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**SUBSTITUTE HOUSE BILL 2474**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Peterson, Alvarado, Gregerson, Berry, Leavitt, Fosse, Macri, Nance, Chopp, and Bateman)

AN ACT Relating to compliance with siting requirements for transitional housing, permanent supportive housing, indoor emergency shelters, and indoor emergency housing; adding new sections to chapter 35.21 RCW; adding new sections to chapter 35A.21 RCW; and creating a new section.

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

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

(1)(a) Before adopting any zoning ordinance and related development regulations addressing the reasonable occupancy, spacing, and intensity of use requirements for permanent supportive housing, transitional housing, indoor emergency housing, and indoor emergency shelters, a city must submit the ordinance and regulations to the department of commerce for a determination of compliance with RCW 35.21.683, 36.130.020, and, if applicable, 36.70A.070(2)(c).

(b) Any zoning ordinance or related development regulations submitted by a city may not take effect until the department issues a final decision determining that the ordinance and regulations comply with RCW 35.21.683, 36.130.020, and, if applicable, 36.70A.070(2)(c).

(c) The adoption of any zoning ordinance and related development regulations by a city subject to the requirements in this section may not be appealed until the department issues a final decision on compliance. Any appeal of the department's final decision must comply with subsection (6) of this section.

(2) Notice of intent to apply. (a) Not less than 120 days prior to applying for a determination of compliance, the city must notify the department of commerce in writing that it intends to apply.

(b) The department shall promptly publish notice in the Washington state register that a city has notified the department of its intent to apply for a determination of compliance, and the department shall post a copy of the notice on the department's website.

(c) The department shall review the proposed zoning ordinance and development regulations prior to final adoption by the city and advise the city of the actions necessary to receive a determination of compliance.

(d) The department may consult with other relevant state agencies in making its determination.

(3) Application procedures. (a) After taking final action to adopt any zoning ordinance and development regulations, a city subject to the requirements in this section must apply for a determination of compliance. A city must submit its application to the department of commerce within 10 days of taking final action.

(b) An application must include, at a minimum, the following:

(i) A cover letter from the legislative authority requesting a determination of compliance;

(ii) A copy of the adopted ordinance or resolution taking the legislative action or actions required to adopt the ordinance and development regulations;

(iii) A statement explaining how the adopted ordinance and development regulations comply with RCW 35.21.683; and

(iv) A copy of the record developed by the city at any public meetings or public hearings at which action was taken on zoning ordinance and development regulations.

(c) For purposes of this subsection, "action" and "meeting" have the same meanings as in RCW 42.30.020.

(4) Review procedures. (a) Within 120 days of the date of receipt of an application, the department of commerce shall strive to issue a final decision determining whether the ordinance and development regulations comply with RCW 35.21.683, 36.130.020, and, if applicable, 36.70A.070(2)(c).

(b) The department must issue its final decision in the form of a written statement, including findings of fact and conclusions, and noting the date of the issuance of its decision. The department's issued decision must conspicuously and plainly state that it is the department's final decision.

(c) The department shall promptly publish its final decision as follows:

(i) Notify the city in writing of its decision;

(ii) Publish a notice of action in the Washington state register;

(iii) Post a notice of its decision on the agency website; and

(iv) Notify other relevant state agencies regarding the decision.

(5)(a) The department of commerce shall issue a determination of compliance unless it determines that the zoning ordinance and development regulations are not consistent with RCW 35.21.683, 36.130.020, and, if applicable, 36.70A.070(2)(c).

(b) Within six months of the effective date of this section, the department shall publish a model ordinance that jurisdictions must meet in order to comply with this section.

(6) The department of commerce's final decision may be appealed according to the following provisions:

(a) The department's final decision may be appealed to the growth management hearings board by filing a petition as provided in RCW 36.70A.290.

(b) A decision of the growth management hearings board concerning an appeal of the department's final decision must be based solely on whether the zoning ordinance and related development regulations comply with RCW 35.21.683, 36.130.020, and, if applicable, 36.70A.070(2)(c).

(7)(a) The department shall publish and regularly update a local government compliance list that includes, at a minimum, the following information for each city subject to the requirements in this section:

(i) Whether the city has applied for a determination of compliance and, if so, the date of the application; and

(ii) Whether the department has issued a final decision on compliance for the city and, if so, the nature of the decision, the date that the decision was issued, and the status or outcome of any appeals.

(b) The local government compliance list must be made publicly available on the department's website.

(8) A city subject to the requirements in this section may not deny a project permit application for permanent supportive housing, transitional housing, indoor emergency housing, or indoor emergency shelters, or approve a project permit application for permanent supportive housing, transitional housing, indoor emergency housing, or indoor emergency shelters with conditions or restrictions that have a substantial adverse impact on the viability of the development, unless at least one of the following conditions is met:

(a) The city has received a final decision from the department of commerce or a court of competent jurisdiction determining that its zoning ordinance and development regulations comply with RCW 35.21.683, 36.130.020, and, if applicable, 36.70A.070(2)(c);

(b) The denial of the permanent supportive housing, transitional housing, indoor emergency housing, or indoor emergency shelters, or the approval of the permanent supportive housing, transitional housing, indoor emergency housing, or indoor emergency shelters with conditions or restrictions that have a substantial adverse impact on the viability of the development, is required in order to comply with specific state or federal law;

(c) The permanent supportive housing, transitional housing, indoor emergency housing, or indoor emergency shelters is located in a critical area, critical area buffer, or in an area where residential uses are not allowed by the applicable shoreline master program;

(d) The permanent supportive housing, transitional housing, indoor emergency housing, or indoor emergency shelters development or proposed development site is located in an area where the local jurisdiction's zoning ordinance and, if applicable, comprehensive plan does not permit hotels and, in the case of permanent supportive housing or transitional housing, residential dwelling units; or

(e) The city has adopted an impact fee exemption for low-income housing as authorized by RCW 82.02.060 and the conditions for approval of the permanent supportive housing, transitional housing, indoor emergency housing, or indoor emergency shelters were adopted by ordinance prior to the date a complete application was submitted for land use or building permits for the housing or shelter development.

(9) The department of commerce may adopt any rules necessary to implement this section.

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

(1) Before issuing a final decision on a project permit application for permanent supportive housing, transitional housing, indoor emergency housing, or indoor emergency shelters, a city must offer to participate in a dispute resolution process with the project applicant.

(2) If dispute resolution is unsuccessful or the city issues a final decision on the project permit application, the city must submit the project permit application and any related documents, including a statement of the reason for the denial or rescission, to the department of commerce for review.

(3) If the department of commerce finds that the final decision on the project permit application violates RCW 35.21.683, 36.130.020, or, if applicable, 36.70A.070(2)(c), the department may affirm or reverse the final decision and return it to the city for modification or further proceedings.

(4) The final decision of the department of commerce under this section may be appealed as a land use decision under chapter 36.70C RCW by the city, the applicant, or any other person with standing under RCW 36.70C.060.

(5) If a city fails to issue a project permit application within 30 days of a determination of noncompliance by the department of commerce, the department shall notify the state treasurer. Upon notification, the state treasurer shall withhold the following revenues to which a city is entitled to: The motor vehicle fuel tax, as provided in chapter 82.38 RCW; the transportation improvement account, as provided in RCW 47.26.084; the rural arterial trust account, as provided in RCW 36.79.150; the sales and use tax, as provided in chapter 82.14 RCW; the liquor profit tax, as provided in RCW 66.08.190; and the liquor excise tax, as provided in RCW 82.08.170. The state treasurer shall resume distributions of withheld revenues when the city issues the project permit application.

(6) An applicant submitting a project permit application for permanent supportive housing, transitional housing, indoor emergency housing, or indoor emergency shelters may submit a copy of the project permit application to the department of commerce. An applicant also may request a review of any denial, rescission, or conditions for approval by a city.

(7) The department of commerce may adopt any rules necessary to implement this section.

NEW SECTION. **Sec.**  A new section is added to chapter 35A.21 RCW to read as follows:

(1)(a) Before adopting any zoning ordinance and related development regulations addressing the reasonable occupancy, spacing, and intensity of use requirements for permanent supportive housing, transitional housing, indoor emergency housing, and indoor emergency shelters, a city must submit the ordinance and regulations to the department of commerce for a determination of compliance with RCW 35A.21.430, 36.130.020, and, if applicable, 36.70A.070(2)(c).

(b) Any zoning ordinance or related development regulations submitted by a city may not take effect until the department issues a final decision determining that the ordinance and regulations comply with RCW 35A.21.430, 36.130.020, and, if applicable, 36.70A.070(2)(c).

(c) The adoption of any zoning ordinance and related development regulations by a city subject to the requirements in this section may not be appealed until the department issues a final decision on compliance. Any appeal of the department's final decision must comply with subsection (6) of this section.

(2) Notice of intent to apply. (a) Not less than 120 days prior to applying for a determination of compliance, the city must notify the department of commerce in writing that it intends to apply.

(b) The department shall promptly publish notice in the Washington state register that a city has notified the department of its intent to apply for a determination of compliance, and the department shall post a copy of the notice on the department's website.

(c) The department shall review the proposed zoning ordinance and development regulations prior to final adoption by the city and advise the city of the actions necessary to receive a determination of compliance.

(d) The department may consult with other relevant state agencies in making its determination.

(3) Application procedures. (a) After taking final action to adopt any zoning ordinance and development regulations, a city subject to the requirements in this section must apply for a determination of compliance. A city must submit its application to the department of commerce within 10 days of taking final action.

(b) An application must include, at a minimum, the following:

(i) A cover letter from the legislative authority requesting a determination of compliance;

(ii) A copy of the adopted ordinance or resolution taking the legislative action or actions required to adopt the ordinance and development regulations;

(iii) A statement explaining how the adopted ordinance and development regulations comply with RCW 35A.21.430; and

(iv) A copy of the record developed by the city at any public meetings or public hearings at which action was taken on zoning ordinance and development regulations.

(c) For purposes of this subsection, "action" and "meeting" have the same meanings as in RCW 42.30.020.

(4) Review procedures. (a) Within 120 days of the date of receipt of an application, the department of commerce shall strive to issue a final decision determining whether the ordinance and development regulations comply with RCW 35A.21.430, 36.130.020, and, if applicable, 36.70A.070(2)(c).

(b) The department must issue its final decision in the form of a written statement, including findings of fact and conclusions, and noting the date of the issuance of its decision. The department's issued decision must conspicuously and plainly state that it is the department's final decision.

(c) The department shall promptly publish its final decision as follows:

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(i) Whether the city has applied for a determination of compliance and, if so, the date of the application; and

(ii) Whether the department has issued a final decision on compliance for the city and, if so, the nature of the decision, the date that the decision was issued, and the status or outcome of any appeals.

(b) The local government compliance list must be made publicly available on the department's website.

(8) A city subject to the requirements in this section may not deny a project permit application for permanent supportive housing, transitional housing, indoor emergency housing, or indoor emergency shelters, or approve a project permit application for permanent supportive housing, transitional housing, indoor emergency housing, or indoor emergency shelters with conditions or restrictions that have a substantial adverse impact on the viability of the development, unless at least one of the following conditions is met:

(a) The city has received a final decision from the department of commerce or a court of competent jurisdiction determining that its zoning ordinance and development regulations comply with RCW 35A.21.430, 36.130.020, and, if applicable, 36.70A.070(2)(c);

(b) The denial of the permanent supportive housing, transitional housing, indoor emergency housing, or indoor emergency shelters, or the approval of the permanent supportive housing, transitional housing, indoor emergency housing, or indoor emergency shelters with conditions or restrictions that have a substantial adverse impact on the viability of the development, is required in order to comply with specific state or federal law;

(c) The permanent supportive housing, transitional housing, indoor emergency housing, or indoor emergency shelters is located in a critical area, critical area buffer, or in an area where residential uses are not allowed by the applicable shoreline master program;

(d) The permanent supportive housing, transitional housing, indoor emergency housing, or indoor emergency shelters development or proposed development site is located in an area where the local jurisdiction's zoning ordinance and, if applicable, comprehensive plan does not permit hotels and, in the case of permanent supportive housing or transitional housing, residential dwelling units; or

(e) The city has adopted an impact fee exemption for low-income housing as authorized by RCW 82.02.060 and the conditions for approval of the permanent supportive housing, transitional housing, indoor emergency housing, or indoor emergency shelters were adopted by ordinance prior to the date a complete application was submitted for land use or building permits for the housing or shelter development.

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(2) If dispute resolution is unsuccessful or the city issues a final decision on the project permit application, the city must submit the project permit application and any related documents, including a statement of the reason for the denial or rescission, to the department of commerce for review.

(3) If the department of commerce finds that the final decision on the project permit application violates RCW 35A.21.430, 36.130.020, or, if applicable, 36.70A.070(2)(c), the department may affirm or reverse the final decision and return it to the city for modification or further proceedings.

(4) The final decision of the department of commerce under this section may be appealed as a land use decision under chapter 36.70C RCW by the city, the applicant, or any other person with standing under RCW 36.70C.060.

(5) If a city fails to issue a project permit application within 30 days of a determination of noncompliance by the department of commerce, the department shall notify the state treasurer. Upon notification, the state treasurer shall withhold the following revenues to which a city is entitled to: The motor vehicle fuel tax, as provided in chapter 82.38 RCW; the transportation improvement account, as provided in RCW 47.26.084; the rural arterial trust account, as provided in RCW 36.79.150; the sales and use tax, as provided in chapter 82.14 RCW; the liquor profit tax, as provided in RCW 66.08.190; and the liquor excise tax, as provided in RCW 82.08.170. The state treasurer shall resume distributions of withheld revenues when the city issues the project permit application.

(6) An applicant submitting a project permit application for permanent supportive housing, transitional housing, indoor emergency housing, or indoor emergency shelters may submit a copy of the project permit application to the department of commerce. An applicant also may request a review of any denial, rescission, or conditions for approval by a city.

(7) The department of commerce may adopt any rules necessary to implement this section.

NEW SECTION. **Sec.**  If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2024, in the omnibus appropriations act, this act is null and void.

**--- END ---**