

2SSB 5412 - H AMD 743

By Representative Duerr

ADOPTED 04/17/2023

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

3 **"Sec. 1.** RCW 43.21C.229 and 2020 c 87 s 1 are each amended to
4 read as follows:

5 (1) (~~In order~~) The purpose of this section is to accommodate
6 infill and housing development and thereby realize the goals and
7 policies of comprehensive plans adopted according to chapter 36.70A
8 RCW(~~(a)~~).

9 (2) A city or county planning under RCW 36.70A.040 is authorized
10 by this section to establish categorical exemptions from the
11 requirements of this chapter. (~~An exemption adopted under this~~
12 ~~section applies even if it differs from the categorical exemptions~~
13 ~~adopted by rule of the department under RCW 43.21C.110(1)(a).~~) An
14 exemption may be adopted by a city or county under this subsection if
15 it meets the following criteria:

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

22 (i) Residential development;

23 (ii) Mixed-use development; or

24 (iii) Commercial development up to (~~sixty-five thousand~~) 65,000
25 square feet, excluding retail development;

26 (b) It does not exempt government action related to development
27 that is inconsistent with the applicable comprehensive plan or would
28 clearly exceed the density or intensity of use called for in the
29 goals and policies of the applicable comprehensive plan;

30 (c) The local government considers the specific probable adverse
31 environmental impacts of the proposed action and determines that
32 these specific impacts are adequately addressed by the development

1 regulations or other applicable requirements of the comprehensive
2 plan, subarea plan element of the comprehensive plan, planned action
3 ordinance, or other local, state, or federal rules or laws; and

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

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

11 ~~((2) Any))~~ (3) All project actions that propose to develop one
12 or more residential housing units within the incorporated areas in an
13 urban growth area designated pursuant to RCW 36.70A.110 or middle
14 housing within the unincorporated areas in an urban growth area
15 designated pursuant to RCW 36.70A.110, and that meet the criteria
16 identified in (a) and (b) of this subsection, are categorically
17 exempt from the requirements of this chapter. For purposes of this
18 section, "middle housing" has the same meaning as in RCW 36.70A.030
19 as amended by chapter . . . (Engrossed Second Substitute House Bill
20 No. 1110), Laws of 2023. Jurisdictions shall satisfy the following
21 criteria prior to the adoption of the categorical exemption under
22 this subsection (3):

23 (a) The city or county shall find that the proposed development
24 is consistent with all development regulations implementing an
25 applicable comprehensive plan adopted according to chapter 36.70A RCW
26 by the jurisdiction in which the development is proposed, with the
27 exception of any development regulation that is inconsistent with
28 applicable provisions of chapter 36.70A RCW; and

29 (b) The city or county has prepared environmental analysis that
30 considers the proposed use or density and intensity of use in the
31 area proposed for an exemption under this section and analyzes
32 multimodal transportation impacts, including impacts to neighboring
33 jurisdictions, transit facilities, and the state transportation
34 system.

35 (i) Such environmental analysis shall include documentation that
36 the requirements for environmental analysis, protection, and
37 mitigation for impacts to elements of the environment have been
38 adequately addressed for the development exempted. The requirements
39 may be addressed in locally adopted comprehensive plans, subarea
40 plans, adopted development regulations, other applicable local

1 ordinances and regulations, or applicable state and federal
2 regulations. The city or county must document its consultation with
3 the department of transportation on impacts to state-owned
4 transportation facilities including consideration of whether
5 mitigation is necessary for impacts to transportation facilities.

6 (ii) Before finalizing the environmental analysis pursuant to
7 (b)(i) of this subsection (3), the city or county shall provide a
8 minimum of 60 days' notice to affected tribes, relevant state
9 agencies, other jurisdictions that may be impacted, and the public.
10 If a city or county identifies that mitigation measures are necessary
11 to address specific probable adverse impacts, the city or county must
12 address those impacts by requiring mitigation identified in the
13 environmental analysis pursuant to this subsection (3)(b) through
14 locally adopted comprehensive plans, subarea plans, development
15 regulations, or other applicable local ordinances and regulations.
16 Mitigation measures shall be detailed in an associated environmental
17 determination.

18 (iii) The categorical exemption is effective 30 days following
19 action by a city or county pursuant to (b)(ii) of this subsection
20 (3).

21 (4) Until September 30, 2025, all project actions that propose to
22 develop one or more residential housing or middle housing units
23 within a city west of the crest of the Cascade mountains with a
24 population of 700,000 or more are categorically exempt from the
25 requirements of this chapter. After September 30, 2025, project
26 actions that propose to develop one or more residential housing or
27 middle housing units within the city may utilize the categorical
28 exemption in subsection (3) of this section.

29 (5) Any categorical exemption adopted by a city or county under
30 this section applies even if it differs from the categorical
31 exemptions adopted by rule of the department under RCW
32 43.21C.110(1)(a). Nothing in this section shall invalidate
33 categorical exemptions or environmental review procedures adopted by
34 a city or county under a planned action pursuant to RCW 43.21C.440.
35 However, any categorical exemption adopted by a city or county under
36 this section shall be subject to the rules of the department adopted
37 according to RCW 43.21C.110(1)(a) that provide exceptions to the use
38 of categorical exemptions adopted by the department."

39 Correct the title.

EFFECT: (1) Removes provisions modifying the design review process conducted by cities and counties planning under the Growth Management Act.

(2) Removes requirements related to adding additional project review provisions.

(3) Amends the criteria for a project action that develops residential housing units or middle housing within an urban growth area to be categorically exempt from the State Environmental Policy Act (SEPA) to require an environmental analysis that meets certain criteria, rather than requiring a city or county's comprehensive plan to be previously subjected to an environmental analysis under SEPA.

(4) Requires cities or counties to provide notice to affected tribes, state agencies, other jurisdictions, and the public before finalizing an environmental analysis and to address identified probable adverse impacts within the environmental analysis.

(5) Provides that the categorical exemption is effective 30 days after specified actions are taken by a city or county.

(6) Categorically exempts all project actions that propose to develop residential housing or middle housing units within a city west of the crest of the Cascade mountains with a population of 700,000 or more from the requirements of SEPA until September 30, 2025.

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