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January 24, 2023

Washington Legislature Considers Land Use Law Changes To Facilitate Affordable Housing Development



The Washington State Legislature kicked off its 2023 Legislative Session on Monday, January 9, 2023. A big focus this year is on affordable housing initiatives. This Update summarizes five significant affordable housing bills that were introduced this session and have already advanced to public hearing.

House Bill 1026

Eliminating design review boards for housing development permit applications and limiting review to administrative reviews.

Many local jurisdictions across Washington state require design review as part of the permit review process for development projects, including multifamily projects. Some jurisdictions have established external design review boards, made up of elected officials or volunteers, to evaluate the compliance of a development permit application with local design and aesthetic standards.

Under this bill, planning jurisdictions would be required to switch to an *administrative design review* process. Administrative reviews would be conducted solely by local government employees without a public meeting or review by an external board, at least as applied to housing development applications.

[HB 1026](#) is currently in committee. Public hearings took place on January 10 and 19, 2023.

House Bill 1042

Eliminating restrictions on new housing units constructed within existing buildings.

Under HB 1042, cities would not be able to impose certain restrictions on new housing units if housing were constructed within an existing building (in areas already zoned for multifamily housing). The goal would be to allow underutilized or vacant buildings in multifamily-zoned areas to be more easily converted to housing. Under this bill, a city would no longer be able to impose the following on new housing proposed in existing buildings in areas zoned for multifamily uses:

- Restrictions on housing unit density that would prevent additional units from being added in the building.
- Parking requirements.
- Permitting requirements beyond those generally applicable to all residential development within the building's zone.
- Design standard requirements, including setbacks, lot coverage, and floor area ratio requirements beyond those requirements generally applicable to all residential development within the building's zone.
- Exterior design or architectural requirements beyond those necessary for health and safe use of the interior of the building.
- Prohibitions on the addition of housing units in any specific part of a building.
- Current energy code requirements solely due to the addition of housing units.
- A transportation concurrency or State Environmental Policy Act (SEPA) study.

Additionally, a city could not deny a building permit application for new housing units in an existing building due to the nonconformity of the existing structure (including parking, height, and setbacks).

[HB 1042](#) is currently in committee, and public hearings took place on January 10 and 19, 2023. It was clear at the January 10 hearing that there is some concern over the extent of the exemptions and the ability of local jurisdictions to impose local building, permitting, safety, and health requirements. Therefore, the text of this bill will likely evolve.

House Bill 1046

Raising area median income limits for public housing authority financed, low-income development.

This bill would change a public housing authority's ability to partner with private developers to finance low-income housing development. Under [RCW 35.82.070](#), housing authorities can finance low-income housing development by partnering with a for-profit entity, but the low-income housing portion of the development must be rented to households whose incomes do not exceed 50% of the area median income (AMI). For partnerships with governmental entities, the low-income housing portion of the development must be rented to households whose incomes do not exceed 60% of the AMI. Advocates of the bill argue that rising rents and inflation have made the 50% and 60% figures infeasible for both housing authorities and developers. This bill would increase those percentages considerably with the following changes:

- From 50% to 80% for developments owned by for-profit entities.
- From 60% to 80% for developments owned by a governmental entity or nonprofit, either directly or through a partnership.

[HB 1046](#) is currently in committee. Public hearings took place on January 10 and 16, 2023.

House Bill 1111

Creating housing benefit districts.

This bill would authorize cities to create "housing benefit districts" within their city boundaries to boost the acquisition and development of low-income and moderate-income housing around major transit stops, like light rail stations. At the same time, the housing finance commission would administer a housing benefit district grant program to award grants to participating cities to establish and implement such districts. If passed, cities would be required to facilitate a mix of 33% affordable housing to extremely low-income or very-low-income households and a maximum of 33% for market-rate housing.

[HB 1111](#) is currently in committee. The public hearing took place on January 19, 2023.

Senate Bill 5118

Modifying the multifamily property tax exemption.

SB 5118 would modify the multifamily property tax exemption (MFTE) to allow the value of new housing construction, conversion of housing, and rehabilitation of housing to qualify as exempt from ad valorem property taxation for 99 successive years (instead of 12 years under existing law), where developers or owners commit to renting or selling at least 35% of the multifamily housing *square footage* (instead of units, under existing law) as affordable housing. The exemptions include the value of new affordable housing constructed, the rehabilitation of existing buildings, and *the conversion of nonresidential buildings* to multiple-unit housing.

[SB 5118](#) is currently in committee. The public hearing took place on January 19, 2023.

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