

SENATE BILL REPORT

2SHB 2071

As of February 15, 2024

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

Committee Activity: Local Government, Land Use & Tribal Affairs: 2/15/24.

Brief Summary of Bill

- Requires the State Building Code Council to convene two technical advisory groups to recommend changes to the State Building Code—one to provide recommendations for amendments that are necessary to apply the Washington State Residential Code to multiplex housing, and one to provide recommendations for amendments to the International Building Code that would allow for dwelling units smaller than the efficiency dwelling unit size.
- 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 counties and certain cities to modify the setback, height limit, and gross floor area requirements for retrofits of existing buildings that are to be used for residential housing and for new residential construction and retrofit of existing buildings meeting passive house requirements.
- Prohibits certain cities and counties from requiring off-street parking for residential projects if tree retention or protection requirements otherwise

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.

make a proposed residential development infeasible.

SENATE COMMITTEE ON LOCAL GOVERNMENT, LAND USE & TRIBAL AFFAIRS

Staff: Maggie Douglas (786-7279)

Background: State Building Code. The State Building Code (SBC) provides a set of statewide standards and requirements related to building construction. The SBC is comprised of various international model codes, including building, residential, fire, and plumbing codes (model codes) adopted by reference by the Legislature. The model codes are promulgated by the International Code Council.

The State Energy Code (Energy Code) is part of the SBC, which sets the minimum construction requirements for buildings in the state. The Energy Code establishes minimum energy efficiency requirements for residential and nonresidential buildings.

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

Cities and counties may amend the SBC as applied within their jurisdiction, except that amendments may not be below minimum performance standards, and no amendment affecting single or multifamily residential buildings may be effective until approved by the SBCC.

Efficiency Dwelling Units. Efficiency dwelling units, defined by the SBC, are units that have a minimum of 190 square feet of habitable space. Each dwelling unit must have at least one room greater than 120 square feet of net floor area. Sleeping units or other habitable rooms of the unit must have a net floor area greater than 70 square feet.

Each efficiency dwelling unit must be provided with:

- a separate closet;
- a bathroom with a water closet, lavatory, and bathtub or shower; and
- a kitchen sink, cooking appliance and refrigerator, and each must have a clear working space greater than 30 inches.

Growth Management Act. The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. 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 also directs fully planning jurisdictions to adopt internally consistent comprehensive land use plans. 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. A comprehensive plan must be reviewed and, if necessary, revised every ten years to ensure that it complies with the GMA.

Development Regulations. A city, town, or county may enact ordinances regulating the use of land and zoning certain development and activities within its jurisdiction. Such regulations generally include:

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

A city, town, or county may review public and private projects for their compliance with local design standards, including a project's aesthetic, architectural, or urban design quality and its compatibility with nearby development.

Minimum Residential Parking Requirements. In counties and cities fully planning under the GMA, minimum residential parking requirements mandated by municipal zoning ordinances are subject to certain requirements. Requirements are dependent upon:

- whether the housing units are offered as affordable to very low-income people or extremely low-income people, are specifically for seniors or people with disabilities, or are market rate multifamily housing units; and
- the proximity of the housing units to a transit stop that receives a certain frequency of transit service.

A city that is required or chooses to plan under the GMA may not:

- require off-street parking as a condition of permitting development of middle housing within one-half mile walking distance of a major transit stop;
- require more than one off-street parking space per unit as a condition of permitting development of middle housing on lots smaller than 6000 square feet; and
- require more than two off-street parking spaces per unit as a condition of permitting development of middle housing on lots greater than 6000 square feet.

Cities and counties that are required, or choose, to plan under the GMA are subject to the same off-street parking requirements when permitting the development of accessory dwelling units (ADUs). However, a city may not require the provision of off-street parking for ADUs within one-quarter mile of a major transit stop unless the city has determined the ADU is in an area with a lack of access to street parking capacity, physical space impediments, or other reasons supported by evidence that would make on-street parking

infeasible for the ADU.

These minimum parking standards do not apply:

- if a local government submits to the Department of Commerce (Commerce) an empirical study that clearly demonstrates the application of the parking limitations will be significantly less safe for vehicle drivers or passengers, pedestrians, or bicycles; or
- to portions of cities within a one-mile radius of a commercial airport in Washington with at least 9 million enplanements.

Summary of Bill: State Building Code. The SBCC must convene two technical advisory groups to recommend changes to the SBC. The first group must provide recommendations for additions or amendments to rules or codes that are necessary to apply the Washington State Residential Code to multiplex housing. Recommendations must include:

- code changes necessary to ensure public health and safety in multifamily housing under the International Residential Code; and
- consideration of the life and safety systems and accessibility requirements for multiplex housing.

The second group must provide recommendations for amendments to the International Building Code that would allow for a minimum dwelling unit size that is less than the requirements for an efficiency dwelling unit in the International Building Code. The group must:

- consider aligning the state building code sections related to interior environment with the relevant sections of the national healthy housing standards published by the National Center for Healthy Housing;
- review the differences between the State Building Code and the national healthy housing standard; and
- allow experts in public health and fire safety to comment during the process.

Both technical advisory groups must provide recommendations to the SBCC in time for the SBCC to adopt or amend rules or codes necessary for implementation in the 2024 International Building Code. The SBCC must take action to adopt additions and amendments to necessary rules or codes by July 1, 2026.

The Office of Regulatory Innovation and Assistance must contract with a qualified external consultant or entity to develop a standard plan set demonstrating a prescriptive compliance pathway that will meet or exceed all energy code regulations for residential housing subject to the International Residential Code. The standard plan set may be used 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, 2025.

Development Regulations. For retrofits of existing buildings to be used for residential

housing, a city or county must allow the portion of exterior wall assemblies that include insulation to project up to an additional eight inches into the setbacks on all sides. If a nonconforming building already projects into setbacks, a city or county must allow the portion of exterior wall assemblies that include insulation to project up to an additional eight 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.

For new residential construction meeting passive house requirements any required setback must be measured to the outside face of the foundation, and a city or county must allow the portion of exterior wall assemblies that include insulation to project up to eight inches into setbacks on all sides. 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, a city or county must allow residential housing to exceed the maximum allowable roof height by eight inches to accommodate additional insulation.

Cities and counties are not prohibited from applying the SBC, or required to allow a setback of less than 36 inches between residential units when regulating the retrofits of existing buildings for residential housing or for passive house requirements.

Counties planning under the GMA, and cities within those counties with a population greater than 6000 must adopt or amend by ordinance, incorporate into their development regulations, zoning regulations, and other official controls the provisions related to retrofits of existing buildings and passive house requirements to take effect six months after the jurisdiction's next periodic comprehensive plan update. Any conflicting development regulations are preempted and superseded after this deadline.

Minimum Residential Parking Requirements. A city or county 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.

Definitions. Terms, including passive house requirements and multiplex housing, are defined.

Appropriation: None.

Fiscal Note: Available.

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

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

Staff Summary of Public Testimony: PRO: There is a housing crisis in the state. Last year the Legislature passed the middle housing bill, but without this particular code and work from the State Building Code Council, middle housing will not be built because it is just too expensive. Right now, only single family housing and duplexes are under the residential code, which means sixplexes and below have the same building standards as a twelve story apartment building. This makes it economically infeasible to build. Other pieces of the bill are also aimed at making the construction of middle housing more affordable, like the provision about standard code sets to show a compliance pathway to show architects what is needed to comply with new energy codes. The rest of the bill is addressing things that are making it harder to retrofit existing buildings for residential purposes, like addressing setbacks for new installation or passive house requirements. This bill makes it easier to build high quality, affordable energy efficient homes in Washington. The language about passive houses reflect an important practice for sustainable design methodology used by architects and is supported all across the nation and world.

CON: Fire marshals believe very strongly that the requirement to include fire sprinklers in multiplex housing should not be negotiable. The language in the bill is currently vague and could be interpreted to allow multiplex housing to be built without sprinklers. Sprinklers are important safety features. People have no time to get out of a burning building if there are no sprinklers. The off-street parking language in the bill does not consider the unique circumstances of a community next to the state's largest airport. These communities need minimum parking standards and other bills, like the co-living housing bill, include these parking considerations.

Persons Testifying: PRO: Representative Davina Duerr, Prime Sponsor; Julie Blazek, American Institute of Architects Washington Council; Rob Harrison, Passive House Network, Seattle Chapter; Dan Bertolet, Sightline Institute; MATT HUTCHINS, cast architecture.

CON: Kyle Moore, City of SeaTac, Government Relations; Ryan Burgess, Shoreline Fire Department; Doug Werts, Yakima County Fire Marshal; Timothy Munnis, WA State Association of Fire Marshals; Tracy Moore, Moore Fire Protection.

Persons Signed In To Testify But Not Testifying: No one.