

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1042

Chapter 285, Laws of 2023

68th Legislature
2023 Regular Session

USE OF EXISTING BUILDINGS FOR RESIDENTIAL PURPOSES

EFFECTIVE DATE: July 23, 2023

Passed by the House April 14, 2023
Yeas 96 Nays 0

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate April 5, 2023
Yeas 45 Nays 3

DENNY HECK

President of the Senate

Approved May 4, 2023 3:07 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1042** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 5, 2023

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1042

AS AMENDED BY THE SENATE

Passed Legislature - 2023 Regular Session

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; amending RCW 43.21C.450; adding a new section to
3 chapter 35A.21 RCW; adding a new section to chapter 35.21 RCW; and
4 adding a new section 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 for buildings that are zoned for commercial or mixed use
12 no later than six months after its next periodic comprehensive plan
13 update required under RCW 36.70A.130.

14 (b) The requirements of subsection (2) of this section apply and
15 take effect in any code city that has not adopted or amended
16 ordinances, regulations, or other official controls as required under
17 this section by the timeline in (a) of this subsection and supersede,
18 preempt, and invalidate any conflicting local development
19 regulations.

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

4 (a) Impose a restriction on housing unit density that prevents
5 the addition of housing units at a density up to 50 percent more than
6 what is allowed in the underlying zone if constructed entirely within
7 an existing building envelope in a building located within a zone
8 that permits multifamily housing, provided that generally applicable
9 health and safety standards, including but not limited to building
10 code standards and fire and life safety standards, can be met within
11 the building;

12 (b) Impose parking requirements on the addition of dwelling units
13 or living units added within an existing building, however, cities
14 may require the retention of existing parking that is required to
15 satisfy existing residential parking requirements under local laws
16 and for nonresidential uses that remain after the new units are
17 added;

18 (c) With the exception of emergency housing and transitional
19 housing uses, impose permitting requirements on the use of an
20 existing building for residential purposes beyond those requirements
21 generally applicable to all residential development within the
22 building's zone;

23 (d) Impose design standard requirements, including setbacks, lot
24 coverage, and floor area ratio requirements, on the use of an
25 existing building for residential purposes beyond those requirements
26 generally applicable to all residential development within the
27 building's zone;

28 (e) Impose exterior design or architectural requirements on the
29 residential use of an existing building beyond those necessary for
30 health and safety of the use of the interior of the building or to
31 preserve character-defining streetscapes, unless the building is a
32 designated landmark or is within a historic district established
33 through a local preservation ordinance;

34 (f) Prohibit the addition of housing units in any specific part
35 of a building except ground floor commercial or retail that is along
36 a major pedestrian corridor as defined by the code city, unless the
37 addition of the units would violate applicable building codes or
38 health and safety standards;

39 (g) Require unchanged portions of an existing building used for
40 residential purposes to meet the current energy code solely because

1 of the addition of new dwelling units within the building, however,
2 if any portion of an existing building is converted to new dwelling
3 units, each of those new units must meet the requirements of the
4 current energy code;

5 (h) Deny a building permit application for the addition of
6 housing units within an existing building due to nonconformity
7 regarding parking, height, setbacks, elevator size for gurney
8 transport, or modulation, unless the code city official with
9 decision-making authority makes written findings that the
10 nonconformity is causing a significant detriment to the surrounding
11 area; or

12 (i) Require a transportation concurrency study under RCW
13 36.70A.070 or an environmental study under chapter 43.21C RCW based
14 on the addition of residential units within an existing building.

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

20 (4) For the purpose of this section, "existing building" means a
21 building that received a certificate of occupancy at least three
22 years prior to the permit application to add housing units.

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

25 (1)(a) Cities must adopt or amend by ordinance, and incorporate
26 into their development regulations, zoning regulations, and other
27 official controls the requirements of subsection (2) of this section
28 for buildings that are zoned for commercial or mixed use no later
29 than six months after its next periodic comprehensive plan update
30 required under RCW 36.70A.130.

31 (b) The requirements of subsection (2) of this section apply and
32 take effect in any city that has not adopted or amended ordinances,
33 regulations, or other official controls as required under this
34 section by the timeline in (a) of this subsection and supersede,
35 preempt, and invalidate any conflicting local development
36 regulations.

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

1 (a) Impose a restriction on housing unit density that prevents
2 the addition of housing units at a density up to 50 percent more than
3 what is allowed in the underlying zone if constructed entirely within
4 an existing building envelope in a building located within a zone
5 that permits multifamily housing, provided that generally applicable
6 health and safety standards, including but not limited to building
7 code standards and fire and life safety standards, can be met within
8 the building;

9 (b) Impose parking requirements on the addition of dwelling units
10 or living units added within an existing building, however, cities
11 may require the retention of existing parking that is required to
12 satisfy existing residential parking requirements under local laws
13 and for nonresidential uses that remain after the new units are
14 added;

15 (c) With the exception of emergency housing and transitional
16 housing uses, impose permitting requirements on the use of an
17 existing building for residential purposes beyond those requirements
18 generally applicable to all residential development within the
19 building's zone;

20 (d) Impose design standard requirements, including setbacks, lot
21 coverage, and floor area ratio requirements, on the use of an
22 existing building for residential purposes beyond those requirements
23 generally applicable to all residential development within the
24 building's zone;

25 (e) Impose exterior design or architectural requirements on the
26 residential use of an existing building beyond those necessary for
27 health and safety of the use of the interior of the building or to
28 preserve character-defining streetscapes, unless the building is a
29 designated landmark or is within a historic district established
30 through a local preservation ordinance;

31 (f) Prohibit the addition of housing units in any specific part
32 of a building except ground floor commercial or retail that is along
33 a major pedestrian corridor as defined by each city, unless the
34 addition of the units would violate applicable building codes or
35 health and safety standards;

36 (g) Require unchanged portions of an existing building used for
37 residential purposes to meet the current energy code solely because
38 of the addition of new dwelling units within the building, however,
39 if any portion of an existing building is converted to new dwelling

1 units, each of those new units must meet the requirements of the
2 current energy code;

3 (h) Deny a building permit application for the addition of
4 housing units within an existing building due to nonconformity
5 regarding parking, height, setbacks, elevator size for gurney
6 transport, or modulation, unless the city official with decision-
7 making authority makes written findings that the nonconformity is
8 causing a significant detriment to the surrounding area; or

9 (i) Require a transportation concurrency study under RCW
10 36.70A.070 or an environmental study under chapter 43.21C RCW based
11 on the addition of residential units within an existing building.

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

17 (4) For the purpose of this section, "existing building" means a
18 building that received a certificate of occupancy at least three
19 years prior to the permit application to add housing units.

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

22 By January 1, 2024, the state building code council shall adopt
23 by rule an amendment to the current energy code that waives the
24 requirement for unchanged portions of an existing building used for
25 residential purposes to meet the current energy code solely because
26 of the addition of new dwelling units within the building. New
27 dwelling units created within the existing building must meet the
28 requirements of the current energy code.

29 **Sec. 4.** RCW 43.21C.450 and 2012 1st sp.s. c 1 s 307 are each
30 amended to read as follows:

31 The following nonproject actions are categorically exempt from
32 the requirements of this chapter:

33 (1) Amendments to development regulations that are required to
34 ensure consistency with an adopted comprehensive plan pursuant to RCW
35 36.70A.040, where the comprehensive plan was previously subjected to
36 environmental review pursuant to this chapter and the impacts
37 associated with the proposed regulation were specifically addressed
38 in the prior environmental review;

1 (2) Amendments to development regulations that are required to
2 ensure consistency with a shoreline master program approved pursuant
3 to RCW 90.58.090, where the shoreline master program was previously
4 subjected to environmental review pursuant to this chapter and the
5 impacts associated with the proposed regulation were specifically
6 addressed in the prior environmental review;

7 (3) Amendments to development regulations that, upon
8 implementation of a project action, will provide increased
9 environmental protection, limited to the following:

10 (a) Increased protections for critical areas, such as enhanced
11 buffers or setbacks;

12 (b) Increased vegetation retention or decreased impervious
13 surface areas in shoreline jurisdiction; and

14 (c) Increased vegetation retention or decreased impervious
15 surface areas in critical areas;

16 (4) Amendments to technical codes adopted by a county, city, or
17 town to ensure consistency with minimum standards contained in state
18 law, including the following:

19 (a) Building codes required by chapter 19.27 RCW;

20 (b) Energy codes required by chapter 19.27A RCW; and

21 (c) Electrical codes required by chapter 19.28 RCW.

22 (5) Adoption or amendment of ordinances, development regulations,
23 zoning regulations, and other official controls necessary to comply
24 with sections 1 and 2 of this act.

Passed by the House April 14, 2023.

Passed by the Senate April 5, 2023.

Approved by the Governor May 4, 2023.

Filed in Office of Secretary of State May 5, 2023.

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