**1042-S.E AMS KUDE S2817.1 - NOT FOR FLOOR USE**

**ESHB 1042** - S AMD **261**

By Senator Kuderer

**PULLED 04/05/2023**

Strike everything after the enacting clause and insert the following:

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

(1)(a) Code cities must adopt or amend by ordinance, and incorporate into their development regulations, zoning regulations, and other official controls the requirements of subsection (2) of this section no later than six months after its next periodic comprehensive plan update required under RCW 36.70A.130.

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

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

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

(b) Impose parking requirements on the addition of dwelling units or living units added within an existing building, however, cities may require the retention of existing parking that is required under local laws for nonresidential uses that remain after the new units are added;

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

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

(e) Impose exterior design or architectural requirements on the residential use of an existing building beyond those necessary for health and safety of the use of the interior of the building, unless the building is a designated landmark or is within a historic district established through a local preservation ordinance;

(f) Prohibit the addition of housing units in any specific part of a building, unless the addition of the units would violate applicable building codes or health and safety standards;

(g) Require unchanged portions of an existing building used for residential purposes to meet the current energy code solely because of the addition of new dwelling units within the building, however, if more than six new dwelling units are created within the existing building, each of those new units must meet the requirements of the current energy code;

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

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

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

(4) By the next comprehensive plan update required under RCW 36.70A.130, each code city within a county subject to the requirements of RCW 36.70A.215 that has a population of at least 20,000 must review the impact of subsection (2)(g) of this section and report the impact and any recommended changes to the department of commerce. The department of commerce must consolidate the information received by cities into one report to the legislature by July 1, 2028.

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

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

(1)(a) Cities must adopt or amend by ordinance, and incorporate into their development regulations, zoning regulations, and other official controls the requirements of subsection (2) of this section no later than six months after its next periodic comprehensive plan update required under RCW 36.70A.130.

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

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

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

(b) Impose parking requirements on the addition of dwelling units or living units added within an existing building, however, cities may require the retention of existing parking that is required under local laws for nonresidential uses that remain after the new units are added;

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

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

(e) Impose exterior design or architectural requirements on the residential use of an existing building beyond those necessary for health and safety of the use of the interior of the building, unless the building is a designated landmark or is within a historic district established through a local preservation ordinance;

(f) Prohibit the addition of housing units in any specific part of a building, unless the addition of the units would violate applicable building codes or health and safety standards;

(g) Require unchanged portions of an existing building used for residential purposes to meet the current energy code solely because of the addition of new dwelling units within the building, however, if more than six new dwelling units are created within the existing building, each of those new units must meet the requirements of the current energy code;

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

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

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

(4) By the next comprehensive plan update required under RCW 36.70A.130, each city within a county subject to the requirements of RCW 36.70A.215 that has a population of at least 20,000 must review the impact of subsection (2)(g) of this section and report the impact and any recommended changes to the department of commerce. The department of commerce must consolidate the information received by cities into one report to the legislature by July 1, 2028.

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

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

By January 1, 2024, the state building code council shall adopt by rule an amendment to the current energy code that waives the requirement for unchanged portions of an existing building used for residential purposes to meet the current energy code solely because of the addition of new dwelling units within the building. If more than six new dwelling units are created within the existing building, each of those new units must meet the requirements of the current energy code.

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

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

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

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

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

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

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

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

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

(a) Building codes required by chapter 19.27 RCW;

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

(c) Electrical codes required by chapter 19.28 RCW.

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

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On page 1, line 2 of the title, after "buildings;" strike the remainder of the title and insert "amending RCW 43.21C.450; adding a new section to chapter 35A.21 RCW; adding a new section to chapter 35.21 RCW; and adding a new section to chapter 19.27A RCW."

EFFECT: (1) Requires cities adopt or amend their regulations and other official controls no later than six months after its next periodic comprehensive plan update, rather than by July 1, 2024.

(2) Provides that cities may not impose a restriction on housing unit density that prevents the addition of housing units at a density up to 50 percent more than what is allowed in the underlying zone if constructed entirely within the existing building envelope.

(3) Allows cities to require the retention of existing parking that is required under local laws for nonresidential uses that remain after the new units are added.

(4) Provides that cities may impose permitting requirements on the use of existing emergency housing and transitional housing uses.

(5) Provides that cities cannot impose exterior design or architectural requirements unless the building is a designated landmark or is within a historic district established through a local preservation ordinance.

(6) Clarifies that cities may not require unchanged portions of an existing building meet the current energy code because of the addition of a new dwelling unit, but if more than six new dwelling units are created within the existing building, each of those new dwelling units must meet the requirements of the current energy code.

(7) Clarifies that cities cannot deny a building permit for the addition of housing units to an existing building due to nonconformity of parking, height, setbacks, elevator size for gurney transport, or modulation, rather than for nonconformity of the existing structure.

(8) Authorizes the city official with decision-making authority, rather than the legislative authority of the city, to make written findings that nonconformity is causing a significant detriment to the surrounding area.

(9) Requires each city within a county subject to the requirements of RCW 36.70A.215 that has a population of at least 20,000 report the impact and any recommended changes to the provisions relating to the need to meet the current energy code requirements to the Department of Commerce by the city's next comprehensive plan update and Commerce to issue one consolidated report to the Legislature by July 1, 2028.

(10) Defines an existing building as a building that received a certificate of occupancy at least three years prior to the permit application to add housing units.

(11) Exempts adoption or amendment of ordinances, development regulations, zoning regulations, and other official controls necessary to comply with the bill from the state environmental policy act.