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**SENATE BILL 6061**

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**State of Washington**

**68th Legislature**

**2024 Regular Session**

**By** Senators Lovelett and Salomon

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

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

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

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

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

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

- 19 (i) Residential development;  
20 (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, that are connected  
23 to a sewer system, or middle housing within the unincorporated areas  
24 in an urban growth area designated pursuant to RCW 36.70A.110, and  
25 that meet the criteria identified in (a) and (b) of this subsection,  
26 are categorically exempt from the requirements of this chapter. For  
27 purposes of this section, "middle housing" has the same meaning as in  
28 RCW 36.70A.030 as amended by chapter 332, Laws of 2023. Jurisdictions  
29 shall satisfy the following criteria prior to the adoption of the  
30 categorical exemption under this subsection (3):

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

38 (b) The city or county has prepared environmental analysis that  
39 considers the proposed use or density and intensity of use in the  
40 (~~area proposed for an exemption~~) jurisdiction's comprehensive plan

1 under this section and analyzes multimodal transportation impacts,  
2 including impacts to neighboring jurisdictions, transit facilities,  
3 and the state transportation system. The environmental analysis must  
4 include sufficient subarea detail to identify the potential  
5 development ceiling and impacts to facilities.

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

19 (ii) Before finalizing the environmental analysis pursuant to  
20 (b)(i) of this subsection (3), the city or county shall provide a  
21 minimum of 60 days' notice to affected tribes, relevant state  
22 agencies, other jurisdictions that may be impacted, and the public.  
23 If a city or county identifies that mitigation measures are necessary  
24 to address specific probable adverse impacts, the city or county must  
25 address those impacts by requiring mitigation identified in the  
26 environmental analysis pursuant to this subsection (3)(b) through  
27 locally adopted comprehensive plans, subarea plans, development  
28 regulations, or other applicable local ordinances and regulations.  
29 Mitigation measures shall be detailed in an associated environmental  
30 determination. The city or county may address specific probable  
31 adverse impacts to state-owned transportation facilities by including  
32 them in concurrency programs and subdivision and dedication approval  
33 processes.

34 (iii) The categorical exemption is effective 30 days following  
35 action by a city or county pursuant to (b)(ii) of this subsection  
36 (3); and

37 (c) Nothing in this subsection grants a private party the right  
38 to seek judicial relief requiring compliance with the provisions of  
39 this subsection.

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

9 (5) Any categorical exemption adopted by a city or county under  
10 this section applies even if it differs from the categorical  
11 exemptions adopted by rule of the department under RCW  
12 43.21C.110(1)(a). Nothing in this section shall invalidate  
13 categorical exemptions or environmental review procedures adopted by  
14 a city or county under a planned action pursuant to RCW 43.21C.440.  
15 However, any categorical exemption adopted by a city or county under  
16 this section shall be subject to the rules of the department adopted  
17 according to RCW 43.21C.110(1)(a) that provide exceptions to the use  
18 of categorical exemptions adopted by the department.

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