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**SUBSTITUTE HOUSE BILL 2066**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** House Environment & Energy (originally sponsored by Representatives Barkis, Klicker, Dufault, Gilday, Sutherland, Eslick, and Dent)

READ FIRST TIME 02/03/22.

1 AN ACT Relating to exemptions for infill development under the  
2 state environmental policy act; amending RCW 43.21C.229 and  
3 36.70A.215; and providing an expiration date.

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

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

7 (1) In order to accommodate infill development and thereby  
8 realize the goals and policies of comprehensive plans adopted  
9 according to chapter 36.70A RCW, a city or county planning under RCW  
10 36.70A.040 is authorized by this section to establish categorical  
11 exemptions from the requirements of this chapter. An exemption  
12 adopted under this section applies even if it differs from the  
13 categorical exemptions adopted by rule of the department under RCW  
14 43.21C.110(1)(a). An exemption may be adopted by a city or county  
15 under this section if 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:

1 (i) Residential development;  
2 (ii) Mixed-use development; or  
3 (iii) Commercial development up to sixty-five thousand square  
4 feet, excluding retail development;

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

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

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

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

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

26 (3) A city that is subject to the requirement to develop  
27 reasonable measures pursuant to RCW 36.70A.215 must consider how to  
28 maximize the use of the infill development exemption established in  
29 this section, consistent with maintaining environmental protections,  
30 in order to minimize the duplication of environmental review.

31 (4) Any categorical exemption adopted by a city or county under  
32 this section must provide a means for collaboration and coordination  
33 with any federally recognized tribe or tribes whose ceded lands,  
34 usual and accustomed areas, or areas protected by executive order or  
35 federal statute are affected by the infill development that is the  
36 subject of the exemption. The collaboration and coordination must  
37 ensure that the cultural resource concerns of any such tribe or  
38 tribes are addressed before any development or ground disturbance may  
39 occur at the location of the infill development.

1       **Sec. 2.** RCW 36.70A.215 and 2017 3rd sp.s. c 16 s 2 are each  
2 amended to read as follows:

3       (1) Subject to the limitations in subsection (5) of this section,  
4 a county shall adopt, in consultation with its cities, countywide  
5 planning policies to establish a review and evaluation program. This  
6 program shall be in addition to the requirements of RCW 36.70A.110,  
7 36.70A.130, and 36.70A.210. In developing and implementing the review  
8 and evaluation program required by this section, the county and its  
9 cities shall consider information from other appropriate  
10 jurisdictions and sources. The purpose of the review and evaluation  
11 program shall be to:

12       (a) Determine whether a county and its cities are achieving urban  
13 densities within urban growth areas by comparing growth and  
14 development assumptions, targets, and objectives contained in the  
15 countywide planning policies and the county and city comprehensive  
16 plans with actual growth and development that has occurred in the  
17 county and its cities; and

18       (b) Identify reasonable measures, other than adjusting urban  
19 growth areas, that will be taken to comply with the requirements of  
20 this chapter. Reasonable measures are those actions necessary to  
21 reduce the differences between growth and development assumptions and  
22 targets contained in the countywide planning policies and the county  
23 and city comprehensive plans with actual development patterns. The  
24 reasonable measures process in subsection (3) of this section shall  
25 be used as part of the next comprehensive plan update to reconcile  
26 inconsistencies.

27       (2) The review and evaluation program shall:

28       (a) Encompass land uses and activities both within and outside of  
29 urban growth areas and provide for annual collection of data on urban  
30 and rural land uses, development, zoning and development standards,  
31 environmental regulations including but not limited to critical  
32 areas, stormwater, shoreline, and tree retention requirements; and  
33 capital facilities to determine the quantity and type of land  
34 suitable for development, both for residential and employment-based  
35 activities;

36       (b) Provide for evaluation of the data collected under (a) of  
37 this subsection as provided in subsection (3) of this section. The  
38 evaluation shall be completed no later than three years prior to the  
39 deadline for review and, if necessary, update of comprehensive plans  
40 and development regulations as required by RCW 36.70A.130. For

1 comprehensive plans required to be updated before 2024, the  
2 evaluation as provided in subsection (3) of this section shall be  
3 completed no later than two years prior to the deadline for review  
4 and, if necessary, update of comprehensive plans. The county and its  
5 cities may establish in the countywide planning policies indicators,  
6 benchmarks, and other similar criteria to use in conducting the  
7 evaluation;

8 (c) Provide for methods to resolve disputes among jurisdictions  
9 relating to the countywide planning policies required by this section  
10 and procedures to resolve inconsistencies in collection and analysis  
11 of data; and

12 (d) Develop reasonable measures to use in reducing the  
13 differences between growth and development assumptions and targets  
14 contained in the countywide planning policies and county and city  
15 comprehensive plans, with the actual development patterns. The  
16 reasonable measures shall be adopted, if necessary, into the  
17 countywide planning policies and the county or city comprehensive  
18 plans and development regulations during the next scheduled update of  
19 the plans. A city that adopts reasonable measures pursuant to this  
20 section must consider how to maximize the use of the infill  
21 development exemption established in RCW 43.21C.229, consistent with  
22 maintaining environmental protections, in order to minimize the  
23 duplication of environmental review.

24 (3) At a minimum, the evaluation component of the program  
25 required by subsection (1) of this section shall:

26 (a) Determine whether there is sufficient suitable land to  
27 accommodate the countywide population projection established for the  
28 county pursuant to RCW 43.62.035 and the subsequent population  
29 allocations within the county and between the county and its cities  
30 and the requirements of RCW 36.70A.110. The zoned capacity of land  
31 alone is not a sufficient standard to deem land suitable for  
32 development or redevelopment within the twenty-year planning period;

33 (b) An evaluation and identification of land suitable for  
34 development or redevelopment shall include:

35 (i) A review and evaluation of the land use designation and  
36 zoning/development regulations; environmental regulations (such as  
37 tree retention, stormwater, or critical area regulations) impacting  
38 development; and other regulations that could prevent assigned  
39 densities from being achieved; infrastructure gaps (including but not  
40 limited to transportation, water, sewer, and stormwater); and

1 (ii) Use of a reasonable land market supply factor when  
2 evaluating land suitable to accommodate new development or  
3 redevelopment of land for residential development and employment  
4 activities. The reasonable market supply factor identifies reductions  
5 in the amount of land suitable for development and redevelopment. The  
6 methodology for conducting a reasonable land market factor shall be  
7 determined through the guidance developed in RCW 36.70A.217;

8 (c) Provide an analysis of county and/or city development  
9 assumptions, targets, and objectives contained in the countywide  
10 planning policies and the county and city comprehensive plans when  
11 growth targets and assumptions are not being achieved. It is not  
12 appropriate to make a finding that assumed growth contained in the  
13 countywide planning policies and the county or city comprehensive  
14 plan will occur at the end of the current comprehensive planning  
15 twenty-year planning cycle without rationale;

16 (d) Determine the actual density of housing that has been  
17 constructed and the actual amount of land developed for commercial  
18 and industrial uses within the urban growth area since the adoption  
19 of a comprehensive plan under this chapter or since the last periodic  
20 evaluation as required by subsection (1) of this section; and

21 (e) Based on the actual density of development as determined  
22 under (b) of this subsection, review commercial, industrial, and  
23 housing needs by type and density range to determine the amount of  
24 land needed for commercial, industrial, and housing for the remaining  
25 portion of the twenty-year planning period used in the most recently  
26 adopted comprehensive plan.

27 (4) From funds appropriated by the legislature for this purpose,  
28 the department shall provide grants to counties, cities, and regional  
29 planning organizations required under subsection (5) of this section  
30 to conduct the review and perform the evaluation required by this  
31 section.

32 (5) The provisions of this section shall apply to counties, and  
33 the cities within those counties, that were greater than one hundred  
34 fifty thousand in population in 1996 as determined by office of  
35 financial management population estimates and that are located west  
36 of the crest of the Cascade mountain range. Any other county planning  
37 under RCW 36.70A.040 may carry out the review, evaluation, and  
38 amendment programs and procedures as provided in this section.

39 (6) The requirements of this section are subject to the  
40 availability of funds appropriated for this specific purpose. If

1 sufficient funds are not appropriated consistent with the timelines  
2 in subsection (2)(b) of this section, counties and cities shall be  
3 subject to the review and evaluation program as it existed prior to  
4 October 19, 2017.

5 NEW SECTION. **Sec. 3.** Section 2 of this act expires January 1,  
6 2030.

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