

---

HOUSE BILL 2673

---

State of Washington

66th Legislature

2020 Regular Session

By Representatives Barkis, Griffey, Gildon, Steele, Ybarra, Smith, Chambers, Boehnke, Hoff, Vick, Eslick, Volz, Graham, Jenkin, and Klippert

1 AN ACT Relating to exemptions for infill development under the  
2 state environmental policy act; and amending RCW 43.21C.229 and  
3 36.70A.600.

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

5 **Sec. 1.** RCW 43.21C.229 and 2012 1st sp.s. c 1 s 304 are each  
6 amended to read as follows:

7 (1) In order to accommodate infill development and thereby  
8 realize the goals and policies of comprehensive plans adopted  
9 according to chapter 36.70A RCW, a (~~city or county planning under~~  
10 ~~RCW 36.70A.040 is authorized by this section to establish categorical~~  
11 ~~exemptions from the requirements of this chapter. An exemption~~  
12 ~~adopted under this section applies even if it differs from the~~  
13 ~~categorical exemptions adopted by rule of the department under RCW~~  
14 ~~43.21C.110(1)(a). An exemption may be adopted by a city or county~~  
15 ~~under this section if it meets)) categorical exemption from the  
16 requirements of this chapter is established for the government  
17 actions related to development described in this subsection.  
18 Government actions by cities or counties planning under RCW  
19 36.70A.040 are categorically exempt if the actions meet the following  
20 criteria:~~

1 (a) (~~It categorically exempts government action related~~) The  
2 actions relate to development proposed to fill in an urban growth  
3 area, designated according to RCW 36.70A.110, where current density  
4 and intensity of use in the area is roughly equal to or lower than  
5 called for in the goals and policies of the applicable comprehensive  
6 plan or development regulations and the development is either:

7 (i) Residential development;

8 (ii) Mixed-use development; or

9 (iii) Commercial development up to sixty-five thousand square  
10 feet, excluding retail development; and

11 (b) (~~It does not exempt government~~) (i) The city or county's  
12 applicable comprehensive plan was previously subjected to  
13 environmental analysis through an environmental impact statement  
14 under the requirements of this chapter prior to adoption; or

15 (ii) The city or county prepares or has prepared an environmental  
16 impact statement that considers the proposed use or density and  
17 intensity of use in the area exempted under this section.

18 (2) Government actions related to development that is  
19 inconsistent with the applicable comprehensive plan or development  
20 regulations or would exceed the density or intensity of use called  
21 for in the goals and policies of the applicable comprehensive plan (~~+~~

22 ~~(c) The local government considers the specific probable adverse~~  
23 ~~environmental impacts of the proposed action and determines that~~  
24 ~~these specific impacts are adequately addressed by the development~~  
25 ~~regulations or other applicable requirements of the comprehensive~~  
26 ~~plan, subarea plan element of the comprehensive plan, planned action~~  
27 ~~ordinance, or other local, state, or federal rules or laws; and~~

28 ~~(d) (i) The city or county's applicable comprehensive plan was~~  
29 ~~previously subjected to environmental analysis through an~~  
30 ~~environmental impact statement under the requirements of this chapter~~  
31 ~~prior to adoption; or~~

32 ~~(ii) The city or county has prepared an environmental impact~~  
33 ~~statement that considers the proposed use or density and intensity of~~  
34 ~~use in the area proposed for an exemption under this section)) or~~  
35 development regulations are not exempt under subsection (1) of this  
36 section.

37 (~~(2) Any~~) (3) The categorical exemption (~~adopted by a city or~~  
38 ~~county~~) under this section (~~shall be~~) is subject to the rules of  
39 the department adopted according to RCW 43.21C.110(1)(a) that provide

1 exceptions to the use of categorical exemptions adopted by the  
2 department.

3 **Sec. 2.** RCW 36.70A.600 and 2019 c 348 s 1 are each amended to  
4 read as follows:

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

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

14 (b) Authorize development in one or more areas of not fewer than  
15 five hundred acres in cities with a population greater than forty  
16 thousand or not fewer than two hundred fifty acres in cities with a  
17 population less than forty thousand that include at least one bus  
18 stop served by scheduled bus service of at least four times per hour  
19 for twelve or more hours per day with an average of at least twenty-  
20 five residential units per acre that require no more than an average  
21 of one on-site parking space per two bedrooms in portions of the  
22 multifamily zones that are located within the areas;

23 (c) Authorize at least one duplex, triplex, or courtyard  
24 apartment on each parcel in one or more zoning districts that permit  
25 single-family residences unless a city documents a specific  
26 infrastructure of physical constraint that would make this  
27 requirement unfeasible for a particular parcel;

28 (d) Authorize cluster zoning or lot size averaging in all zoning  
29 districts that permit single-family residences;

30 (e) Authorize attached accessory dwelling units on all parcels  
31 containing single-family homes where the lot is at least three  
32 thousand two hundred square feet in size, and permit both attached  
33 and detached accessory dwelling units on all parcels containing  
34 single-family homes, provided lots are at least four thousand three  
35 hundred fifty-six square feet in size. Qualifying city ordinances or  
36 regulations may not provide for on-site parking requirements, owner  
37 occupancy requirements, or square footage limitations below one  
38 thousand square feet for the accessory dwelling unit, and must not  
39 prohibit the separate rental or sale of accessory dwelling units and

1 the primary residence. Cities must set applicable impact fees at no  
2 more than the projected impact of the accessory dwelling unit. To  
3 allow local flexibility, other than these factors, accessory dwelling  
4 units may be subject to such regulations, conditions, procedures, and  
5 limitations as determined by the local legislative authority, and  
6 must follow all applicable state and federal laws and local  
7 ordinances;

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

9 (g) Adopt a planned action pursuant to RCW 43.21C.440(1)(b)(ii),  
10 except that an environmental impact statement pursuant to RCW  
11 43.21C.030 is not required for such an action;

12 ~~(h) ((Adopt increases in categorical exemptions pursuant to RCW  
13 43.21C.229 for residential or mixed-use development;~~

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

18 ~~((j))~~ (i) Authorize a duplex on each corner lot within all  
19 zoning districts that permit single-family residences;

20 ~~((k))~~ (j) Allow for the division or redivision of land into the  
21 maximum number of lots through the short subdivision process provided  
22 in chapter 58.17 RCW; and

23 ~~((l))~~ (k) Authorize a minimum net density of six dwelling units  
24 per acre in all residential zones, where the residential development  
25 capacity will increase within the city.

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

34 (a) Quantify existing and projected housing needs for all income  
35 levels, including extremely low-income households, with documentation  
36 of housing and household characteristics, and cost-burdened  
37 households;

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

1 (c) Analyze population and employment trends, with documentation  
2 of projections;

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

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

9 (f) Provide for participation and input from community members,  
10 community groups, local builders, local realtors, nonprofit housing  
11 advocates, and local religious groups; and

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

14 (3) If adopted by April 1, 2021, ordinances, amendments to  
15 development regulations, and other nonproject actions taken by a city  
16 to implement the actions specified in subsection (1) of this section,  
17 with the exception of the action specified in subsection (1)(f) of  
18 this section, are not subject to administrative or judicial appeal  
19 under chapter 43.21C RCW.

20 (4) Any action taken by a city prior to April 1, 2021, to amend  
21 their comprehensive plan, or adopt or amend ordinances or development  
22 regulations, solely to enact provisions under subsection (1) of this  
23 section is not subject to legal challenge under this chapter.

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

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

1 one hundred thousand dollars for applications that demonstrate  
2 extraordinary potential to increase housing supply or regulatory  
3 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.

--- END ---