

ESHB 1042 - S COMM AMD
By Committee on Housing

NOT ADOPTED 04/05/2023

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 35A.21
4 RCW to read as follows:

5 (1)(a) Code cities must adopt or amend by ordinance, and
6 incorporate into their development regulations, zoning regulations,
7 and other official controls the requirements of subsection (2) of
8 this section by July 1, 2024.

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

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

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

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

31 (c) With the exception of emergency housing and transitional
32 housing uses, impose permitting requirements on the use of an

1 existing building for residential purposes beyond those requirements
2 generally applicable to all residential development within the
3 building's zone;

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

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

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

17 (g) Require unchanged portions of an existing building used for
18 residential purposes to meet the current energy code solely because
19 of the addition of new dwelling units within the building, however,
20 if more than 10 new dwelling units are created within the existing
21 building, each of those new units must meet the requirements of the
22 current energy code;

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

29 (i) Require a transportation concurrency study under RCW
30 36.70A.070 or an environmental study under chapter 43.21C RCW based
31 on the addition of residential units within an existing building.

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

37 (4) By the next comprehensive plan update required under RCW
38 36.70A.130, each code city must review the impact of subsection
39 (2)(g) of this section and report the impact and any recommended
40 changes to the department of commerce. The department of commerce

1 must consolidate the information received by cities into one report
2 to the legislature by July 1, 2028.

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

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 35.21
7 RCW to read as follows:

8 (1)(a) Cities must adopt or amend by ordinance, and incorporate
9 into their development regulations, zoning regulations, and other
10 official controls the requirements of subsection (2) of this section
11 by July 1, 2024.

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

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

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

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

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

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

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

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

14 (g) Require unchanged portions of an existing building used for
15 residential purposes to meet the current energy code solely because
16 of the addition of new dwelling units within the building, however,
17 if more than 10 new dwelling units are created within the existing
18 building, each of those new units must meet the requirements of the
19 current energy code;

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

26 (i) Require a transportation concurrency study under RCW
27 36.70A.070 or an environmental study under chapter 43.21C RCW based
28 on the addition of residential units within an existing building.

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

34 (4) By the next comprehensive plan update required under RCW
35 36.70A.130, each city must review the impact of subsection (2)(g) of
36 this section and report the impact and any recommended changes to the
37 department of commerce. The department of commerce must consolidate
38 the information received by cities into one report to the legislature
39 by July 1, 2028.

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

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 19.27A
5 RCW to read as follows:

6 By January 1, 2024, the state building code council shall adopt
7 by rule an amendment to the current energy code that waives the
8 requirement for unchanged portions of an existing building used for
9 residential purposes to meet the current energy code solely because
10 of the addition of new dwelling units within the building. If more
11 than 10 new dwelling units are created within the existing building,
12 each of those new units must meet the requirements of the current
13 energy code.

14 **Sec. 4.** RCW 43.21C.450 and 2012 1st sp.s. c 1 s 307 are each
15 amended to read as follows:

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

18 (1) Amendments to development regulations that are required to
19 ensure consistency with an adopted comprehensive plan pursuant to RCW
20 36.70A.040, where the comprehensive plan was previously subjected to
21 environmental review pursuant to this chapter and the impacts
22 associated with the proposed regulation were specifically addressed
23 in the prior environmental review;

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

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

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

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

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

1 (4) Amendments to technical codes adopted by a county, city, or
2 town to ensure consistency with minimum standards contained in state
3 law, including the following:
4 (a) Building codes required by chapter 19.27 RCW;
5 (b) Energy codes required by chapter 19.27A RCW; and
6 (c) Electrical codes required by chapter 19.28 RCW.
7 (5) Adoption or amendment of ordinances, development regulations,
8 zoning regulations, and other official controls necessary to comply
9 with sections 1 and 2 of this act."

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10 On page 1, line 2 of the title, after "buildings;" strike the
11 remainder of the title and insert "amending RCW 43.21C.450; adding a
12 new section to chapter 35A.21 RCW; adding a new section to chapter
13 35.21 RCW; and adding a new section to chapter 19.27A RCW."

EFFECT: (1) 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.

(2) 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.

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

(4) 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.

(5) 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 10 new dwelling units are created within the existing building, each of those new dwelling units must meet the requirements of the current energy code.

(6) 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.

(7) 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.

(8) Requires each city 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.

(9) 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.

(10) 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.

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