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**SENATE BILL 5818**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Senators Salomon, Llias, Kuderer, Saldaña, and Short

Read first time 01/11/22. Referred to Committee on Housing & Local Government.

1 AN ACT Relating to promoting housing construction in cities  
2 through amendments to and limiting appeals under the state  
3 environmental policy act and growth management act; amending RCW  
4 36.70A.600, 36.70A.070, 43.21C.495, 43.21C.501, and 4.84.370;  
5 creating a new section; and providing an expiration date.

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

7 **Sec. 1.** RCW 36.70A.600 and 2020 c 173 s 1 are each amended to  
8 read as follows:

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

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

18 (b) Authorize development in one or more areas of not fewer than  
19 two hundred acres in cities with a population greater than forty  
20 thousand or not fewer than one hundred acres in cities with a  
21 population less than forty thousand that include at least one bus

1 stop served by scheduled bus service of at least four times per hour  
2 for twelve or more hours per day with an average of at least twenty-  
3 five residential units per acre that require no more than an average  
4 of one on-site parking space per two bedrooms in portions of the  
5 multifamily zones that are located within the areas;

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

11 (d) Authorize a duplex, triplex, quadplex, sixplex, stacked flat,  
12 townhouse, or courtyard apartment on one or more parcels for which  
13 they are not currently authorized;

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

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

17 (g) Adopt a planned action pursuant to RCW 43.21C.440(1)(b)(ii),  
18 except that an environmental impact statement pursuant to RCW  
19 43.21C.030 is not required for such an action;

20 (h) Adopt increases in categorical exemptions pursuant to RCW  
21 43.21C.229 for residential or mixed-use development;

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

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

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

31 (l) Authorize a minimum net density of six dwelling units per  
32 acre in all residential zones, where the residential development  
33 capacity will increase within the city. For purposes of this  
34 subsection, the calculation of net density does not include the  
35 square footage of areas that are otherwise prohibited from  
36 development, such as critical areas, the area of buffers around  
37 critical areas, and the area of roads and similar features;

38 (m) Create one or more zoning districts of medium density in  
39 which individual lots may be no larger than three thousand five

1 hundred square feet and single-family residences may be no larger  
2 than one thousand two hundred square feet;

3 (n) Authorize accessory dwelling units in one or more zoning  
4 districts in which they are currently prohibited;

5 (o) Remove minimum residential parking requirements related to  
6 accessory dwelling units;

7 (p) Remove owner occupancy requirements related to accessory  
8 dwelling units;

9 (q) Adopt new square footage requirements related to accessory  
10 dwelling units that are less restrictive than existing square footage  
11 requirements related to accessory dwelling units;

12 (r) Adopt maximum allowable exemption levels in WAC 197-11-800(1)  
13 as it existed on June 11, 2020, or such subsequent date as may be  
14 provided by the department of ecology by rule, consistent with the  
15 purposes of this section;

16 (s) Adopt standards for administrative approval of final plats  
17 pursuant to RCW 58.17.100;

18 (t) Adopt ordinances authorizing administrative review of  
19 preliminary plats pursuant to RCW 58.17.095;

20 (u) Adopt other permit process improvements where it is  
21 demonstrated that the code, development regulation, or ordinance  
22 changes will result in a more efficient permit process for customers;

23 (v) Update use matrices and allowable use tables that eliminate  
24 conditional use permits and administrative conditional use permits  
25 for all housing types, including single-family homes, townhomes,  
26 multifamily housing, low-income housing, and senior housing, but  
27 excluding essential public facilities;

28 (w) Allow off-street parking to compensate for lack of on-street  
29 parking when private roads are utilized or a parking demand study  
30 shows that less parking is required for the project;

31 (x) Develop a local program that offers homeowners a combination  
32 of financing, design, permitting, or construction support to build  
33 accessory dwelling units. A city may condition this program on a  
34 requirement to provide the unit for affordable home ownership or rent  
35 the accessory dwelling unit for a defined period of time to either  
36 tenants in a housing subsidy program as defined in RCW 43.31.605(14)  
37 or to tenants whose income is less than eighty percent of the city or  
38 county median family income. If the city includes an affordability  
39 requirement under the program, it must provide additional incentives,  
40 such as:

1 (i) Density bonuses;  
2 (ii) Height and bulk bonuses;  
3 (iii) Fee waivers or exemptions;  
4 (iv) Parking reductions; or  
5 (v) Expedited permitting; and  
6 (y) Develop a local program that offers homeowners a combination  
7 of financing, design, permitting, or construction support to convert  
8 a single-family home into a duplex, triplex, or quadplex where those  
9 housing types are authorized. A local government may condition this  
10 program on a requirement to provide a certain number of units for  
11 affordable home ownership or to rent a certain number of the newly  
12 created units for a defined period of time to either tenants in a  
13 housing subsidy program as defined in RCW 43.31.605(14) or to tenants  
14 whose income is less than eighty percent of the city or county median  
15 family income. If the city includes an affordability requirement, it  
16 must provide additional incentives, such as:

17 (i) Density bonuses;  
18 (ii) Height and bulk bonuses;  
19 (iii) Fee waivers or exemptions;  
20 (iv) Parking reductions; or  
21 (v) Expedited permitting.

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

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

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

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

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

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

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

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

10 (3) (~~If adopted by April 1, 2023,~~) The adoption of ordinances,  
11 amendments to development regulations, and other nonproject actions  
12 taken by a city to implement the actions specified in subsection (1)  
13 of this section, with the exception of the action specified in  
14 subsection (1)(f) of this section, or to implement strategies adopted  
15 within a housing action plan under subsection (2) of this section,  
16 are not subject to environmental or judicial review or administrative  
17 or judicial appeal under chapter 43.21C RCW.

18 (4) Any action taken by a city (~~prior to April 1, 2023,~~) to  
19 amend (~~their~~) its comprehensive plan(~~r~~) or adopt or amend  
20 ordinances or development regulations, solely to enact provisions  
21 under subsection (1) of this section or to implement strategies  
22 adopted within a housing action plan under subsection (2) of this  
23 section, is not subject to review or legal challenge under this  
24 chapter.

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

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

1 department may award, more than one hundred thousand dollars for  
2 applications that demonstrate extraordinary potential to increase  
3 housing supply or regulatory streamlining.

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

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

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

21 **Sec. 2.** RCW 36.70A.070 and 2021 c 254 s 2 are each amended to  
22 read as follows:

23 The comprehensive plan of a county or city that is required or  
24 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,  
25 and descriptive text covering objectives, principles, and standards  
26 used to develop the comprehensive plan. The plan shall be an  
27 internally consistent document and all elements shall be consistent  
28 with the future land use map. A comprehensive plan shall be adopted  
29 and amended with public participation as provided in RCW 36.70A.140.  
30 Each comprehensive plan shall include a plan, scheme, or design for  
31 each of the following:

32 (1) A land use element designating the proposed general  
33 distribution and general location and extent of the uses of land,  
34 where appropriate, for agriculture, timber production, housing,  
35 commerce, industry, recreation, open spaces, general aviation  
36 airports, public utilities, public facilities, and other land uses.  
37 The land use element shall include population densities, building  
38 intensities, and estimates of future population growth. The land use  
39 element shall provide for protection of the quality and quantity of

1 groundwater used for public water supplies. Wherever possible, the  
2 land use element should consider utilizing urban planning approaches  
3 that promote physical activity. Where applicable, the land use  
4 element shall review drainage, flooding, and stormwater runoff in the  
5 area and nearby jurisdictions and provide guidance for corrective  
6 actions to mitigate or cleanse those discharges that pollute waters  
7 of the state, including Puget Sound or waters entering Puget Sound.

8 (2) A housing element ensuring the vitality and character of  
9 established residential neighborhoods that:

10 (a) Includes an inventory and analysis of existing and projected  
11 housing needs that identifies the number of housing units necessary  
12 to manage projected growth, as provided by the department of  
13 commerce, including:

14 (i) Units for moderate, low, very low, and extremely low-income  
15 households; and

16 (ii) Emergency housing, emergency shelters, and permanent  
17 supportive housing;

18 (b) Includes a statement of goals, policies, objectives, and  
19 mandatory provisions for the preservation, improvement, and  
20 development of housing, including single-family residences, and  
21 within an urban growth area boundary, moderate density housing  
22 options including ~~(+)~~, but not limited to, duplexes, triplexes,  
23 and townhomes;

24 (c) Identifies sufficient capacity of land for housing including,  
25 but not limited to, government-assisted housing, housing for  
26 moderate, low, very low, and extremely low-income households,  
27 manufactured housing, multifamily housing, group homes, foster care  
28 facilities, emergency housing, emergency shelters, permanent  
29 supportive housing, and within an urban growth area boundary,  
30 consideration of duplexes, triplexes, and townhomes;

31 (d) Makes adequate provisions for existing and projected needs of  
32 all economic segments of the community, including:

33 (i) Incorporating consideration for low, very low, extremely low,  
34 and moderate-income households;

35 (ii) Documenting programs and actions needed to achieve housing  
36 availability including gaps in local funding, barriers such as  
37 development regulations, and other limitations;

38 (iii) Consideration of housing locations in relation to  
39 employment location; and

1 (iv) Consideration of the role of accessory dwelling units in  
2 meeting housing needs;

3 (e) Identifies local policies and regulations that result in  
4 racially disparate impacts, displacement, and exclusion in housing,  
5 including:

6 (i) Zoning that may have a discriminatory effect;

7 (ii) Disinvestment; and

8 (iii) Infrastructure availability;

9 (f) Identifies and implements policies and regulations to address  
10 and begin to undo racially disparate impacts, displacement, and  
11 exclusion in housing caused by local policies, plans, and actions;

12 (g) Identifies areas that may be at higher risk of displacement  
13 from market forces that occur with changes to zoning development  
14 regulations and capital investments; and

15 (h) Establishes antidisplacement policies, with consideration  
16 given to the preservation of historical and cultural communities as  
17 well as investments in low, very low, extremely low, and moderate-  
18 income housing; equitable development initiatives; inclusionary  
19 zoning; community planning requirements; tenant protections; land  
20 disposition policies; and consideration of land that may be used for  
21 affordable housing.

22 In counties and cities subject to the review and evaluation  
23 requirements of RCW 36.70A.215, any revision to the housing element  
24 shall include consideration of prior review and evaluation reports  
25 and any reasonable measures identified. The housing element should  
26 link jurisdictional goals with overall county goals to ensure that  
27 the housing element goals are met.

28 The adoption of ordinances and amendments to development  
29 regulations taken by a city that is required or chooses to plan under  
30 RCW 36.70A.040 to implement the actions specified in this subsection  
31 (2) are not subject to environmental or judicial review or  
32 administrative or judicial appeal under chapter 43.21C RCW.

33 (3) A capital facilities plan element consisting of: (a) An  
34 inventory of existing capital facilities owned by public entities,  
35 showing the locations and capacities of the capital facilities; (b) a  
36 forecast of the future needs for such capital facilities; (c) the  
37 proposed locations and capacities of expanded or new capital  
38 facilities; (d) at least a six-year plan that will finance such  
39 capital facilities within projected funding capacities and clearly  
40 identifies sources of public money for such purposes; and (e) a



1 requirement to reassess the land use element if probable funding  
2 falls short of meeting existing needs and to ensure that the land use  
3 element, capital facilities plan element, and financing plan within  
4 the capital facilities plan element are coordinated and consistent.  
5 Park and recreation facilities shall be included in the capital  
6 facilities plan element.

7 (4) A utilities element consisting of the general location,  
8 proposed location, and capacity of all existing and proposed  
9 utilities, including, but not limited to, electrical lines,  
10 telecommunication lines, and natural gas lines.

11 (5) Rural element. Counties shall include a rural element  
12 including lands that are not designated for urban growth,  
13 agriculture, forest, or mineral resources. The following provisions  
14 shall apply to the rural element:

15 (a) Growth management act goals and local circumstances. Because  
16 circumstances vary from county to county, in establishing patterns of  
17 rural densities and uses, a county may consider local circumstances,  
18 but shall develop a written record explaining how the rural element  
19 harmonizes the planning goals in RCW 36.70A.020 and meets the  
20 requirements of this chapter.

21 (b) Rural development. The rural element shall permit rural  
22 development, forestry, and agriculture in rural areas. The rural  
23 element shall provide for a variety of rural densities, uses,  
24 essential public facilities, and rural governmental services needed  
25 to serve the permitted densities and uses. To achieve a variety of  
26 rural densities and uses, counties may provide for clustering,  
27 density transfer, design guidelines, conservation easements, and  
28 other innovative techniques that will accommodate appropriate rural  
29 economic advancement, densities, and uses that are not characterized  
30 by urban growth and that are consistent with rural character.

31 (c) Measures governing rural development. The rural element shall  
32 include measures that apply to rural development and protect the  
33 rural character of the area, as established by the county, by:

34 (i) Containing or otherwise controlling rural development;

35 (ii) Assuring visual compatibility of rural development with the  
36 surrounding rural area;

37 (iii) Reducing the inappropriate conversion of undeveloped land  
38 into sprawling, low-density development in the rural area;

39 (iv) Protecting critical areas, as provided in RCW 36.70A.060,  
40 and surface water and groundwater resources; and

1 (v) Protecting against conflicts with the use of agricultural,  
2 forest, and mineral resource lands designated under RCW 36.70A.170.

3 (d) Limited areas of more intensive rural development. Subject to  
4 the requirements of this subsection and except as otherwise  
5 specifically provided in this subsection (5)(d), the rural element  
6 may allow for limited areas of more intensive rural development,  
7 including necessary public facilities and public services to serve  
8 the limited area as follows:

9 (i) Rural development consisting of the infill, development, or  
10 redevelopment of existing commercial, industrial, residential, or  
11 mixed-use areas, whether characterized as shoreline development,  
12 villages, hamlets, rural activity centers, or crossroads  
13 developments.

14 (A) A commercial, industrial, residential, shoreline, or mixed-  
15 use area are subject to the requirements of (d)(iv) of this  
16 subsection, but are not subject to the requirements of (c)(ii) and  
17 (iii) of this subsection.

18 (B) Any development or redevelopment other than an industrial  
19 area or an industrial use within a mixed-use area or an industrial  
20 area under this subsection (5)(d)(i) must be principally designed to  
21 serve the existing and projected rural population.

22 (C) Any development or redevelopment in terms of building size,  
23 scale, use, or intensity shall be consistent with the character of  
24 the existing areas. Development and redevelopment may include changes  
25 in use from vacant land or a previously existing use so long as the  
26 new use conforms to the requirements of this subsection (5);

27 (ii) The intensification of development on lots containing, or  
28 new development of, small-scale recreational or tourist uses,  
29 including commercial facilities to serve those recreational or  
30 tourist uses, that rely on a rural location and setting, but that do  
31 not include new residential development. A small-scale recreation or  
32 tourist use is not required to be principally designed to serve the  
33 existing and projected rural population. Public services and public  
34 facilities shall be limited to those necessary to serve the  
35 recreation or tourist use and shall be provided in a manner that does  
36 not permit low-density sprawl;

37 (iii) The intensification of development on lots containing  
38 isolated nonresidential uses or new development of isolated cottage  
39 industries and isolated small-scale businesses that are not  
40 principally designed to serve the existing and projected rural

1 population and nonresidential uses, but do provide job opportunities  
2 for rural residents. Rural counties may allow the expansion of small-  
3 scale businesses as long as those small-scale businesses conform with  
4 the rural character of the area as defined by the local government  
5 according to RCW 36.70A.030(23). Rural counties may also allow new  
6 small-scale businesses to utilize a site previously occupied by an  
7 existing business as long as the new small-scale business conforms to  
8 the rural character of the area as defined by the local government  
9 according to RCW 36.70A.030(23). Public services and public  
10 facilities shall be limited to those necessary to serve the isolated  
11 nonresidential use and shall be provided in a manner that does not  
12 permit low-density sprawl;

13 (iv) A county shall adopt measures to minimize and contain the  
14 existing areas or uses of more intensive rural development, as  
15 appropriate, authorized under this subsection. Lands included in such  
16 existing areas or uses shall not extend beyond the logical outer  
17 boundary of the existing area or use, thereby allowing a new pattern  
18 of low-density sprawl. Existing areas are those that are clearly  
19 identifiable and contained and where there is a logical boundary  
20 delineated predominately by the built environment, but that may also  
21 include undeveloped lands if limited as provided in this subsection.  
22 The county shall establish the logical outer boundary of an area of  
23 more intensive rural development. In establishing the logical outer  
24 boundary, the county shall address (A) the need to preserve the  
25 character of existing natural neighborhoods and communities, (B)  
26 physical boundaries, such as bodies of water, streets and highways,  
27 and land forms and contours, (C) the prevention of abnormally  
28 irregular boundaries, and (D) the ability to provide public  
29 facilities and public services in a manner that does not permit low-  
30 density sprawl;

31 (v) For purposes of (d) of this subsection, an existing area or  
32 existing use is one that was in existence:

33 (A) On July 1, 1990, in a county that was initially required to  
34 plan under all of the provisions of this chapter;

35 (B) On the date the county adopted a resolution under RCW  
36 36.70A.040(2), in a county that is planning under all of the  
37 provisions of this chapter under RCW 36.70A.040(2); or

38 (C) On the date the office of financial management certifies the  
39 county's population as provided in RCW 36.70A.040(5), in a county

1 that is planning under all of the provisions of this chapter pursuant  
2 to RCW 36.70A.040(5).

3 (e) Exception. This subsection shall not be interpreted to permit  
4 in the rural area a major industrial development or a master planned  
5 resort unless otherwise specifically permitted under RCW 36.70A.360  
6 and 36.70A.365.

7 (6) A transportation element that implements, and is consistent  
8 with, the land use element.

9 (a) The transportation element shall include the following  
10 subelements:

11 (i) Land use assumptions used in estimating travel;

12 (ii) Estimated traffic impacts to state-owned transportation  
13 facilities resulting from land use assumptions to assist the  
14 department of transportation in monitoring the performance of state  
15 facilities, to plan improvements for the facilities, and to assess  
16 the impact of land-use decisions on state-owned transportation  
17 facilities;

18 (iii) Facilities and services needs, including:

19 (A) An inventory of air, water, and ground transportation  
20 facilities and services, including transit alignments and general  
21 aviation airport facilities, to define existing capital facilities  
22 and travel levels as a basis for future planning. This inventory must  
23 include state-owned transportation facilities within the city or  
24 county's jurisdictional boundaries;

25 (B) Level of service standards for all locally owned arterials  
26 and transit routes to serve as a gauge to judge performance of the  
27 system. These standards should be regionally coordinated;

28 (C) For state-owned transportation facilities, level of service  
29 standards for highways, as prescribed in chapters 47.06 and 47.80  
30 RCW, to gauge the performance of the system. The purposes of  
31 reflecting level of service standards for state highways in the local  
32 comprehensive plan are to monitor the performance of the system, to  
33 evaluate improvement strategies, and to facilitate coordination  
34 between the county's or city's six-year street, road, or transit  
35 program and the office of financial management's ten-year investment  
36 program. The concurrency requirements of (b) of this subsection do  
37 not apply to transportation facilities and services of statewide  
38 significance except for counties consisting of islands whose only  
39 connection to the mainland are state highways or ferry routes. In  
40 these island counties, state highways and ferry route capacity must

1 be a factor in meeting the concurrency requirements in (b) of this  
2 subsection;

3 (D) Specific actions and requirements for bringing into  
4 compliance locally owned transportation facilities or services that  
5 are below an established level of service standard;

6 (E) Forecasts of traffic for at least ten years based on the  
7 adopted land use plan to provide information on the location, timing,  
8 and capacity needs of future growth;

9 (F) Identification of state and local system needs to meet  
10 current and future demands. Identified needs on state-owned  
11 transportation facilities must be consistent with the statewide  
12 multimodal transportation plan required under chapter 47.06 RCW;

13 (iv) Finance, including:

14 (A) An analysis of funding capability to judge needs against  
15 probable funding resources;

16 (B) A multiyear financing plan based on the needs identified in  
17 the comprehensive plan, the appropriate parts of which shall serve as  
18 the basis for the six-year street, road, or transit program required  
19 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW  
20 35.58.2795 for public transportation systems. The multiyear financing  
21 plan should be coordinated with the ten-year investment program  
22 developed by the office of financial management as required by RCW  
23 47.05.030;

24 (C) If probable funding falls short of meeting identified needs,  
25 a discussion of how additional funding will be raised, or how land  
26 use assumptions will be reassessed to ensure that level of service  
27 standards will be met;

28 (v) Intergovernmental coordination efforts, including an  
29 assessment of the impacts of the transportation plan and land use  
30 assumptions on the transportation systems of adjacent jurisdictions;

31 (vi) Demand-management strategies;

32 (vii) Pedestrian and bicycle component to include collaborative  
33 efforts to identify and designate planned improvements for pedestrian  
34 and bicycle facilities and corridors that address and encourage  
35 enhanced community access and promote healthy lifestyles.

36 (b) After adoption of the comprehensive plan by jurisdictions  
37 required to plan or who choose to plan under RCW 36.70A.040, local  
38 jurisdictions must adopt and enforce ordinances which prohibit  
39 development approval if the development causes the level of service  
40 on a locally owned transportation facility to decline below the

1 standards adopted in the transportation element of the comprehensive  
2 plan, unless transportation improvements or strategies to accommodate  
3 the impacts of development are made concurrent with the development.  
4 These strategies may include increased public transportation service,  
5 ride-sharing programs, demand management, and other transportation  
6 systems management strategies. For the purposes of this subsection  
7 (6), "concurrent with the development" means that improvements or  
8 strategies are in place at the time of development, or that a  
9 financial commitment is in place to complete the improvements or  
10 strategies within six years. If the collection of impact fees is  
11 delayed under RCW 82.02.050(3), the six-year period required by this  
12 subsection (6)(b) must begin after full payment of all impact fees is  
13 due to the county or city.

14 (c) The transportation element described in this subsection (6),  
15 the six-year plans required by RCW 35.77.010 for cities, RCW  
16 36.81.121 for counties, and RCW 35.58.2795 for public transportation  
17 systems, and the ten-year investment program required by RCW  
18 47.05.030 for the state, must be consistent.

19 (7) An economic development element establishing local goals,  
20 policies, objectives, and provisions for economic growth and vitality  
21 and a high quality of life. A city that has chosen to be a  
22 residential community is exempt from the economic development element  
23 requirement of this subsection.

24 (8) A park and recreation element that implements, and is  
25 consistent with, the capital facilities plan element as it relates to  
26 park and recreation facilities. The element shall include: (a)  
27 Estimates of park and recreation demand for at least a ten-year  
28 period; (b) an evaluation of facilities and service needs; and (c) an  
29 evaluation of intergovernmental coordination opportunities to provide  
30 regional approaches for meeting park and recreational demand.

31 (9) It is the intent that new or amended elements required after  
32 January 1, 2002, be adopted concurrent with the scheduled update  
33 provided in RCW 36.70A.130. Requirements to incorporate any such new  
34 or amended elements shall be null and void until funds sufficient to  
35 cover applicable local government costs are appropriated and  
36 distributed by the state at least two years before local government  
37 must update comprehensive plans as required in RCW 36.70A.130.

38 **Sec. 3.** RCW 43.21C.495 and 2020 c 173 s 2 are each amended to  
39 read as follows:

1       (~~If adopted by April 1, 2023, amendments~~) Amendments to  
2 development regulations and other nonproject actions taken by a city  
3 to implement: RCW 36.70A.070(2); RCW 36.70A.600 (1) or (4), with the  
4 exception of the action specified in RCW 36.70A.600(1)(f); and  
5 strategies adopted within a housing action plan under RCW  
6 36.70A.600(2), are not subject to environmental or judicial review or  
7 administrative or judicial appeals under this chapter.

8       **Sec. 4.** RCW 43.21C.501 and 2019 c 348 s 6 are each amended to  
9 read as follows:

10       (1) Project actions described in this section that pertain to  
11 residential, multifamily, or mixed-use development evaluated under  
12 this chapter by a city or town planning under RCW 36.70A.040 are  
13 exempt from appeals under this chapter on the basis of the evaluation  
14 of or impacts to the following elements of the environment, provided  
15 that the appropriate requirements for a particular element of the  
16 environment, as set forth in subsections (2) and (3) of this section,  
17 are met.

18       (2)(a) Transportation. A project action pertaining to  
19 residential, multifamily, or mixed-use development evaluated under  
20 this chapter by a city or town planning under RCW 36.70A.040 is  
21 exempt from appeals under this chapter on the basis of the evaluation  
22 of or impacts to transportation elements of the environment, so long  
23 as (~~the project does not present significant adverse impacts to the~~  
24 ~~state-owned transportation system as determined by the department of~~  
25 ~~transportation and~~) the project is:

26       (~~(i)~~) (i)(A) Consistent with a locally adopted  
27 transportation plan; or

28       (~~(ii)~~) (B) Consistent with the transportation element of a  
29 comprehensive plan; and

30       (~~(b)(i)~~) (ii)(A) A project for which traffic or parking impact  
31 fees are imposed pursuant to RCW 82.02.050 through 82.02.090; or

32       (~~(ii)~~) (B) A project for which traffic or parking impacts are  
33 (~~expressly~~) mitigated by an ordinance, or ordinances, of general  
34 application adopted by the city or town.

35       (~~(2)~~) (b) The exemption under this subsection (2) does not  
36 apply if the department of transportation has found that the project  
37 will present significant adverse impacts to the state-owned  
38 transportation system.

1       (3) Aesthetics. A project action pertaining to residential,  
2 multifamily, or mixed-use development evaluated under this chapter by  
3 a city or town planning under RCW 36.70A.040 is exempt from appeals  
4 under this chapter on the basis of the evaluation of or impacts to  
5 the aesthetics element of the environment, so long as the project is  
6 subject to design review pursuant to adopted design review  
7 requirements at the local government level. For purposes of this  
8 subsection, "design review" means a formally adopted local government  
9 process by which projects are reviewed for compliance with design  
10 standards for the type of use adopted through local ordinance.

11       (4) For purposes of this section, "impacts to transportation  
12 elements of the environment" include impacts to transportation  
13 systems; vehicular traffic; waterborne, rail, and air traffic;  
14 parking; movement or circulation of people or goods; and traffic  
15 hazards.

16       NEW SECTION.       Sec. 5.       (1) The legislature recognizes that  
17 certain rule-based categorical exemption thresholds to chapter 43.21C  
18 RCW, found in WAC 197-11-800, have not been updated in recent years,  
19 and should be modified in light of the increased environmental  
20 protections in place under chapters 36.70A and 90.58 RCW, the current  
21 affordable housing crisis, and other laws. It is the intent of the  
22 legislature to direct the department of ecology to conduct expedited  
23 rule making to modify the thresholds for the categorical exemptions  
24 described under subsection (2) of this section.

25       (2) By December 31, 2022, the department of ecology shall modify  
26 the rule-based categorical exemptions to chapter 43.21C RCW found in  
27 WAC 197-11-800 as follows:

28       (a) Include four attached single-family residential units to the  
29 current exemption under WAC 197-11-800(1)(b)(i);

30       (b) Create a new exemption level under WAC 197-11-800(1)(d) for  
31 single-family residential project types with a total square footage  
32 of fewer than 1,500 square feet in incorporated urban growth areas of  
33 at least 100 units;

34       (c) Apply the existing exemption level under WAC 197-11-800(1)(d)  
35 for single-family residential project types in incorporated urban  
36 growth areas to single-family residential types with a total square  
37 footage of 1,500 square feet or more in incorporated urban growth  
38 areas; and



1 (d) Increase the exemption level under WAC 197-11-800(1)(d) for  
2 multifamily residential project types in incorporated urban growth  
3 areas from 60 units to 200 units.

4 (3) This section expires January 1, 2024.

5 **Sec. 6.** RCW 4.84.370 and 1995 c 347 s 718 are each amended to  
6 read as follows:

7 (1) Notwithstanding any other provisions of this chapter,  
8 reasonable attorneys' fees and costs shall be awarded to the  
9 prevailing party or substantially prevailing party on appeal before  
10 the court of appeals or the supreme court of a decision by a county,  
11 city, or town to issue, condition, or deny a development permit  
12 involving a site-specific rezone, zoning, plat, conditional use,  
13 variance, shoreline permit, building permit, site plan, or similar  
14 land use approval or decision. The court shall award and determine  
15 the amount of reasonable attorneys' fees and costs under this section  
16 if:

17 (a) The prevailing party on appeal was the prevailing or  
18 substantially prevailing party before the county, city, or town,  
19 (~~(or)~~) in a decision involving a substantial development permit under  
20 chapter 90.58 RCW(~~(r)~~) or the prevailing party on appeal was the  
21 prevailing party or the substantially prevailing party before the  
22 (~~(shoreline[s])~~) shorelines hearings board; and

23 (b) The prevailing party on appeal was the prevailing party or  
24 substantially prevailing party in all prior judicial proceedings.

25 (2) In addition to the prevailing party under subsection (1) of  
26 this section, the county, city, or town whose decision is on appeal  
27 is considered a prevailing party if its decision is upheld at  
28 superior court and on appeal.

29 (3) Reasonable attorneys' fees shall be awarded to the prevailing  
30 party or substantially prevailing party at trial or on appeal before  
31 the court of appeals or the supreme court of a decision by a county,  
32 city, or town to issue, condition, or deny a development permit  
33 involving a project-specific affordable housing development.

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