H-3729.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**HOUSE BILL 2673**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 66th Legislature 2020 Regular Session**

**By** Representatives Barkis, Griffey, Gildon, Steele, Ybarra, Smith, Chambers, Boehnke, Hoff, Vick, Eslick, Volz, Graham, Jenkin, Klippert, Van Werven, Tharinger, and Dufault

AN ACT Relating to exemptions for infill development under the state environmental policy act; and amending RCW 43.21C.229 and 36.70A.600.

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

**Sec.**  RCW 43.21C.229 and 2012 1st sp.s. c 1 s 304 are each amended to read as follows:

(1) In order to accommodate infill development and thereby realize the goals and policies of comprehensive plans adopted according to chapter 36.70A RCW, a ((~~city or county planning under RCW 36.70A.040 is authorized by this section to establish categorical exemptions from the requirements of this chapter. An exemption adopted under this section applies even if it differs from the categorical exemptions adopted by rule of the department under RCW 43.21C.110(1)(a). An exemption may be adopted by a city or county under this section if it meets~~)) categorical exemption from the requirements of this chapter is established for the government actions related to development described in this subsection. Government actions by cities or counties planning under RCW 36.70A.040 are categorically exempt if the actions meet the following criteria:

(a) ((~~It categorically exempts government action related~~)) The actions relate to development proposed to fill in an urban growth area, designated according to RCW 36.70A.110, where current density and intensity of use in the area is roughly equal to or lower than called for in the goals and policies of the applicable comprehensive plan or development regulations and the development is either:

(i) Residential development;

(ii) Mixed-use development; or

(iii) Commercial development up to sixty-five thousand square feet, excluding retail development; and

(b) ((~~It does not exempt government~~)) (i) The city or county's applicable comprehensive plan was previously subjected to environmental analysis through an environmental impact statement under the requirements of this chapter prior to adoption; or

(ii) The city or county prepares or has prepared an environmental impact statement that considers the proposed use or density and intensity of use in the area exempted under this section.

(2) Government actions related to development that is inconsistent with the applicable comprehensive plan or development regulations or would exceed the density or intensity of use called for in the goals and policies of the applicable comprehensive plan((~~;~~

~~(c) The local government considers the specific probable adverse environmental impacts of the proposed action and determines that these specific impacts are adequately addressed by the development regulations or other applicable requirements of the comprehensive plan, subarea plan element of the comprehensive plan, planned action ordinance, or other local, state, or federal rules or laws; and~~

~~(d)(i) The city or county's applicable comprehensive plan was previously subjected to environmental analysis through an environmental impact statement under the requirements of this chapter prior to adoption; or~~

~~(ii) The city or county has prepared an environmental impact statement that considers the proposed use or density and intensity of use in the area proposed for an exemption under this section~~)) or development regulations are not exempt under subsection (1) of this section.

((~~(2) Any~~)) (3) The categorical exemption ((~~adopted by a city or county~~)) under this section ((~~shall be~~)) is subject to the rules of the department adopted according to RCW 43.21C.110(1)(a) that provide exceptions to the use of categorical exemptions adopted by the department.

**Sec.**  RCW 36.70A.600 and 2019 c 348 s 1 are each amended to read as follows:

(1) A city planning pursuant to RCW 36.70A.040 is encouraged to take the following actions in order to increase its residential building capacity:

(a) Authorize development in one or more areas of not fewer than five hundred acres that include at least one train station served by commuter rail or light rail with an average of at least fifty residential units per acre that require no more than an average of one on-site parking space per two bedrooms in the portions of multifamily zones that are located within the areas;

(b) Authorize development in one or more areas of not fewer than five hundred acres in cities with a population greater than forty thousand or not fewer than two hundred fifty acres in cities with a population less than forty thousand that include at least one bus stop served by scheduled bus service of at least four times per hour for twelve or more hours per day with an average of at least twenty-five residential units per acre that require no more than an average of one on-site parking space per two bedrooms in portions of the multifamily zones that are located within the areas;

(c) Authorize at least one duplex, triplex, or courtyard apartment on each parcel in one or more zoning districts that permit single-family residences unless a city documents a specific infrastructure of physical constraint that would make this requirement unfeasible for a particular parcel;

(d) Authorize cluster zoning or lot size averaging in all zoning districts that permit single-family residences;

(e) Authorize attached accessory dwelling units on all parcels containing single-family homes where the lot is at least three thousand two hundred square feet in size, and permit both attached and detached accessory dwelling units on all parcels containing single-family homes, provided lots are at least four thousand three hundred fifty-six square feet in size. Qualifying city ordinances or regulations may not provide for on-site parking requirements, owner occupancy requirements, or square footage limitations below one thousand square feet for the accessory dwelling unit, and must not prohibit the separate rental or sale of accessory dwelling units and the primary residence. Cities must set applicable impact fees at no more than the projected impact of the accessory dwelling unit. To allow local flexibility, other than these factors, accessory dwelling units may be subject to such regulations, conditions, procedures, and limitations as determined by the local legislative authority, and must follow all applicable state and federal laws and local ordinances;

(f) Adopt a subarea plan pursuant to RCW 43.21C.420;

(g) Adopt a planned action pursuant to RCW 43.21C.440(1)(b)(ii), except that an environmental impact statement pursuant to RCW 43.21C.030 is not required for such an action;

(h) ((~~Adopt increases in categorical exemptions pursuant to RCW 43.21C.229 for residential or mixed-use development;~~

~~(i)~~)) Adopt a form-based code in one or more zoning districts that permit residential uses. "Form-based code" means a land development regulation that uses physical form, rather than separation of use, as the organizing principle for the code;

((~~(j)~~)) (i) Authorize a duplex on each corner lot within all zoning districts that permit single-family residences;

((~~(k)~~)) (j) Allow for the division or redivision of land into the maximum number of lots through the short subdivision process provided in chapter 58.17 RCW; and

((~~(l)~~)) (k) Authorize a minimum net density of six dwelling units per acre in all residential zones, where the residential development capacity will increase within the city.

(2) A city planning pursuant to RCW 36.70A.040 may adopt a housing action plan as described in this subsection. The goal of any such housing plan must be to encourage construction of additional affordable and market rate housing in a greater variety of housing types and at prices that are accessible to a greater variety of incomes, including strategies aimed at the for-profit single-family home market. A housing action plan may utilize data compiled pursuant to RCW 36.70A.610. The housing action plan should:

(a) Quantify existing and projected housing needs for all income levels, including extremely low-income households, with documentation of housing and household characteristics, and cost-burdened households;

(b) Develop strategies to increase the supply of housing, and variety of housing types, needed to serve the housing needs identified in (a) of this subsection;

(c) Analyze population and employment trends, with documentation of projections;

(d) Consider strategies to minimize displacement of low-income residents resulting from redevelopment;

(e) Review and evaluate the current housing element adopted pursuant to RCW 36.70A.070, including an evaluation of success in attaining planned housing types and units, achievement of goals and policies, and implementation of the schedule of programs and actions;

(f) Provide for participation and input from community members, community groups, local builders, local realtors, nonprofit housing advocates, and local religious groups; and

(g) Include a schedule of programs and actions to implement the recommendations of the housing action plan.

(3) If adopted by April 1, 2021, ordinances, amendments to development regulations, and other nonproject actions taken by a city to implement the actions specified in subsection (1) of this section, with the exception of the action specified in subsection (1)(f) of this section, are not subject to administrative or judicial appeal under chapter 43.21C RCW.

(4) Any action taken by a city prior to April 1, 2021, to amend their comprehensive plan, or adopt or amend ordinances or development regulations, solely to enact provisions under subsection (1) of this section is not subject to legal challenge under this chapter.

(5) In taking action under subsection (1) of this section, cities are encouraged to utilize strategies that increase residential building capacity in areas with frequent transit service and with the transportation and utility infrastructure that supports the additional residential building capacity.

(6) A city with a population over twenty thousand that is planning to take at least two actions under subsection (1) of this section, and that action will occur between July 28, 2019, and April 1, 2021, is eligible to apply to the department for planning grant assistance of up to one hundred thousand dollars, subject to the availability of funds appropriated for that purpose. The department shall develop grant criteria to ensure that grant funds awarded are proportionate to the level of effort proposed by a city, and the potential increase in housing supply or regulatory streamlining that could be achieved. Funding may be provided in advance of, and to support, adoption of policies or ordinances consistent with this section. A city can request, and the department may award, more than one hundred thousand dollars for applications that demonstrate extraordinary potential to increase housing supply or regulatory streamlining.

(7) A city seeking to develop a housing action plan under subsection (2) of this section is eligible to apply to the department for up to one hundred thousand dollars.

(8) The department shall establish grant award amounts under subsections (6) and (7) of this section based on the expected number of cities that will seek grant assistance, to ensure that all cities can receive some level of grant support. If funding capacity allows, the department may consider accepting and funding applications from cities with a population of less than twenty thousand if the actions proposed in the application will create a significant amount of housing capacity or regulatory streamlining and are consistent with the actions in this section.

(9) In implementing chapter 348, Laws of 2019, cities are encouraged to prioritize the creation of affordable, inclusive neighborhoods and to consider the risk of residential displacement, particularly in neighborhoods with communities at high risk of displacement.

**--- END ---**