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HOUSE BILL 1748

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State of Washington

65th Legislature

2017 Regular Session

By Representatives Chandler and Johnson

Read first time 01/27/17. Referred to Committee on Environment.

1 AN ACT Relating to modifying provisions within the growth  
2 management act to improve affordable housing opportunities in rural  
3 communities; and amending RCW 36.70A.030 and 36.70A.070.

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

5 **Sec. 1.** RCW 36.70A.030 and 2012 c 21 s 1 are each amended to  
6 read as follows:

7 Unless the context clearly requires otherwise, the definitions in  
8 this section apply throughout this chapter.

9 (1) "Adopt a comprehensive land use plan" means to enact a new  
10 comprehensive land use plan or to update an existing comprehensive  
11 land use plan.

12 (2) "Agricultural land" means land primarily devoted to the  
13 commercial production of horticultural, viticultural, floricultural,  
14 dairy, apiary, vegetable, or animal products or of berries, grain,  
15 hay, straw, turf, seed, Christmas trees not subject to the excise tax  
16 imposed by RCW 84.33.100 through 84.33.140, finfish in upland  
17 hatcheries, or livestock, and that has long-term commercial  
18 significance for agricultural production.

19 (3) "City" means any city or town, including a code city.

20 (4) "Comprehensive land use plan," "comprehensive plan," or  
21 "plan" means a generalized coordinated land use policy statement of

1 the governing body of a county or city that is adopted pursuant to  
2 this chapter.

3 (5) "Critical areas" include the following areas and ecosystems:

4 (a) Wetlands; (b) areas with a critical recharging effect on aquifers  
5 used for potable water; (c) fish and wildlife habitat conservation  
6 areas; (d) frequently flooded areas; and (e) geologically hazardous  
7 areas. "Fish and wildlife habitat conservation areas" does not  
8 include such artificial features or constructs as irrigation delivery  
9 systems, irrigation infrastructure, irrigation canals, or drainage  
10 ditches that lie within the boundaries of and are maintained by a  
11 port district or an irrigation district or company.

12 (6) "Department" means the department of commerce.

13 (7) "Development regulations" or "regulation" means the controls  
14 placed on development or land use activities by a county or city,  
15 including, but not limited to, zoning ordinances, critical areas  
16 ordinances, shoreline master programs, official controls, planned  
17 unit development ordinances, subdivision ordinances, and binding site  
18 plan ordinances together with any amendments thereto. A development  
19 regulation does not include a decision to approve a project permit  
20 application, as defined in RCW 36.70B.020, even though the decision  
21 may be expressed in a resolution or ordinance of the legislative body  
22 of the county or city.

23 (8) "Forestland" means land primarily devoted to growing trees  
24 for long-term commercial timber production on land that can be  
25 economically and practically managed for such production, including  
26 Christmas trees subject to the excise tax imposed under RCW 84.33.100  
27 through 84.33.140, and that has long-term commercial significance. In  
28 determining whether forestland is primarily devoted to growing trees  
29 for long-term commercial timber production on land that can be  
30 economically and practically managed for such production, the  
31 following factors shall be considered: (a) The proximity of the land  
32 to urban, suburban, and rural settlements; (b) surrounding parcel  
33 size and the compatibility and intensity of adjacent and nearby land  
34 uses; (c) long-term local economic conditions that affect the ability  
35 to manage for timber production; and (d) the availability of public  
36 facilities and services conducive to conversion of forestland to  
37 other uses.

38 (9) "Geologically hazardous areas" means areas that because of  
39 their susceptibility to erosion, sliding, earthquake, or other  
40 geological events, are not suited to the siting of commercial,

1 residential, or industrial development consistent with public health  
2 or safety concerns.

3 (10) "Long-term commercial significance" includes the growing  
4 capacity, productivity, and soil composition of the land for long-  
5 term commercial production, in consideration with the land's  
6 proximity to population areas, and the possibility of more intense  
7 uses of the land.

8 (11) "Minerals" include gravel, sand, and valuable metallic  
9 substances.

10 (12) "Public facilities" include streets, roads, highways,  
11 sidewalks, street and road lighting systems, traffic signals,  
12 domestic water systems, storm and sanitary sewer systems, parks and  
13 recreational facilities, and schools.

14 (13) "Public services" include fire protection and suppression,  
15 law enforcement, public health, education, recreation, environmental  
16 protection, and other governmental services.

17 (14) "Recreational land" means land so designated under RCW  
18 36.70A.1701 and that, immediately prior to this designation, was  
19 designated as agricultural land of long-term commercial significance  
20 under RCW 36.70A.170. Recreational land must have playing fields and  
21 supporting facilities existing before July 1, 2004, for sports played  
22 on grass playing fields.

23 (15) "Rural character" refers to the patterns of land use and  
24 development established by a county in the rural element of its  
25 comprehensive plan:

26 (a) In which open space, the natural landscape, and vegetation  
27 predominate over the built environment;

28 (b) That foster (~~(traditional)~~) rural lifestyles, rural-based  
29 economies, and opportunities to both live and work in rural areas(~~(+~~

30 ~~(c) That provide visual landscapes that are traditionally found~~  
31 ~~in rural areas and communities))~~);

32 ~~((d))~~ (c) That are compatible with the use of the land by  
33 wildlife and for fish and wildlife habitat(~~(+~~

34 ~~(e) That reduce the inappropriate conversion of undeveloped land~~  
35 ~~into sprawling, low-density development;~~

36 ~~(f) That generally do not require the extension of urban~~  
37 ~~governmental services; and~~

38 ~~(g) That are consistent with the protection of natural surface~~  
39 ~~water flows and groundwater and surface water recharge and discharge~~  
40 ~~areas)).~~

1 (16) "Rural development" refers to development outside the urban  
2 growth area and outside agricultural, forest, and mineral resource  
3 lands designated pursuant to RCW 36.70A.170. Rural development can  
4 consist of a variety of uses and residential densities, including  
5 clustered residential development, at levels that are consistent with  
6 the preservation of rural character and the requirements of the rural  
7 element. Rural development does not refer to agriculture or forestry  
8 activities that may be conducted in rural areas.

9 (17) "Rural governmental services" or "rural services" include  
10 those public services and public facilities historically and  
11 typically delivered at an intensity usually found in rural areas, and  
12 may include domestic water systems, fire and police protection  
13 services, transportation and public transit services, and other  
14 public utilities associated with rural development and normally not  
15 associated with urban areas. Rural services do not include storm or  
16 sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

17 (18) "Urban governmental services" or "urban services" include  
18 those public services and public facilities at an intensity  
19 historically and typically provided in cities, specifically including  
20 storm and sanitary sewer systems, domestic water systems, street  
21 cleaning services, fire and police protection services, public  
22 transit services, and other public utilities associated with urban  
23 areas and normally not associated with rural areas.

24 (19) "Urban growth" refers to growth that makes intensive use of  
25 land for the location of buildings, structures, and impermeable  
26 surfaces to such a degree as to be incompatible with the primary use  
27 of land for the production of food, other agricultural products, or  
28 fiber, or the extraction of mineral resources, rural uses, rural  
29 development, and natural resource lands designated pursuant to RCW  
30 36.70A.170. A pattern of more intensive rural development, as  
31 provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed  
32 to spread over wide areas, urban growth typically requires urban  
33 governmental services. "Characterized by urban growth" refers to land  
34 having urban growth located on it, or to land located in relationship  
35 to an area with urban growth on it as to be appropriate for urban  
36 growth.

37 (20) "Urban growth areas" means those areas designated by a  
38 county pursuant to RCW 36.70A.110.

39 (21) "Wetland" or "wetlands" means areas that are inundated or  
40 saturated by surface water or groundwater at a frequency and duration

1 sufficient to support, and that under normal circumstances do  
2 support, a prevalence of vegetation typically adapted for life in  
3 saturated soil conditions. Wetlands generally include swamps,  
4 marshes, bogs, and similar areas. Wetlands do not include those  
5 artificial wetlands intentionally created from nonwetland sites,  
6 including, but not limited to, irrigation and drainage ditches,  
7 grass-lined swales, canals, detention facilities, wastewater  
8 treatment facilities, farm ponds, and landscape amenities, or those  
9 wetlands created after July 1, 1990, that were unintentionally  
10 created as a result of the construction of a road, street, or  
11 highway. Wetlands may include those artificial wetlands intentionally  
12 created from nonwetland areas created to mitigate conversion of  
13 wetlands.

14 **Sec. 2.** RCW 36.70A.070 and 2015 c 241 s 2 are each amended to  
15 read as follows:

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

25 (1) A land use element designating the proposed general  
26 distribution and general location and extent of the uses of land,  
27 where appropriate, for agriculture, timber production, housing,  
28 commerce, industry, recreation, open spaces, general aviation  
29 airports, public utilities, public facilities, and other land uses.  
30 The land use element shall include population densities, building  
31 intensities, and estimates of future population growth. The land use  
32 element shall provide for protection of the quality and quantity of  
33 groundwater used for public water supplies. Wherever possible, the  
34 land use element should consider utilizing urban planning approaches  
35 that promote physical activity. Where applicable, the land use  
36 element shall review drainage, flooding, and storm water run-off in  
37 the area and nearby jurisdictions and provide guidance for corrective  
38 actions to mitigate or cleanse those discharges that pollute waters  
39 of the state, including Puget Sound or waters entering Puget Sound.

1 (2) A housing element ensuring the vitality and character of  
2 established residential neighborhoods that: (a) Includes an inventory  
3 and analysis of existing and projected housing needs that identifies  
4 the number of housing units necessary to manage projected growth; (b)  
5 includes a statement of goals, policies, objectives, and mandatory  
6 provisions for the preservation, improvement, and development of  
7 housing, including single-family residences; (c) identifies  
8 sufficient land for housing, including, but not limited to,  
9 government-assisted housing, housing for low-income families,  
10 manufactured housing, multifamily housing, and group homes and foster  
11 care facilities; and (d) makes adequate provisions for existing and  
12 projected housing needs of all economic segments of the community.

13 (3) A capital facilities plan element consisting of: (a) An  
14 inventory of existing capital facilities owned by public entities,  
15 showing the locations and capacities of the capital facilities; (b) a  
16 forecast of the future needs for such capital facilities; (c) the  
17 proposed locations and capacities of expanded or new capital  
18 facilities; (d) at least a six-year plan that will finance such  
19 capital facilities within projected funding capacities and clearly  
20 identifies sources of public money for such purposes; and (e) a  
21 requirement to reassess the land use element if probable funding  
22 falls short of meeting existing needs and to ensure that the land use  
23 element, capital facilities plan element, and financing plan within  
24 the capital facilities plan element are coordinated and consistent.  
25 Park and recreation facilities shall be included in the capital  
26 facilities plan element.

27 (4) A utilities element consisting of the general location,  
28 proposed location, and capacity of all existing and proposed  
29 utilities, including, but not limited to, electrical lines,  
30 telecommunication lines, and natural gas lines.

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

35 (a) Growth management act goals and local circumstances. Because  
36 circumstances vary from county to county, in establishing patterns of  
37 rural densities and uses, a county may consider local circumstances,  
38 but shall develop a written record explaining how the rural element  
39 harmonizes the planning goals in RCW 36.70A.020 and meets the  
40 requirements of this chapter.

1 (b) Rural development. The rural element shall permit rural  
2 development, forestry, and agriculture in rural areas. The rural  
3 element shall provide for a variety of rural densities, uses,  
4 essential public facilities, and rural governmental services needed  
5 to serve the permitted densities and uses. Rural development includes  
6 the use of exempt wells without restriction under this chapter. To  
7 achieve a variety of rural densities and uses, counties may provide  
8 for clustering, density transfer, design guidelines, conservation  
9 easements, and other innovative techniques that will accommodate  
10 appropriate rural densities and uses that are not characterized by  
11 urban growth and that are consistent with rural character.

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

15 ~~(i) Containing or otherwise controlling rural development;~~

16 ~~(ii) Assuring visual compatibility of rural development with the~~  
17 ~~surrounding rural area;~~

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

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

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

24 protect against conflicts with the use of agricultural, forest, and  
25 mineral resource lands designated under RCW 36.70A.170.

26 (d) Limited areas of more intensive rural development. Subject to  
27 the requirements of this subsection and except as otherwise  
28 specifically provided in this subsection ~~((5)(d))~~, the rural  
29 element may allow for limited areas of more intensive rural  
30 development, including necessary public facilities and public  
31 services to serve the limited area as follows:

32 (i) Rural development consisting of the infill, development, or  
33 redevelopment of existing commercial, industrial, residential, or  
34 mixed-use areas, whether characterized as shoreline development,  
35 villages, hamlets, rural activity centers, or crossroads  
36 developments.

37 (A) A commercial, industrial, residential, shoreline, or mixed-  
38 use area are subject to the requirements of (d)(iv) of this  
39 subsection ~~(, but are not subject to the requirements of (c)(ii) and~~  
40 ~~(iii) of this subsection)).~~

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

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

10 (ii) The intensification of development on lots containing, or  
11 new development of, small-scale recreational or tourist uses,  
12 including commercial facilities to serve those recreational or  
13 tourist uses, that rely on a rural location and setting, but that do  
14 not include new residential development. A small-scale recreation or  
15 tourist use is not required to be principally designed to serve the  
16 existing and projected rural population. Public services and public  
17 facilities shall be limited to those necessary to serve the  
18 recreation or tourist use and shall be provided in a manner that does  
19 not permit low-density sprawl;

20 (iii) The intensification of development on lots containing  
21 isolated nonresidential uses or new development of isolated cottage  
22 industries and isolated small-scale businesses that are not  
23 principally designed to serve the existing and projected rural  
24 population and nonresidential uses, but do provide job opportunities  
25 for rural residents. Rural counties may allow the expansion of small-  
26 scale businesses as long as those small-scale businesses conform with  
27 the rural character of the area as defined by the local government  
28 according to RCW 36.70A.030(15). Rural counties may also allow new  
29 small-scale businesses to utilize a site previously occupied by an  
30 existing business as long as the new small-scale business conforms to  
31 the rural character of the area as defined by the local government  
32 according to RCW 36.70A.030(15). Public services and public  
33 facilities shall be limited to those necessary to serve the isolated  
34 nonresidential use and shall be provided in a manner that does not  
35 permit low-density sprawl;

36 (iv) A county shall adopt measures to minimize and contain the  
37 existing areas or uses of more intensive rural development, as  
38 appropriate, authorized under this subsection. Lands included in such  
39 existing areas or uses shall not extend beyond the logical outer  
40 boundary of the existing area or use, thereby allowing a new pattern



1 of low-density sprawl. Existing areas are those that are clearly  
2 identifiable and contained and where there is a logical boundary  
3 delineated predominately by the built environment, but that may also  
4 include undeveloped lands if limited as provided in this subsection.  
5 The county shall establish the logical outer boundary of an area of  
6 more intensive rural development. In establishing the logical outer  
7 boundary, the county shall address (A) the need to preserve the  
8 character of existing natural neighborhoods and communities, (B)  
9 physical boundaries, such as bodies of water, streets and highways,  
10 and land forms and contours, (C) the prevention of abnormally  
11 irregular boundaries, and (D) the ability to provide public  
12 facilities and public services in a manner that does not permit low-  
13 density sprawl;

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

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

18 (B) On the date the county adopted a resolution under RCW  
19 36.70A.040(2), in a county that is planning under all of the  
20 provisions of this chapter under RCW 36.70A.040(2); or

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

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

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

31 (a) The transportation element shall include the following  
32 subelements:

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

34 (ii) Estimated traffic impacts to state-owned transportation  
35 facilities resulting from land use assumptions to assist the  
36 department of transportation in monitoring the performance of state  
37 facilities, to plan improvements for the facilities, and to assess  
38 the impact of land-use decisions on state-owned transportation  
39 facilities;

40 (iii) Facilities and services needs, including:

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

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

10 (C) For state-owned transportation facilities, level of service  
11 standards for highways, as prescribed in chapters 47.06 and 47.80  
12 RCW, to gauge the performance of the system. The purposes of  
13 reflecting level of service standards for state highways in the local  
14 comprehensive plan are to monitor the performance of the system, to  
15 evaluate improvement strategies, and to facilitate coordination  
16 between the county's or city's six-year street, road, or transit  
17 program and the office of financial management's ten-year investment  
18 program. The concurrency requirements of (b) of this subsection do  
19 not apply to transportation facilities and services of statewide  
20 significance except for counties consisting of islands whose only  
21 connection to the mainland are state highways or ferry routes. In  
22 these island counties, state highways and ferry route capacity must  
23 be a factor in meeting the concurrency requirements in (b) of this  
24 subsection;

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

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

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

35 (iv) Finance, including:

36 (A) An analysis of funding capability to judge needs against  
37 probable funding resources;

38 (B) A multiyear financing plan based on the needs identified in  
39 the comprehensive plan, the appropriate parts of which shall serve as  
40 the basis for the six-year street, road, or transit program required

1 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW  
2 35.58.2795 for public transportation systems. The multiyear financing  
3 plan should be coordinated with the ten-year investment program  
4 developed by the office of financial management as required by RCW  
5 47.05.030;

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

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

13 (vi) Demand-management strategies;

14 (vii) Pedestrian and bicycle component to include collaborative  
15 efforts to identify and designate planned improvements for pedestrian  
16 and bicycle facilities and corridors that address and encourage  
17 enhanced community access and promote healthy lifestyles.

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

36 (c) The transportation element described in this subsection (6),  
37 the six-year plans required by RCW 35.77.010 for cities, RCW  
38 36.81.121 for counties, and RCW 35.58.2795 for public transportation  
39 systems, and the ten-year investment program required by RCW  
40 47.05.030 for the state, must be consistent.

1           (7) An economic development element establishing local goals,  
2 policies, objectives, and provisions for economic growth and vitality  
3 and a high quality of life. The element shall include: (a) A summary  
4 of the local economy such as population, employment, payroll,  
5 sectors, businesses, sales, and other information as appropriate; (b)  
6 a summary of the strengths and weaknesses of the local economy  
7 defined as the commercial and industrial sectors and supporting  
8 factors such as land use, transportation, utilities, education,  
9 workforce, housing, and natural/cultural resources; and (c) an  
10 identification of policies, programs, and projects to foster economic  
11 growth and development and to address future needs. A city that has  
12 chosen to be a residential community is exempt from the economic  
13 development element requirement of this subsection.

14           (8) A park and recreation element that implements, and is  
15 consistent with, the capital facilities plan element as it relates to  
16 park and recreation facilities. The element shall include: (a)  
17 Estimates of park and recreation demand for at least a ten-year  
18 period; (b) an evaluation of facilities and service needs; and (c) an  
19 evaluation of intergovernmental coordination opportunities to provide  
20 regional approaches for meeting park and recreational demand.

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

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