H-0532.3

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**HOUSE BILL 1123**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Representatives Blake and Buys

AN ACT Relating to regulation of the minimum dimensions of habitable spaces in single-family residential buildings; amending RCW 19.27.031, 19.27.060, 35.63.080, 35A.63.100, 36.43.010, and 36.70.750; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature finds that there is a growing need for ecologically sustainable and affordable housing, and small home construction is a way to meet this need. The legislature also finds that regulations restricting the minimum dimensions of habitable spaces in single-family residential buildings, such as minimum floor or room area requirements, that do not further fire, life safety, or environmental purposes, objectives, or standards prevent construction of small homes. It is the intent of the legislature that counties, cities with a population of less than one hundred twenty-five thousand, and towns may not adopt regulations establishing minimum dimensions for habitable spaces in single-family residential buildings, unless such regulations are necessary to ensure that buildings meet fire, life safety, or environmental standards.

**Sec.**  RCW 19.27.031 and 2003 c 291 s 2 are each amended to read as follows:

Except as otherwise provided in this chapter, there shall be in effect in all counties and cities the state building code which shall consist of the following codes which are hereby adopted by reference:

(1)(a) The International Building Code, published by the International Code Council((~~[,]~~)), Inc.;

(b) The International Residential Code, published by the International Code Council, Inc., except that any provision of the code establishing minimum dimensions for habitable spaces in single-family residential buildings, including, but not limited to, minimum dimensions of floor or room area, is not adopted;

(2) The International Mechanical Code, published by the International Code Council((~~[,]~~)), Inc., except that the standards for liquified petroleum gas installations shall be NFPA 58 (Storage and Handling of Liquified Petroleum Gases) and ANSI Z223.1/NFPA 54 (National Fuel Gas Code);

(3) The International Fire Code, published by the International Code Council((~~[,]~~)), Inc., including those standards of the National Fire Protection Association specifically referenced in the International Fire Code: PROVIDED, That, notwithstanding any wording in this code, participants in religious ceremonies shall not be precluded from carrying hand-held candles;

(4) Except as provided in RCW 19.27.170, the Uniform Plumbing Code and Uniform Plumbing Code Standards, published by the International Association of Plumbing and Mechanical Officials: PROVIDED, That any provisions of such code affecting sewers or fuel gas piping are not adopted; and

(5) The rules adopted by the council establishing standards for making buildings and facilities accessible to and usable by ((~~the physically disabled~~)) persons with physical disabilities or elderly persons as provided in RCW 70.92.100 through 70.92.160.

In case of conflict among the codes enumerated in subsections (1), (2), (3), and (4) of this section, the first named code shall govern over those following.

The codes enumerated in this section shall be adopted by the council as provided in RCW 19.27.074. The council shall solicit input from first responders to ensure that firefighter safety issues are addressed during the code adoption process.

The council may issue opinions relating to the codes at the request of a local official charged with the duty to enforce the enumerated codes.

**Sec.**  RCW 19.27.060 and 2002 c 135 s 1 are each amended to read as follows:

(1) The governing bodies of counties and cities may amend the codes enumerated in RCW 19.27.031 as amended and adopted by the state building code council as they apply within their respective jurisdictions, but the amendments shall not result in a code that is less than the minimum performance standards and objectives contained in the state building code.

(a) No amendment to a code enumerated in RCW 19.27.031 as amended and adopted by the state building code council that affects single-family or multifamily residential buildings shall be effective unless the amendment is approved by the building code council under RCW 19.27.074(1)(b).

(b) Any county or city amendment to a code enumerated in RCW 19.27.031 which is approved under RCW 19.27.074(1)(b) shall continue to be effective after any action is taken under RCW 19.27.074(1)(a) without necessity of reapproval under RCW 19.27.074(1)(b) unless the amendment is declared null and void by the council at the time any action is taken under RCW 19.27.074(1)(a) because such action in any way altered the impact of the amendment.

(2)(a) The legislative body of a county or city, in exercising the authority provided under subsection (1) of this section to amend the code enumerated in RCW 19.27.031(1)(b), may not adopt amendments that regulate or restrict the minimum dimensions of habitable spaces in single-family residential buildings including, but not limited to, the minimum dimensions of floor or room area, unless the regulation is necessary for a fire, life safety, or environmental purpose.

(b) (a) of this subsection does not apply to cities with a population of one hundred twenty-five thousand or more.

(3) Except as permitted or provided otherwise under this section, the state building code shall be applicable to all buildings and structures including those owned by the state or by any governmental subdivision or unit of local government.

((~~(3)~~)) (4) The governing body of each county or city may limit the application of any portion of the state building code to exclude specified classes or types of buildings or structures according to use other than single-family or multifamily residential buildings. However, in no event shall fruits or vegetables of the tree or vine stored in buildings or warehouses constitute combustible stock for the purposes of application of the uniform fire code. A governing body of a county or city may inspect facilities used for temporary storage and processing of agricultural commodities.

((~~(4)~~)) (5) The provisions of this chapter shall not apply to any building four or more stories high with a B occupancy as defined by the uniform building code, 1982 edition, and with a city fire insurance rating of 1, 2, or 3 as defined by a recognized fire rating bureau or organization.

((~~(5)~~)) (6) No provision of the uniform fire code concerning roadways shall be part of the state building code: PROVIDED, That this subsection shall not limit the authority of a county or city to adopt street, road, or access standards.

((~~(6)~~)) (7) The provisions of the state building code may be preempted by any city or county to the extent that the code provisions relating to the installation or use of sprinklers in jail cells conflict with the secure and humane operation of jails.

((~~(7)~~)) (8)(a) Effective one year after July 23, 1989, the governing bodies of counties and cities may adopt an ordinance or resolution to exempt from permit requirements certain construction or alteration of either group R, division 3, or group M, division 1 occupancies, or both, as defined in the uniform building code, 1988 edition, for which the total cost of fair market value of the construction or alteration does not exceed fifteen hundred dollars. The permit exemption shall not otherwise exempt the construction or alteration from the substantive standards of the codes enumerated in RCW 19.27.031, as amended and maintained by the state building code council under RCW 19.27.070.

(b) Prior to July 23, 1989, the state building code council shall adopt by rule, guidelines exempting from permit requirements certain construction and alteration activities under (a) of this subsection.

**Sec.**  RCW 35.63.080 and 1979 ex.s. c 170 s 4 are each amended to read as follows:

(1) The council or board may provide for the preparation by its commission and the adoption and enforcement of coordinated plans for the physical development of the municipality. For this purpose the council or board, in such measure as is deemed reasonably necessary or requisite in the interest of health, safety, morals, and the general welfare, upon recommendation by its commission, by general ordinances of the city or general resolution of the board, may:

(a) Regulate and restrict:

(i) The location and the use of buildings, structures, and land for residence, trade, industrial, and other purposes;

(ii) Except as provided in subsection (2) of this section, the height, number of stories, size, construction, and design of buildings and other structures;

(iii) The size of yards, courts, and other open spaces on the lot or tract;

(iv) The density of population;

(v) The set-back of buildings along highways, parks, or public water frontages; and

(vi) The subdivision and development of land; and ((~~may~~))

(b) Encourage and protect access to direct sunlight for solar energy systems.

((~~A~~))(2) The council of a city with a population of less than one hundred twenty-five thousand or a board may not regulate or restrict the minimum dimensions of habitable spaces in single-family residential buildings, including but not limited to, the minimum dimensions of floor or room area, unless the regulation is necessary for a fire, life safety, or environmental purpose.

(3) The council of a city where ((~~such~~)) ordinances adopted in accordance with this section are in effect((~~,~~)) may, on the recommendation of its commission, provide for the appointment of a board of adjustment((~~,~~)) to make, in appropriate cases and subject to appropriate conditions and safeguards established by ordinance, special exceptions in harmony with the general purposes and intent and in accordance with general or specific rules therein contained.

**Sec.**  RCW 35A.63.100 and 1979 ex.s. c 170 s 8 are each amended to read as follows:

After approval of the comprehensive plan((~~, as set forth above~~))in accordance with provisions of this chapter, the legislative body, in developing the municipality and in regulating the use of land, may implement or give effect to the comprehensive plan or parts thereof by ordinance or other action to such extent as the legislative body deems necessary or appropriate. Such ordinances or other action may provide for:

(1) Adoption of an official map and regulations relating thereto designating locations and requirements for one or more of the following: Streets, parks, public buildings, and other public facilities, and protecting such sites against encroachment by buildings and other physical structures.

(2)(a) Dividing the municipality, or portions thereof, into appropriate zones within which specific standards, requirements, and conditions may be provided for regulating: The use of public and private land, buildings, and structures((~~, and~~)); except as provided in (b) of this subsection, the location, height, bulk, number of stories, and size of buildings and structures((~~,~~)); size of yards, courts, and open spaces((~~,~~)); density of population((~~,~~)); ratio of land area to the area of buildings and structures((~~,~~)); setbacks((~~,~~)); area required for off-street parking((~~,~~)); protection of access to direct sunlight for solar energy systems((~~,~~)); and such other standards, requirements, regulations, and procedures as are appropriately related thereto.

(b) The legislative body of a city with a population of less than one hundred twenty-five thousand may not regulate or restrict the minimum dimensions of habitable spaces in single-family residential buildings including, but not limited to, the minimum dimensions of floor or room area, unless the regulation is necessary for a fire, life safety, or environmental purpose.

(c) The ordinance encompassing the matters of this subsection (2) is hereinafter called the "zoning ordinance." No zoning ordinance, or amendment thereto, shall be enacted by the legislative body without at least one public hearing, notice of which shall be given as set forth in RCW 35A.63.070. Such hearing may be held before the planning agency or the board of adjustment or such other body as the legislative body shall designate.

(3) Adoption of design standards, requirements, regulations, and procedures for the subdivision of land into two or more parcels, including, but not limited to, the approval of plats, dedications, acquisitions, improvements, and reservation of sites for public use.

(4) Scheduling public improvements on the basis of recommended priorities over a period of years, subject to periodic review.

(5) Such other matters as may be otherwise authorized by law or as the legislative body deems necessary or appropriate to effectuate the goals and objectives of the comprehensive plan or parts thereof and the purposes of this chapter.

**Sec.**  RCW 36.43.010 and 1963 c 4 s 36.43.010 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the boards of county commissioners may adopt standard building codes and standard fire regulations to be applied within their respective jurisdictions.

(2) The boards of county commissioners may not adopt regulations that restrict the minimum dimensions of habitable spaces in single-family residential buildings including, but not limited to, the minimum dimensions of floor or room area, unless the regulation is necessary for a fire, life safety, or environmental purpose.

**Sec.**  RCW 36.70.750 and 1963 c 4 s 36.70.750 are each amended to read as follows:

Any board, by ordinance, may establish classifications, within each of which, specific controls are identified, and which will regulate:

(1) ((~~Regulate~~))The use of buildings, structures, and land as between agriculture, industry, business, residence, and other purposes;

(2) ((~~Regulate~~))Except for minimum dimensions of habitable spaces in single-family residential buildings when regulation is not necessary for a fire, life safety, or environmental purpose, the location, height, bulk, number of stories, and size of buildings and structures; the size of yards, courts, and other open spaces; the density of population; the percentage of a lot which may be occupied by buildings and structures; and the area required to provide off-street facilities for the parking of motor vehicles.

**--- END ---**