Passive House.

Passive House is a voluntary standard for energy efficiency in buildings, which typically requires little energy for heating or cooling. Certified Passive House projects currently meet the requirements of the State Energy Code.

Development Regulations.

The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. Currently, 28 counties, and the cities within those counties, fully plan under the GMA. The GMA directs fully planning counties and cities to adopt internally consistent comprehensive land use plans. Comprehensive plans must be reviewed and, if necessary, revised every 10 years. Fully planning counties and cities also must adopt development regulations to implement their comprehensive plans. Development regulations include a variety of land use regulations, including zoning and subdivision ordinances, environmental procedures, design review and off-street parking requirements, and bulk, density coverage, and setback limitations.

Limitations on Off-Street Parking Requirements.

The GMA contains limitations on the ability of fully planning counties and cities to

establish minimum residential parking requirements for certain types of housing, including:

- For market rate multifamily housing units located within 0.25 miles of a transit stop that receives frequent transit service, no more than one parking space per bedroom or 0.75 of a parking space per unit may be required.
- For housing units designed for seniors and people with disabilities located within 0.25 miles of a major transit stop, no minimum residential parking limitations may be imposed.
- For accessory dwelling units (ADUs) located within 0.5 miles of a major transit stop, no minimum residential parking requirements may be imposed. For all other ADUs, no more than one or two off-street parking spaces may be required, depending on the size of the lot.
- For middle housing located within 0.5 miles of a major transit stop, no minimum residential parking requirements may be imposed. For all other middle housing, no more than one or two off-street parking spaces may be required, depending on the size of the lot.

### **Summary of Second Substitute Bill:**

#### Washington State Building Code.

The Council must convene two technical advisory groups to recommend changes to the Code. The first technical advisory group must recommend additions or amendments to rules or codes that are necessary to apply the Washington State Residential Code to multiplex housing. The recommendations must include those code changes necessary to ensure public health and safety in multifamily housing under the IRC and must consider life safety systems and accessibility requirements for multiplex housing in the Code.

The second technical advisory group must recommend amendments to the IBC that would allow for a minimum dwelling unit size that is less than the requirements for efficiency dwelling units in the IBC. The technical advisory group must consider aligning the Code sections related to interior environment with the relevant sections of the Standard. When developing the recommendations, the technical advisory group must review the differences between the Code and the Standard and allow experts in public health and fire safety to comment during the process.

Both technical advisory 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 take action to adopt additions and amendments to rules or codes as necessary by November 1, 2026.

The Office of Regulatory Innovation and Assistance (ORIA) must contract with a qualified external consultant or entity to develop a standard energy code plan set demonstrating a prescriptive compliance pathway that will meet or exceed all energy code regulations for residential housing subject to the IRC. The standard energy code plan set may be used by local governments and building industries. In developing the standard energy code 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, 2025.

#### Development Regulations.

Beginning six months after its next periodic comprehensive plan update, a fully planning county, and a city within a fully planning county with a population greater than 6,000, must ensure development regulations, zoning ordinances, and other official controls comply with the following policies:

- For retrofits of existing buildings to be used for residential housing, the portion of exterior wall assemblies that include insulation must be allowed to project up to an additional 8 inches into the setbacks on all sides.
- If a nonconforming building already projects into setbacks, the portion of exterior wall assemblies that include insulation must be allowed to project up to an additional 8 inches into the setbacks on all sides if the building is to be used for residential housing.
- For retrofits of existing buildings to be used for residential housing, gross floor area must be measured from the interior face of the exterior walls, which includes drywall, as typically depicted on the architectural floor plans.

Cities and counties are not prohibited from applying the Code when allowing the required modifications to setbacks and gross floor area and are not required to allow a setback of less than 36 inches between residential dwelling units.

#### Passive House.

Beginning six months after its next periodic comprehensive plan update, a fully planning county, and a city within a fully planning county with a population greater than 6,000, must ensure development regulations, zoning ordinances, and other official controls comply with the following policies:

- For new residential construction meeting passive house requirements: (1) any required setback must be measured to the outside face of the foundation, and the portion of exterior wall assemblies that include insulation must be allowed to project up to 8 inches into setbacks on all sides; and (2) gross floor area must be measured from the interior face of the exterior walls, which includes drywall, as typically depicted on the architectural floor plans.
- For new construction and the retrofit of existing buildings meeting passive house requirements, residential housing must be allowed to exceed the maximum allowable roof height by 8 inches to accommodate additional insulation.

Cities and counties are not prohibited from applying the Code when allowing the required modifications to setbacks, height limits, and gross floor area and are not required to allow a setback of less than 36 inches between residential dwelling units.

Passive house requirements mean the criteria for certification as a passive house by Phius or the International Passive House Institute.

Limitations on Off-Street Parking Requirements.

A fully planning county, and a city within a fully planning county with a population greater than 6,000, may not require off-street parking as a condition of permitting a residential project if compliance with tree retention or protection requirements would otherwise make a proposed residential development or redevelopment infeasible.

**EFFECT OF SENATE AMENDMENT(S):**

The Senate amendment removes the requirement that certain cities and counties must modify: (1) the setback and gross floor area requirements for retrofits of existing buildings that are to be used for residential housing; and (2) the setback, height limit, and gross floor area requirements for new residential construction and retrofit of existing buildings meeting passive house requirements. The Senate amendment removes the prohibition on certain cities and counties requiring off-street parking for residential projects if tree retention or protection requirements otherwise make a proposed residential development infeasible.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

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

(In support) This bill contains a variety of provisions to make building housing more efficient and more cost-effective. Making multifamily housing harder to build and encouraging single-family homes is rooted in racial discrimination. Multiplex housing has not always been covered by the IBC, and it was only changed to make it harder to build multifamily residences. Buildings with three to six units are not structurally very different than buildings with one or two units. Using the IRC for multiplexes does not compromise safety as multiplexes do not need to meet skyscraper standards. The building code is a barrier to middle housing. The building code also dictates how small is too small for a dwelling unit. Minimum dwelling unit sizes are not based on health and safety issues and were arbitrarily established when trying to ban certain types of housing, like rooming houses and single-room occupancies. Passive House is the most energy efficient standard in the world, even before energy generating measures, such as solar panels, are considered. Passive houses are not very much more expensive to build than regular housing, but development regulations make them more difficult to build. Inches matter in construction and affect the number and quality of units. The state needs housing for people and not parking for cars. In some areas, nearly every single-family home is required to be built with a two-car garage. Garages are expensive to build. This bill does not ban off-street parking but instead leaves it to the discretion of builders who build very energy efficient homes.

Developers can choose to add parking where it makes sense and where the market demands.

(Opposed) None.

(Other) Balancing competing interests is a job most appropriate for local governments. Cities and counties generally support the sections related to changing the Code, including moving middle housing under the IRC. The Council has struggled to enact some types of regulations, and the language in the bill should be clarified. New housing of any type should not need modified setback requirements, and the language should clarify that the setback modifications are from the property line, not other buildings. Setback modifications should not be required if they would intrude on neighbors or create health and safety issues. Most households in the state have cars, and cities should be allowed to regulate parking. Rural roads have ditches, and counties need to be able to regulate parking as a safety concern. It would be very difficult to measure floor area from the interior wall, and it makes sense to allow extra area on the outside instead.

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

(In support) The bill would permit the use of the International Residential Code for smaller structures to improve housing stock in the state. The bill would allow multiplexes to be built using residential codes. More homes could be delivered to lower-income families. This will address the housing crisis. Retrofitting, expanding, and updating homes is better than demolishing them. This would reduce construction costs and support sustainable design. The bill would update overly onerous building codes that apply to middle housing.

(Opposed) None.

**Persons Testifying (Housing):** (In support) Representative Davina Duerr, prime sponsor; David Neiman, Neiman Taber Architects; Rob Harrison; Dan Bertolet, Sightline Institute; Ryan Donohue, Habitat for Humanity Seattle—King and Kittitas Counties; Kevin Maas; Alex Hur, Master Builders Association of King and Snohomish Counties; Markus Johnson; Bryce Yadon, Futurewise; Matt Hutchins; and Cary Westerbeck.

(Other) Kyle Moore, City of SeaTac; Carl Schroeder, Association of Washington Cities; Bill Stauffacher, Building Industry Association of Washington; Paul Jewell, Washington State Association of Counties; and Shira Cole, People Advancing Youth Equity and Safety.

**Persons Testifying (Appropriations):** Ryan Donohue, Habitat for Humanity Seattle-King and Kittitas Counties; Ruth Williams; Bill Stauffacher, Building Industry Association of Washington; Bryce Yadon, Futurewise; and Dan Bertolet, Sightline Institute.

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

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