

# Attachment A

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE HOUSE BILL 1042**

68th Legislature  
2023 Regular Session

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

---

**Speaker of the House of  
Representatives**

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

---

**President of the Senate**

Approved

---

**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.

---

**Chief Clerk**

FILED

**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.

--- END ---