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**SUBSTITUTE HOUSE BILL 1627**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** House Local Government (originally sponsored by Representatives Goehner, Eslick, Robertson, Graham, Dufault, Jacobsen, and Griffey)

READ FIRST TIME 01/31/22.

1 AN ACT Relating to making it possible for more properties to have  
2 access to water, storm drains, and sanitary sewage systems; amending  
3 RCW 36.70A.070, 36.70A.110, 36.70A.320, 36.93.100, and 36.93.105; and  
4 creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that there needs to  
7 be increased flexibility in extending publicly provided water, sewer,  
8 and stormwater facilities beyond municipal and urban growth  
9 boundaries when there are environmental or health harms from the lack  
10 of those utilities, extension will not foster urban growth, and the  
11 affected communities and governmental bodies determine it is  
12 economically feasible and prudent.

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

15 The comprehensive plan of a county or city that is required or  
16 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,  
17 and descriptive text covering objectives, principles, and standards  
18 used to develop the comprehensive plan. The plan shall be an  
19 internally consistent document and all elements shall be consistent  
20 with the future land use map. A comprehensive plan shall be adopted

1 and amended with public participation as provided in RCW 36.70A.140.  
2 Each comprehensive plan shall include a plan, scheme, or design for  
3 each of the following:

4 (1) A land use element designating the proposed general  
5 distribution and general location and extent of the uses of land,  
6 where appropriate, for agriculture, timber production, housing,  
7 commerce, industry, recreation, open spaces, general aviation  
8 airports, public utilities, public facilities, and other land uses.  
9 The land use element shall include population densities, building  
10 intensities, and estimates of future population growth. The land use  
11 element shall provide for protection of the quality and quantity of  
12 groundwater used for public water supplies. Wherever possible, the  
13 land use element should consider utilizing urban planning approaches  
14 that promote physical activity. Where applicable, the land use  
15 element shall review drainage, flooding, and stormwater runoff in the  
16 area and nearby jurisdictions and provide guidance for corrective  
17 actions to mitigate or cleanse those discharges that pollute waters  
18 of the state, including Puget Sound or waters entering Puget Sound.

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

21 (a) Includes an inventory and analysis of existing and projected  
22 housing needs that identifies the number of housing units necessary  
23 to manage projected growth, as provided by the department of  
24 commerce, including:

25 (i) Units for moderate, low, very low, and extremely low-income  
26 households; and

27 (ii) Emergency housing, emergency shelters, and permanent  
28 supportive housing;

29 (b) Includes a statement of goals, policies, objectives, and  
30 mandatory provisions for the preservation, improvement, and  
31 development of housing, including single-family residences, and  
32 within an urban growth area boundary, moderate density housing  
33 options including ~~((+,+))~~, but not limited to, duplexes, triplexes,  
34 and townhomes;

35 (c) Identifies sufficient capacity of land for housing including,  
36 but not limited to, government-assisted housing, housing for  
37 moderate, low, very low, and extremely low-income households,  
38 manufactured housing, multifamily housing, group homes, foster care  
39 facilities, emergency housing, emergency shelters, permanent

1 supportive housing, and within an urban growth area boundary,  
2 consideration of duplexes, triplexes, and townhomes;

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

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

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

10 (iii) Consideration of housing locations in relation to  
11 employment location; and

12 (iv) Consideration of the role of accessory dwelling units in  
13 meeting housing needs;

14 (e) Identifies local policies and regulations that result in  
15 racially disparate impacts, displacement, and exclusion in housing,  
16 including:

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

18 (ii) Disinvestment; and

19 (iii) Infrastructure availability;

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

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

26 (h) Establishes antidisplacement policies, with consideration  
27 given to the preservation of historical and cultural communities as  
28 well as investments in low, very low, extremely low, and moderate-  
29 income housing; equitable development initiatives; inclusionary  
30 zoning; community planning requirements; tenant protections; land  
31 disposition policies; and consideration of land that may be used for  
32 affordable housing.

33 In counties and cities subject to the review and evaluation  
34 requirements of RCW 36.70A.215, any revision to the housing element  
35 shall include consideration of prior review and evaluation reports  
36 and any reasonable measures identified. The housing element should  
37 link jurisdictional goals with overall county goals to ensure that  
38 the housing element goals are met.

39 (3) A capital facilities plan element consisting of: (a) An  
40 inventory of existing capital facilities owned by public entities,

1 showing the locations and capacities of the capital facilities; (b) a  
2 forecast of the future needs for such capital facilities; (c) the  
3 proposed locations and capacities of expanded or new capital  
4 facilities; (d) at least a six-year plan that will finance such  
5 capital facilities within projected funding capacities and clearly  
6 identifies sources of public money for such purposes; and (e) a  
7 requirement to reassess the land use element if probable funding  
8 falls short of meeting existing needs and to ensure that the land use  
9 element, capital facilities plan element, and financing plan within  
10 the capital facilities plan element are coordinated and consistent.  
11 Park and recreation facilities shall be included in the capital  
12 facilities plan element.

13 (4) A utilities element consisting of the general location,  
14 proposed location, and capacity of all existing and proposed  
15 utilities, including, but not limited to, electrical lines,  
16 telecommunication lines, and natural gas lines.

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

21 (a) Growth management act goals and local circumstances. Because  
22 circumstances vary from county to county, in establishing patterns of  
23 rural densities and uses, a county may consider local circumstances,  
24 but shall develop a written record explaining how the rural element  
25 harmonizes the planning goals in RCW 36.70A.020 and meets the  
26 requirements of this chapter.

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

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

40 (i) Containing or otherwise controlling rural development;

1 (ii) Assuring visual compatibility of rural development with the  
2 surrounding rural area;

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

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

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

9 (d) Limited areas of more intensive rural development. Subject to  
10 the requirements of this subsection and except as otherwise  
11 specifically provided in this subsection (5)(d), the rural element  
12 may allow for limited areas of more intensive rural development,  
13 including necessary public facilities and public services to serve  
14 the limited area as follows:

15 (i) Rural development consisting of the infill, development, or  
16 redevelopment of existing commercial, industrial, residential, or  
17 mixed-use areas, whether characterized as shoreline development,  
18 villages, hamlets, rural activity centers, or crossroads  
19 developments.

20 (A) A commercial, industrial, residential, shoreline, or mixed-  
21 use area are subject to the requirements of (d)(iv) of this  
22 subsection, but are not subject to the requirements of (c)(ii) and  
23 (iii) of this subsection.

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

28 (C) Any development or redevelopment in terms of building size,  
29 scale, use, or intensity shall be consistent with the character of  
30 the existing areas while meeting needs of the people in those  
31 communities, including access to domestic water, storm, and sanitary  
32 sewer systems that are feasible and affordable for the location.

33 Development and redevelopment may include changes in use from vacant  
34 land or a previously existing use so long as the new use conforms to  
35 the requirements of this subsection (5);

36 (ii) The intensification of development on lots containing, or  
37 new development of, small-scale recreational or tourist uses,  
38 including commercial facilities to serve those recreational or  
39 tourist uses, that rely on a rural location and setting, but that do  
40 not include new residential development. A small-scale recreation or

1 tourist use is not required to be principally designed to serve the  
2 existing and projected rural population. Public services and public  
3 facilities shall be limited to those necessary to serve the  
4 recreation or tourist use and shall be provided in a manner that does  
5 not permit low-density sprawl;

6 (iii) The intensification of development on lots containing  
7 isolated nonresidential uses or new development of isolated cottage  
8 industries and isolated small-scale businesses that are not  
9 principally designed to serve the existing and projected rural  
10 population and nonresidential uses, but do provide job opportunities  
11 for rural residents. Rural counties may allow the expansion of small-  
12 scale businesses as long as those small-scale businesses conform with  
13 the rural character of the area as defined by the local government  
14 according to RCW 36.70A.030(23). Rural counties may also allow new  
15 small-scale businesses to utilize a site previously occupied by an  
16 existing business as long as the new small-scale business conforms to  
17 the rural character of the area as defined by the local government  
18 according to RCW 36.70A.030(23). Public services and public  
19 facilities shall be limited to those necessary to serve the isolated  
20 nonresidential use, and shall be provided in a manner that does not  
21 permit low-density sprawl;

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

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

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

5 (B) On the date the county adopted a resolution under RCW  
6 36.70A.040(2), in a county that is planning under all of the  
7 provisions of this chapter under RCW 36.70A.040(2); or

8 (C) On the date the office of financial management certifies the  
9 county's population as provided in RCW 36.70A.040(5), in a county  
10 that is planning under all of the provisions of this chapter pursuant  
11 to RCW 36.70A.040(5).

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

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

18 (a) The transportation element shall include the following  
19 subelements:

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

21 (ii) Estimated traffic impacts to state-owned transportation  
22 facilities resulting from land use assumptions to assist the  
23 department of transportation in monitoring the performance of state  
24 facilities, to plan improvements for the facilities, and to assess  
25 the impact of land-use decisions on state-owned transportation  
26 facilities;

27 (iii) Facilities and services needs, including:

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

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

37 (C) For state-owned transportation facilities, level of service  
38 standards for highways, as prescribed in chapters 47.06 and 47.80  
39 RCW, to gauge the performance of the system. The purposes of  
40 reflecting level of service standards for state highways in the local

1 comprehensive plan are to monitor the performance of the system, to  
2 evaluate improvement strategies, and to facilitate coordination  
3 between the county's or city's six-year street, road, or transit  
4 program and the office of financial management's ten-year investment  
5 program. The concurrency requirements of (b) of this subsection do  
6 not apply to transportation facilities and services of statewide  
7 significance except for counties consisting of islands whose only  
8 connection to the mainland are state highways or ferry routes. In  
9 these island counties, state highways and ferry route capacity must  
10 be a factor in meeting the concurrency requirements in (b) of this  
11 subsection;

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

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

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

22 (iv) Finance, including:

23 (A) An analysis of funding capability to judge needs against  
24 probable funding resources;

25 (B) A multiyear financing plan based on the needs identified in  
26 the comprehensive plan, the appropriate parts of which shall serve as  
27 the basis for the six-year street, road, or transit program required  
28 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW  
29 35.58.2795 for public transportation systems. The multiyear financing  
30 plan should be coordinated with the ten-year investment program  
31 developed by the office of financial management as required by RCW  
32 47.05.030;

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

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

40 (vi) Demand-management strategies;

1 (vii) Pedestrian and bicycle component to include collaborative  
2 efforts to identify and designate planned improvements for pedestrian  
3 and bicycle facilities and corridors that address and encourage  
4 enhanced community access and promote healthy lifestyles.

5 (b) After adoption of the comprehensive plan by jurisdictions  
6 required to plan or who choose to plan under RCW 36.70A.040, local  
7 jurisdictions must adopt and enforce ordinances which prohibit  
8 development approval if the development causes the level of service  
9 on a locally owned transportation facility to decline below the  
10 standards adopted in the transportation element of the comprehensive  
11 plan, unless transportation improvements or strategies to accommodate  
12 the impacts of development are made concurrent with the development.  
13 These strategies may include increased public transportation service,  
14 ride-sharing programs, demand management, and other transportation  
15 systems management strategies. For the purposes of this subsection  
16 (6), "concurrent with the development" means that improvements or  
17 strategies are in place at the time of development, or that a  
18 financial commitment is in place to complete the improvements or  
19 strategies within six years. If the collection of impact fees is  
20 delayed under RCW 82.02.050(3), the six-year period required by this  
21 subsection (6)(b) must begin after full payment of all impact fees is  
22 due to the county or city.

23 (c) The transportation element described in this subsection (6),  
24 the six-year plans required by RCW 35.77.010 for cities, RCW  
25 36.81.121 for counties, and RCW 35.58.2795 for public transportation  
26 systems, and the ten-year investment program required by RCW  
27 47.05.030 for the state, must be consistent.

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

33 (8) A park and recreation element that implements, and is  
34 consistent with, the capital facilities plan element as it relates to  
35 park and recreation facilities. The element shall include: (a)  
36 Estimates of park and recreation demand for at least a ten-year  
37 period; (b) an evaluation of facilities and service needs; and (c) an  
38 evaluation of intergovernmental coordination opportunities to provide  
39 regional approaches for meeting park and recreational demand.

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

8 **Sec. 3.** RCW 36.70A.110 and 2017 c 305 s 1 are each amended to  
9 read as follows:

10 (1) Each county that is required or chooses to plan under RCW  
11 36.70A.040 shall designate an urban growth area or areas within which  
12 urban growth shall be encouraged and outside of which growth can  
13 occur only if it is not urban in nature. Each city that is located in  
14 such a county shall be included within an urban growth area. An urban  
15 growth area may include more than a single city. An urban growth area  
16 may include territory that is located outside of a city only if such  
17 territory already is characterized by urban growth whether or not the  
18 urban growth area includes a city, or is adjacent to territory  
19 already characterized by urban growth, or is a designated new fully  
20 contained community as defined by RCW 36.70A.350.

21 (2) Based upon the growth management population projection made  
22 for the county by the office of financial management, the county and  
23 each city within the county shall include areas and densities  
24 sufficient to permit the urban growth that is projected to occur in  
25 the county or city for the succeeding twenty-year period, except for  
26 those urban growth areas contained totally within a national  
27 historical reserve. As part of this planning process, each city  
28 within the county must include areas sufficient to accommodate the  
29 broad range of needs and uses that will accompany the projected urban  
30 growth including, as appropriate, medical, governmental,  
31 institutional, commercial, service, retail, and other nonresidential  
32 uses.

33 Each urban growth area shall permit urban densities and shall  
34 include greenbelt and open space areas. In the case of urban growth  
35 areas contained totally within a national historical reserve, the  
36 city may restrict densities, intensities, and forms of urban growth  
37 as determined to be necessary and appropriate to protect the  
38 physical, cultural, or historic integrity of the reserve. An urban  
39 growth area determination may include a reasonable land market supply

1 factor and shall permit a range of urban densities and uses. In  
2 determining this market factor, cities and counties may consider  
3 local circumstances. Cities and counties have discretion in their  
4 comprehensive plans to make many choices about accommodating growth.

5 Within one year of July 1, 1990, each county that as of June 1,  
6 1991, was required or chose to plan under RCW 36.70A.040, shall begin  
7 consulting with each city located within its boundaries and each city  
8 shall propose the location of an urban growth area. Within sixty days  
9 of the date the county legislative authority of a county adopts its  
10 resolution of intention or of certification by the office of  
11 financial management, all other counties that are required or choose  
12 to plan under RCW 36.70A.040 shall begin this consultation with each  
13 city located within its boundaries. The county shall attempt to reach  
14 agreement with each city on the location of an urban growth area  
15 within which the city is located. If such an agreement is not reached  
16 with each city located within the urban growth area, the county shall  
17 justify in writing why it so designated the area an urban growth  
18 area. A city may object formally with the department over the  
19 designation of the urban growth area within which it is located.  
20 Where appropriate, the department shall attempt to resolve the  
21 conflicts, including the use of mediation services.

22 (3) Urban growth should be located first in areas already  
23 characterized by urban growth that have adequate existing public  
24 facility and service capacities to serve such development, second in  
25 areas already characterized by urban growth that will be served  
26 adequately by a combination of both existing public facilities and  
27 services and any additional needed public facilities and services  
28 that are provided by either public or private sources, and third in  
29 the remaining portions of the urban growth areas. Urban growth may  
30 also be located in designated new fully contained communities as  
31 defined by RCW 36.70A.350.

32 (4) In general, cities are the units of local government most  
33 appropriate to provide urban governmental services. In general, it is  
34 not appropriate that urban governmental services be extended to or  
35 expanded in rural areas except (~~if~~):

36 (a) In those limited circumstances shown to be necessary to  
37 protect basic public health and safety and the environment and when  
38 such services are financially supportable at rural densities and do  
39 not permit urban development; or

1       (b) When there is existing development inconsistent with rural  
2 character, publicly provided water, stormwater, and sanitary sewer  
3 services may be extended beyond the city and urban growth areas to  
4 meet the needs of the people living in communities outside of the  
5 city, as long as such an extension will not foster expended urban  
6 development that is not planned to be included within an urban growth  
7 area in the relevant comprehensive plans of the city or county. The  
8 city or county must make findings that the extension is feasible,  
9 cost-effective over a planning horizon of no more than 20 years, and  
10 environmentally beneficial. For the purposes of this section,  
11 "environmentally beneficial" means a determination, made after a  
12 quantified analysis of the expected environmental impacts of the  
13 proposed action is undertaken pursuant to chapter 43.21C RCW, that  
14 the action would mitigate current or projected environmental impacts  
15 or would provide defined benefits reflecting specific state or  
16 federal environmental policies or policies in the comprehensive plan  
17 of the jurisdiction.

18       (5) On or before October 1, 1993, each county that was initially  
19 required to plan under RCW 36.70A.040(1) shall adopt development  
20 regulations designating interim urban growth areas under this  
21 chapter. Within three years and three months of the date the county  
22 legislative authority of a county adopts its resolution of intention  
23 or of certification by the office of financial management, all other  
24 counties that are required or choose to plan under RCW 36.70A.040  
25 shall adopt development regulations designating interim urban growth  
26 areas under this chapter. Adoption of the interim urban growth areas  
27 may only occur after public notice; public hearing; and compliance  
28 with the state environmental policy act, chapter 43.21C RCW, and  
29 under this section. Such action may be appealed to the growth  
30 management hearings board under RCW 36.70A.280. Final urban growth  
31 areas shall be adopted at the time of comprehensive plan adoption  
32 under this chapter.

33       (6) Each county shall include designations of urban growth areas  
34 in its comprehensive plan.

35       (7) An urban growth area designated in accordance with this  
36 section may include within its boundaries urban service areas or  
37 potential annexation areas designated for specific cities or towns  
38 within the county.

39       (8) (a) Except as provided in (b) of this subsection, the  
40 expansion of an urban growth area is prohibited into the one hundred

1 year floodplain of any river or river segment that: (i) Is located  
2 west of the crest of the Cascade mountains; and (ii) has a mean  
3 annual flow of one thousand or more cubic feet per second as  
4 determined by the department of ecology.

5 (b) Subsection (8)(a) of this section does not apply to:

6 (i) Urban growth areas that are fully contained within a  
7 floodplain and lack adjacent buildable areas outside the floodplain;

8 (ii) Urban growth areas where expansions are precluded outside  
9 floodplains because:

10 (A) Urban governmental services cannot be physically provided to  
11 serve areas outside the floodplain; or

12 (B) Expansions outside the floodplain would require a river or  
13 estuary crossing to access the expansion; or

14 (iii) Urban growth area expansions where:

15 (A) Public facilities already exist within the floodplain and the  
16 expansion of an existing public facility is only possible on the land  
17 to be included in the urban growth area and located within the  
18 floodplain; or

19 (B) Urban development already exists within a floodplain as of  
20 July 26, 2009, and is adjacent to, but outside of, the urban growth  
21 area, and the expansion of the urban growth area is necessary to  
22 include such urban development within the urban growth area; or

23 (C) The land is owned by a jurisdiction planning under this  
24 chapter or the rights to the development of the land have been  
25 permanently extinguished, and the following criteria are met:

26 (I) The permissible use of the land is limited to one of the  
27 following: Outdoor recreation; environmentally beneficial projects,  
28 including but not limited to habitat enhancement or environmental  
29 restoration; stormwater facilities; flood control facilities; or  
30 underground conveyances; and

31 (II) The development and use of such facilities or projects will  
32 not decrease flood storage, increase stormwater runoff, discharge  
33 pollutants to fresh or salt waters during normal operations or  
34 floods, or increase hazards to people and property.

35 (c) For the purposes of this subsection (8), "one hundred year  
36 floodplain" means the same as "special flood hazard area" as set  
37 forth in WAC 173-158-040 as it exists on July 26, 2009.

38 (9) If a county, city, or utility has adopted a capital facility  
39 plan or utilities element to provide sewer service within the urban  
40 growth areas during the twenty-year planning period, nothing in this

1 chapter obligates counties, cities, or utilities to install sanitary  
2 sewer systems to properties within urban growth areas designated  
3 under subsection (2) of this section by the end of the twenty-year  
4 planning period when those properties:

5 (a)(i) Have existing, functioning, nonpolluting on-site sewage  
6 systems;

7 (ii) Have a periodic inspection program by a public agency to  
8 verify the on-site sewage systems function properly and do not  
9 pollute surface or groundwater; and

10 (iii) Have no redevelopment capacity; or

11 (b) Do not require sewer service because development densities  
12 are limited due to wetlands, flood plains, fish and wildlife  
13 habitats, or geological hazards.

14 (10) The provision of water, sanitary sewage systems, and  
15 stormwater control facilities may be used to protect basic public  
16 health, safety, and the environment outside of city and urban growth  
17 area boundaries in accordance with subsection (4) of this section.

18 **Sec. 4.** RCW 36.70A.320 and 1997 c 429 s 20 are each amended to  
19 read as follows:

20 (1) Except as provided in subsection (5) of this section,  
21 comprehensive plans and development regulations, and amendments  
22 thereto, adopted under this chapter are presumed valid upon adoption.

23 (2) Except as otherwise provided in subsection (4) of this  
24 section, the burden is on the petitioner to demonstrate that any  
25 action taken by a state agency, county, or city under this chapter is  
26 not in compliance with the requirements of this chapter.

27 (3) In any petition under this chapter, the board, after full  
28 consideration of the petition, shall determine whether there is  
29 compliance with the requirements of this chapter. In making its  
30 determination, the board shall consider the criteria adopted by the  
31 department under RCW 36.70A.190(4). The board shall find compliance  
32 unless it determines that the action by the state agency, county, or  
33 city is clearly erroneous in view of the entire record before the  
34 board and in light of the goals and requirements of this chapter.

35 A finding of noncompliance may not be based on the provision of  
36 water, sewer, or stormwater facilities or services extended outside  
37 of a city's boundaries when approved pursuant to RCW 36.70A.110(4),  
38 nor shall state funding be restricted or reduced for such a reason.

1 (4) A county or city subject to a determination of invalidity  
2 made under RCW 36.70A.300 or 36.70A.302 has the burden of  
3 demonstrating that the ordinance or resolution it has enacted in  
4 response to the determination of invalidity will no longer  
5 substantially interfere with the fulfillment of the goals of this  
6 chapter under the standard in RCW 36.70A.302(1).

7 (5) The shoreline element of a comprehensive plan and the  
8 applicable development regulations adopted by a county or city shall  
9 take effect as provided in chapter 90.58 RCW.

10 **Sec. 5.** RCW 36.93.100 and 1994 c 216 s 13 are each amended to  
11 read as follows:

12 The board shall review and approve, disapprove, or modify any of  
13 the actions set forth in RCW 36.93.090 when any of the following  
14 shall occur within forty-five days of the filing of a notice of  
15 intention:

16 (1) Three members of a five-member boundary review board or five  
17 members of a boundary review board in a county with a population of  
18 one million or more files a request for review: PROVIDED, That the  
19 members of the boundary review board shall not be authorized to file  
20 a request for review of the following actions:

21 (a) The incorporation of any special district or change in the  
22 boundary of any city, town, or special purpose district;

23 (b) The extension of permanent water service outside of its  
24 existing corporate boundaries by a city, town, or special purpose  
25 district if (i) the extension is through the installation of water  
26 mains of six inches or less in diameter or (ii) the county  
27 legislative authority for the county in which the proposed extension  
28 is to be built is required or chooses to plan under RCW 36.70A.040  
29 and has by a majority vote waived the authority of the board to  
30 initiate review of all other extensions; (~~or~~)

31 (c) The extension of permanent sewer service outside of its  
32 existing corporate boundaries by a city, town, or special purpose  
33 district if (i) the extension is through the installation of sewer  
34 mains of eight inches or less in diameter or (ii) the county  
35 legislative authority for the county in which the proposed extension  
36 is to be built is required or chooses to plan under RCW 36.70A.040  
37 and has by a majority vote waived the authority of the board to  
38 initiate review of all other extensions; or

1       (d) The extension of permanent water service outside of its  
2 existing corporate boundaries by a city, town, or special purpose  
3 district when the extension is approved pursuant to RCW 36.70A.110(4)  
4 and is included in the most recent update of the comprehensive plan  
5 of any city extending such service, or of the county in which the  
6 properties that service is extended to are located;

7       (2) Any governmental unit affected, including the governmental  
8 unit for which the boundary change or extension of permanent water or  
9 sewer service is proposed, or the county within which the area of the  
10 proposed action is located, files a request for review of the  
11 specific action;

12       (3) A petition requesting review is filed and is signed by:

13       (a) Five percent of the registered voters residing within the  
14 area which is being considered for the proposed action (as determined  
15 by the boundary review board in its discretion subject to immediate  
16 review by writ of certiorari to the superior court); or

17       (b) An owner or owners of property consisting of five percent of  
18 the assessed valuation within such area;

19       (4) The majority of the members of boundary review boards concur  
20 with a request for review when a petition requesting the review is  
21 filed by five percent of the registered voters who deem themselves  
22 affected by the action and reside within one-quarter mile of the  
23 proposed action but not within the jurisdiction proposing the action.

24       If a period of forty-five days shall elapse without the board's  
25 jurisdiction having been invoked as set forth in this section, the  
26 proposed action shall be deemed approved.

27       If a review of a proposal is requested, the board shall make a  
28 finding as prescribed in RCW 36.93.150 within one hundred twenty days  
29 after the filing of such a request for review. If this period of one  
30 hundred twenty days shall elapse without the board making a finding  
31 as prescribed in RCW 36.93.150, the proposal shall be deemed approved  
32 unless the board and the person who submitted the proposal agree to  
33 an extension of the one hundred twenty day period.

34       **Sec. 6.** RCW 36.93.105 and 1999 c 153 s 46 are each amended to  
35 read as follows:

36       The following actions shall not be subject to potential review by  
37 a boundary review board:

1       (1) The extension of permanent water or sewer services outside of  
2 its existing corporate boundaries by a city, town, or special purpose  
3 district when approved pursuant to RCW 36.70A.110(4);

4       (2) Annexations of territory to a water-sewer district pursuant  
5 to RCW 36.94.410 through 36.94.440;

6       (~~(2)~~) (3) Revisions of city or town boundaries pursuant to RCW  
7 35.21.790 or 35A.21.210;

8       (~~(3)~~) (4) Adjustments to city or town boundaries pursuant to  
9 RCW 35.13.340; and

10       (~~(4)~~) (5) Adjustments to city and town boundaries pursuant to  
11 RCW 35.13.300 through 35.13.330.

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