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ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1167

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State of Washington

68th Legislature

2023 Regular Session

**By** House Appropriations (originally sponsored by Representatives Duerr, Low, Walen, Reed, Bateman, Ramel, Fitzgibbon, Taylor, Macri, Gregerson, Wylie, Pollet, Kloba, and Tharinger)

READ FIRST TIME 02/24/23.

1 AN ACT Relating to residential housing regulations; amending RCW  
2 36.70B.020 and 36.70B.120; adding new sections to chapter 36.70A RCW;  
3 adding a new section to chapter 19.27 RCW; and creating new sections.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 36.70A  
6 RCW to read as follows:

7 (1) The department shall develop and administer a grant program  
8 to provide direct financial assistance to counties and cities for the  
9 adoption of preapproved accessory dwelling unit plans.

10 (2) When a preapproved plan is submitted to a county or city  
11 during the process of seeking permit approval for the development of  
12 an accessory dwelling unit, the county's or city's review of the  
13 preapproved plan may not be more than administrative.

14 (3) For the purpose of this section, "preapproved accessory  
15 dwelling unit plans" means a selection of architectural plans for  
16 accessory dwelling units that have been reviewed by county or city  
17 code officials and approved for compliance with applicable building  
18 codes within the county or city.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 19.27  
20 RCW to read as follows:

1 (1) (a) The state building code council shall convene a work group  
2 for the purpose of simplifying the production of middle housing by  
3 recommending a mechanism in the international residential code that  
4 adopts by reference the provisions for multiplex housing in the  
5 international building code. The mechanism must include those  
6 sections from the international building code necessary to ensure  
7 public health, safety, and general welfare in multiplex housing, and  
8 may not reduce any requirements for multiplex housing contained in  
9 the international building code.

10 (b) The work group shall provide its recommendations to the  
11 council in time for the council to adopt or amend rules or codes as  
12 necessary for implementation in the 2024 international residential  
13 code. The council shall take action to adopt additions and amendments  
14 to rules or codes as necessary to apply the new reference mechanism  
15 in the international residential code to multiplex housing by July 1,  
16 2026.

17 (c) For purposes of this subsection, "multiplex housing" means a  
18 building with at least three but no more than six dwelling units in a  
19 single structure with common walls and floors and a functional  
20 primary street entrance, with no more than three stories above grade  
21 plane.

22 (2) (a) The state building code council shall convene a work group  
23 for the purpose of recommending modifications and limitations to the  
24 international building code that would allow a single exit stairway  
25 to serve multifamily residential structures up to six stories above  
26 grade plane. The recommendations must include considerations for  
27 water supply, the presence of a professional fire department, and any  
28 other provisions necessary to ensure public health, safety, and  
29 general welfare.

30 (b) The work group shall provide its recommendations to the  
31 council in time for the council to adopt or amend rules or codes as  
32 necessary for implementation in the 2024 international building code.  
33 The council shall take action to adopt additions and amendments to  
34 rules or codes as necessary by July 1, 2026.

35 NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70A  
36 RCW to read as follows:

37 (1) Cities planning under RCW 36.70A.040 must adopt or amend by  
38 ordinance and incorporate into their development regulations, zoning  
39 regulations, and other official controls the requirements of

1 subsection (3) of this section, to take effect six months after the  
2 jurisdiction's next periodic comprehensive plan update required under  
3 RCW 36.70A.130, within urban growth areas designated according to RCW  
4 36.70A.110.

5 (2) The requirements of subsection (3) of this section:

6 (a) Apply and take effect in any city that has not adopted or  
7 amended ordinances, regulations, or other official controls as  
8 required under this section; and

9 (b) Supersede, preempt, and invalidate any local development  
10 regulations that conflict with this section.

11 (3) Within residential zones that allow for middle housing,  
12 cities shall not require through development regulations any  
13 standards for middle housing that are more restrictive than those  
14 required for detached single-family residences, unless otherwise  
15 required by state law including, but not limited to, shoreline  
16 regulations under chapter 90.58 RCW, building codes under chapter  
17 19.27 RCW, energy codes under chapter 19.27A RCW, electrical codes  
18 under chapter 19.28 RCW, or critical areas protection, but may apply  
19 any objective development regulations that are required for detached  
20 single-family residences, including setback and tree canopy and  
21 retention requirements.

22 (4) Beginning July 1, 2026, cities may not require more than a  
23 single stairway in residential buildings of six or fewer stories if  
24 the conditions in the international building code are met.

25 (5) For the purposes of this section:

26 (a) "Cottage housing" means residential units on a lot with a  
27 common open space that either: (i) Is owned in common; or (ii) has  
28 units owned as condominium units with property owned in common and a  
29 minimum of 20 percent of the lot size as open space.

30 (b) "Courtyard apartments" means up to four attached dwelling  
31 units arranged on two or three sides of a yard or court.

32 (c) "Middle housing" means buildings that are compatible in  
33 scale, form, and character with single-family homes and contain two  
34 or more attached, stacked, or clustered homes, duplexes, triplexes,  
35 fourplexes, fiveplexes, sixplexes, cottage housing, stacked flats,  
36 townhouses, or courtyard apartments.

37 (d) "Stacked flat" means dwelling units in a residential building  
38 of no more than three stories on a residential zoned lot in which  
39 each floor may be separately rented or owned.

1 (e) "Townhouses" means buildings that contain three or more  
2 attached single-family dwelling units that extend from foundation to  
3 roof and that have a yard or public way on not less than two sides.

4 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70A  
5 RCW to read as follows:

6 All cities and counties may adopt development regulations that  
7 create a simple, low cost, expedited permit process for development  
8 of single-family, duplex, triplex, or accessory dwelling housing  
9 units with less than 1,801 square feet per unit for property situated  
10 within cities or urban growth areas in locations designated for  
11 residential housing. This process should make it easy for an  
12 applicant to submit and receive approval for all permits required to  
13 build housing units. The expedited process should lower costs and  
14 simplify the building of housing units tailored to be priced for  
15 extremely low-income, low-income, or moderate-income households.

16 **Sec. 5.** RCW 36.70B.020 and 1995 c 347 s 402 are each amended to  
17 read as follows:

18 Unless the context clearly requires otherwise, the definitions in  
19 this section apply throughout this chapter.

20 (1) "Closed record appeal" means an administrative appeal on the  
21 record to a local government body or officer, including the  
22 legislative body, following an open record hearing on a project  
23 permit application when the appeal is on the record with no or  
24 limited new evidence or information allowed to be submitted and only  
25 appeal argument allowed.

26 (2) "Local government" means a county, city, or town.

27 (3) "Open record hearing" means a hearing, conducted by a single  
28 hearing body or officer authorized by the local government to conduct  
29 such hearings, that creates the local government's record through  
30 testimony and submission of evidence and information, under  
31 procedures prescribed by the local government by ordinance or  
32 resolution. An open record hearing may be held prior to a local  
33 government's decision on a project permit to be known as an "open  
34 record predecision hearing." An open record hearing may be held on an  
35 appeal, to be known as an "open record appeal hearing," if no open  
36 record predecision hearing has been held on the project permit.

37 (4) "Project permit" or "project permit application" means any  
38 land use or environmental permit or license required from a local

1 government for a project action, including but not limited to  
2 building permits, subdivisions, binding site plans, planned unit  
3 developments, conditional uses, shoreline substantial development  
4 permits, site plan review, permits or approvals required by critical  
5 area ordinances, site-specific rezones authorized by a comprehensive  
6 plan or subarea plan, but excluding the adoption or amendment of a  
7 comprehensive plan, subarea plan, or development regulations except  
8 as otherwise specifically included in this subsection.

9 (5) "Public meeting" means an informal meeting, hearing,  
10 workshop, or other public gathering of people to obtain comments from  
11 the public or other agencies on a proposed project permit prior to  
12 the local government's decision. A public meeting may include, but is  
13 not limited to, (~~a design review or~~) an architectural control board  
14 meeting, a special review district or community council meeting, or a  
15 scoping meeting on a draft environmental impact statement. A public  
16 meeting does not include an open record hearing. The proceedings at a  
17 public meeting may be recorded and a report or recommendation may be  
18 included in the local government's project permit application file.

19 **Sec. 6.** RCW 36.70B.120 and 1995 c 347 s 416 are each amended to  
20 read as follows:

21 (1) Each local government planning under RCW 36.70A.040 shall  
22 establish a permit review process that provides for the integrated  
23 and consolidated review and decision on two or more project permits  
24 relating to a proposed project action, including a single application  
25 review and approval process covering all project permits requested by  
26 an applicant for all or part of a project action and a designated  
27 permit coordinator. If an applicant elects the consolidated permit  
28 review process, the determination of completeness, notice of  
29 application, and notice of final decision must include all project  
30 permits being reviewed through the consolidated permit review  
31 process.

32 (2) Consolidated permit review may provide different procedures  
33 for different categories of project permits, but if a project action  
34 requires project permits from more than one category, the local  
35 government shall provide for consolidated permit review with a single  
36 open record hearing and no more than one closed record appeal as  
37 provided in RCW 36.70B.060. Each local government shall determine  
38 which project permits are subject to an open record hearing and a

1 closed record appeal. Examples of categories of project permits  
2 include but are not limited to:

3 (a) Proposals that are categorically exempt from chapter 43.21C  
4 RCW, such as construction permits, that do not require environmental  
5 review or public notice;

6 (b) Permits that require environmental review, but no open record  
7 predecision hearing; and

8 (c) Permits that require a threshold determination and an open  
9 record predecision hearing and may provide for a closed record appeal  
10 to a hearing body or officer or to the local government legislative  
11 body.

12 (3) A local government may provide by ordinance or resolution for  
13 the same or a different decision maker or hearing body or officer for  
14 different categories of project permits. In the case of consolidated  
15 project permit review, the local government shall specify which  
16 decision makers shall make the decision or recommendation, conduct  
17 the hearing, or decide the appeal to ensure that consolidated permit  
18 review occurs as provided in this section. The consolidated permit  
19 review may combine an open record predecision hearing on one or more  
20 permits with an open record appeal hearing on other permits. In such  
21 cases, the local government by ordinance or resolution shall specify  
22 which project permits, if any, shall be subject to a closed record  
23 appeal.

24 (4) (a) When reviewing a housing development permit application, a  
25 local government planning under RCW 36.70A.040 may only require  
26 administrative design review to determine compliance with any  
27 applicable design standards.

28 (b) For the purposes of this subsection (4):

29 (i) "Administrative design review" means a development permit  
30 process whereby an application is reviewed, approved, or denied by  
31 the planning director or the planning director's designee based  
32 solely on objective design and development standards without a public  
33 meeting or hearing, unless such review is otherwise required by state  
34 or federal law, or the structure is a designated landmark or historic  
35 district established under a local preservation ordinance.

36 (ii) "Housing development" means a proposed or existing structure  
37 that is used as a home, residence, or place to sleep by one or more  
38 persons including, but not limited to, single-family residences,  
39 manufactured homes, multifamily housing, group homes, and foster care  
40 facilities.

1       (5) A local government planning under RCW 36.70A.040 must comply  
2 with the requirements of subsection (4) of this section beginning six  
3 months after its next periodic comprehensive plan update required  
4 under RCW 36.70A.130.

5       NEW SECTION.   **Sec. 7.**   The office of regulatory innovation and  
6 assistance shall contract with a qualified external consultant or  
7 entity to develop a standard plan set demonstrating a prescriptive  
8 compliance pathway that will meet or exceed all energy code  
9 regulations for residential housing in the state subject to the  
10 international residential code. The standard plan set may be used,  
11 but is not required, by local governments and building industries. In  
12 developing the standard plan set, the consultant shall, at a minimum,  
13 seek feedback from cities, counties, building industries, and  
14 building officials. The standard plan set must be completed by June  
15 30, 2024.

16       NEW SECTION.   **Sec. 8.**   If specific funding for the purposes of  
17 this act, referencing this act by bill or chapter number, is not  
18 provided by June 30, 2023, in the omnibus appropriations act, this  
19 act is null and void.

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