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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)

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

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

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

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

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

1           (4) Any categorical exemption adopted by a city or county under  
2 this section applies even if it differs from the categorical  
3 exemptions adopted by rule of the department of ecology under RCW  
4 43.21C.110(1)(a). Nothing in this section invalidates categorical  
5 exemptions or environmental review procedures adopted by a city or  
6 county under a planned action pursuant to RCW 43.21C.440. However,  
7 any categorical exemption under this section is subject to the rules  
8 of the department of ecology adopted according to RCW  
9 43.21C.110(1)(a) that provide exceptions to the use of categorical  
10 exemptions adopted by the department of ecology.

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

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