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**SUBSTITUTE SENATE BILL 6061**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** Senate Local Government, Land Use & Tribal Affairs (originally sponsored by Senators Lovelett and Salomon)

AN ACT Relating to exemptions for housing development under the state environmental policy act; amending RCW 43.21C.229; and adding a new section to chapter 43.21C RCW.

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

**Sec.**  RCW 43.21C.229 and 2023 c 368 s 1 are each amended to read as follows:

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

(2) 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 may be adopted by a city or county under this subsection if it meets the following criteria:

(a) It categorically exempts government action related 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 and the development is either:

(i) Residential development;

(ii) Mixed-use development; or

(iii) Commercial development up to 65,000 square feet, excluding retail development;

(b) It does not exempt government action related to development that is inconsistent with the applicable comprehensive plan or would clearly 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.

(3) ((~~All project actions that propose to develop one or more residential housing units within the incorporated areas in an urban growth area designated pursuant to RCW 36.70A.110 or middle housing within the unincorporated areas in an urban growth area designated pursuant to RCW 36.70A.110, and that meet the criteria identified in (a) and (b) of this subsection, are categorically exempt from the requirements of this chapter. For purposes of this section, "middle housing" has the same meaning as in RCW 36.70A.030 as amended by chapter 332, Laws of 2023. Jurisdictions shall satisfy the following criteria prior to the adoption of the categorical exemption under this subsection (3):~~

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

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

~~(i) Such environmental analysis shall include documentation that the requirements for environmental analysis, protection, and mitigation for impacts to elements of the environment have been adequately addressed for the development exempted. The requirements may be addressed in locally adopted comprehensive plans, subarea plans, adopted development regulations, other applicable local ordinances and regulations, or applicable state and federal regulations. The city or county must document its consultation with the department of transportation on impacts to state-owned transportation facilities including consideration of whether mitigation is necessary for impacts to transportation facilities.~~

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

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

~~(4) Until September 30, 2025, all project actions that propose to develop one or more 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 are categorically exempt from the requirements of this chapter. After September 30, 2025, project actions that propose to develop one or more residential housing or middle housing units within the city may utilize the categorical exemption in subsection (3) of this section.~~

~~(5)~~)) Any categorical exemption adopted by a city or county 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). Nothing in this section shall invalidate categorical exemptions or environmental review procedures adopted by a city or county under a planned action pursuant to RCW 43.21C.440. However, any categorical exemption adopted by a city or county under this section shall be 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.

NEW SECTION. **Sec.**  A new section is added to chapter 43.21C RCW to read as follows:

(1) The purpose of this section is to accommodate housing development and thereby realize the goals and policies of comprehensive plans adopted according to chapter 36.70A RCW.

(2) All project actions that propose to develop one or more residential housing units within the incorporated areas in an urban growth area designated pursuant to RCW 36.70A.110 or middle housing within the unincorporated areas in an urban growth area designated pursuant to RCW 36.70A.110, and that meet the criteria identified in (a) through (c) of this subsection, are categorically exempt from the requirements of this chapter. Jurisdictions shall satisfy the following criteria prior to the adoption of this categorical exemption:

(a) The city or county has determined that the proposed development is consistent with all development regulations implementing an applicable comprehensive plan adopted according to chapter 36.70A RCW by the jurisdiction in which the development is proposed, with the exception of any development regulation that is inconsistent with applicable provisions of chapter 36.70A RCW;

(b) The city or county has determined the proposed development is capable of being connected to an established sewer system at the time of construction; and

(c) The city or county has prepared an environmental analysis that considers the proposed use or density and intensity of use in the jurisdiction's comprehensive plan under this section and an analysis of multimodal transportation impacts, including impacts to neighboring jurisdictions, transit facilities, and the state transportation system.

(i) Such an environmental analysis must include documentation that the requirements for environmental analysis, protection, and mitigation for impacts to elements of the environment have been adequately addressed for the development exempted. Such an environmental analysis must include documentation that the requirements for analysis and protection of cultural resources, and mitigation for impacts to cultural resources, if mitigation is possible, have been adequately addressed for the development exempted. The requirements may be addressed in locally adopted comprehensive plans, subarea plans, adopted development regulations, other applicable local ordinances and regulations, or applicable state and federal regulations. The city or county must document its consultation with the department of transportation on impacts to state-owned transportation facilities, including consideration of whether mitigation is necessary for impacts to transportation facilities.

(ii) Before finalizing the environmental analysis pursuant to (c)(i) of this subsection, the city or county shall provide a minimum of 60 days' notice to affected tribes, relevant state agencies, other jurisdictions that may be impacted, and the public. If a city or county identifies that mitigation measures are necessary to address specific probable adverse impacts, the city or county must address those impacts by requiring mitigation identified in the environmental analysis pursuant to this subsection (2)(c) through locally adopted comprehensive plans, subarea plans, development regulations, or other applicable local ordinances and regulations. Mitigation measures must be detailed in an associated environmental determination.

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

(d) A city or county must take action to establish the categorical exemption by the date of the jurisdiction's next required implementation progress report or five years after the jurisdiction's next comprehensive plan review and revision under RCW 36.70A.130 if the jurisdiction is not required to do an implementation progress report under RCW 36.70A.130.

(3) Until September 30, 2025, all project actions that propose to develop one or more 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 are categorically exempt from the requirements of this chapter. After September 30, 2025, project actions that propose to develop one or more residential housing or middle housing units within the city must utilize the categorical exemption in subsection (2) of this section.

(4) Any categorical exemption adopted by a city or county under this section applies even if it differs from the categorical exemptions adopted by rule of the department of ecology under RCW 43.21C.110(1)(a). Nothing in this section invalidates categorical exemptions or environmental review procedures adopted by a city or county under a planned action pursuant to RCW 43.21C.440. However, any categorical exemption under this section is subject to the rules of the department of ecology adopted according to RCW 43.21C.110(1)(a) that provide exceptions to the use of categorical exemptions adopted by the department of ecology.

(5) For purposes of this section, "middle housing" has the same meaning as defined in RCW 36.70A.030.

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