
ENGROSSED SUBSTITUTE SENATE BILL 6061

State of Washington

68th Legislature

2024 Regular Session

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

READ FIRST TIME 01/31/24.

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

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

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

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

10 (2) A city or county planning under RCW 36.70A.040 is authorized
11 by this section to establish categorical exemptions from the
12 requirements of this chapter. An exemption may be adopted by a city
13 or county under this subsection if it meets the following criteria:

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

20 (i) Residential development;

21 (ii) Mixed-use development; or

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

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

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

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

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

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

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

37 ~~(b) The city or county has prepared environmental analysis that
38 considers the proposed use or density and intensity of use in the
39 area proposed for an exemption under this section and analyzes
40 multimodal transportation impacts, including impacts to neighboring~~

1 jurisdictions, transit facilities, and the state transportation
2 system.

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

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

26 (iii) The categorical exemption is effective 30 days following
27 action by a city or county pursuant to (b)(ii) of this subsection
28 (3).

29 (4) Until September 30, 2025, all project actions that propose to
30 develop one or more residential housing or middle housing units
31 within a city west of the crest of the Cascade mountains with a
32 population of 700,000 or more are categorically exempt from the
33 requirements of this chapter. After September 30, 2025, project
34 actions that propose to develop one or more residential housing or
35 middle housing units within the city may utilize the categorical
36 exemption in subsection (3) of this section.

37 (5)) Any categorical exemption adopted by a city or county under
38 this section applies even if it differs from the categorical
39 exemptions adopted by rule of the department under RCW
40 43.21C.110(1)(a). Nothing in this section shall invalidate

1 categorical exemptions or environmental review procedures adopted by
2 a city or county under a planned action pursuant to RCW 43.21C.440.
3 However, any categorical exemption adopted by a city or county under
4 this section shall be subject to the rules of the department adopted
5 according to RCW 43.21C.110(1)(a) that provide exceptions to the use
6 of categorical exemptions adopted by the department.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.21C
8 RCW to read as follows:

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

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

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

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

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

36 (i) Such an environmental analysis must include documentation
37 that the requirements for environmental analysis, protection, and
38 mitigation for impacts to elements of the environment have been
39 adequately addressed for the development exempted. Such an

1 environmental analysis must include documentation that the
2 requirements for analysis and protection of cultural resources, and
3 required mitigation for impacts to cultural resources, have been
4 adequately addressed for the development exempted. The requirements
5 may be addressed in locally adopted comprehensive plans, subarea
6 plans, adopted development regulations, other applicable local
7 ordinances and regulations, or applicable state and federal
8 regulations. The city or county must document its consultation with
9 the department of transportation on impacts to state-owned
10 transportation facilities, including consideration of whether
11 mitigation is necessary for impacts to transportation facilities.

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

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

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

31 (3) Until September 30, 2025, all project actions that propose to
32 develop one or more residential housing or middle housing units
33 within a city west of the crest of the Cascade mountains with a
34 population of 700,000 or more are categorically exempt from the
35 requirements of this chapter. After September 30, 2025, project
36 actions that propose to develop one or more residential housing or
37 middle housing units within the city must utilize the categorical
38 exemption in subsection (2) of this section.

39 (4) Any categorical exemption adopted by a city or county under
40 this section applies even if it differs from the categorical

1 exemptions adopted by rule of the department of ecology under RCW
2 43.21C.110(1)(a). Nothing in this section invalidates categorical
3 exemptions or environmental review procedures adopted by a city or
4 county under a planned action pursuant to RCW 43.21C.440. However,
5 any categorical exemption under this section is subject to the rules
6 of the department of ecology adopted according to RCW
7 43.21C.110(1)(a) that provide exceptions to the use of categorical
8 exemptions adopted by the department of ecology.
9 (5) For purposes of this section, "middle housing" has the same
10 meaning as defined in RCW 36.70A.030.

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