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SECOND ENGROSSED SECOND SUBSTITUTE SENATE BILL 5239

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State of Washington

65th Legislature

2017 Regular Session

By Senate Ways & Means (originally sponsored by Senators Warnick, Takko, Ericksen, Becker, Walsh, Angel, Wilson, Schoesler, Honeyford, Pearson, Brown, and Padden)

READ FIRST TIME 02/24/17.

1 AN ACT Relating to ensuring that water is available to support  
2 development; amending RCW 19.27.097, 36.70A.070, 36.70A.070,  
3 58.17.110, 90.03.247, 18.104.055, and 18.104.150; adding a new  
4 section to chapter 90.54 RCW; creating a new section; providing an  
5 effective date; providing an expiration date; and declaring an  
6 emergency.

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

8 **Sec. 1.** RCW 19.27.097 and 2015 c 225 s 17 are each amended to  
9 read as follows:

10 (1) Each applicant for a building permit of a building  
11 necessitating potable water shall provide evidence of an adequate  
12 water supply for the intended use of the building. Evidence may be in  
13 the form of a water right permit from the department of ecology, a  
14 letter from an approved water purveyor stating the ability to provide  
15 water, a water well report for a groundwater withdrawal exempt from  
16 permitting under RCW 90.44.050 and not prohibited by an applicable  
17 water resources management rule adopted by the department of ecology,  
18 or another form sufficient to verify the existence of an adequate  
19 water supply. (~~In addition to other authorities, the county or city~~  
20 ~~may impose conditions on building permits requiring connection to an~~  
21 ~~existing public water system where the existing system is willing and~~

1 able to provide safe and reliable potable water to the applicant with  
2 reasonable economy and efficiency.) Providing evidence of an  
3 adequate water supply under this subsection does not require  
4 impairment review by the applicant or local permitting authority. An  
5 application for a water right shall not be sufficient proof of an  
6 adequate water supply.

7 (2) In addition to other authorities, the county or city may  
8 impose conditions on building permits requiring connection to an  
9 existing public water system where the existing system is willing and  
10 able to provide safe and reliable potable water to the applicant with  
11 reasonable economy and efficiency.

12 (3) Within counties not required or not choosing to plan pursuant  
13 to RCW 36.70A.040, the county and the state may mutually determine  
14 those areas in the county in which the requirements of subsections  
15 (1) and (2) of this section shall not apply. The departments of  
16 health and ecology shall coordinate on the implementation of this  
17 section. Should the county and the state fail to mutually determine  
18 those areas to be designated pursuant to this subsection, the county  
19 may petition the department of enterprise services to mediate or, if  
20 necessary, make the determination.

21 ((+3)) (4) Buildings that do not need potable water facilities  
22 are exempt from the provisions of this section. The department of  
23 ecology, after consultation with local governments, may adopt rules  
24 to implement this section, which may recognize differences between  
25 high-growth and low-growth counties.

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

28 The comprehensive plan of a county or city that is required or  
29 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,  
30 and descriptive text covering objectives, principles, and standards  
31 used to develop the comprehensive plan. The plan shall be an  
32 internally consistent document and all elements shall be consistent  
33 with the future land use map. A comprehensive plan shall be adopted  
34 and amended with public participation as provided in RCW 36.70A.140.  
35 Each comprehensive plan shall include a plan, scheme, or design for  
36 each of the following:

37 (1) A land use element designating the proposed general  
38 distribution and general location and extent of the uses of land,  
39 where appropriate, for agriculture, timber production, housing,

1 commerce, industry, recreation, open spaces, general aviation  
2 airports, public utilities, public facilities, and other land uses.  
3 The land use element shall include population densities, building  
4 intensities, and estimates of future population growth. The land use  
5 element shall provide for protection of the quality and quantity of  
6 groundwater used for public water supplies. In providing for the  
7 protection of the quantity of groundwater used for public water  
8 supplies under this subsection, a county or city may rely on or refer  
9 to applicable water resources management rules adopted by the  
10 department of ecology. Wherever possible, the land use element should  
11 consider utilizing urban planning approaches that promote physical  
12 activity. Where applicable, the land use element shall review  
13 drainage, flooding, and storm water run-off in the area and nearby  
14 jurisdictions and provide guidance for corrective actions to mitigate  
15 or cleanse those discharges that pollute waters of the state,  
16 including Puget Sound or waters entering Puget Sound.

17 (2) A housing element ensuring the vitality and character of  
18 established residential neighborhoods that: (a) Includes an inventory  
19 and analysis of existing and projected housing needs that identifies  
20 the number of housing units necessary to manage projected growth; (b)  
21 includes a statement of goals, policies, objectives, and mandatory  
22 provisions for the preservation, improvement, and development of  
23 housing, including single-family residences; (c) identifies  
24 sufficient land for housing, including, but not limited to,  
25 government-assisted housing, housing for low-income families,  
26 manufactured housing, multifamily housing, and group homes and foster  
27 care facilities; and (d) makes adequate provisions for existing and  
28 projected needs of all economic segments of the community.

29 (3) A capital facilities plan element consisting of: (a) An  
30 inventory of existing capital facilities owned by public entities,  
31 showing the locations and capacities of the capital facilities; (b) a  
32 forecast of the future needs for such capital facilities; (c) the  
33 proposed locations and capacities of expanded or new capital  
34 facilities; (d) at least a six-year plan that will finance such  
35 capital facilities within projected funding capacities and clearly  
36 identifies sources of public money for such purposes; and (e) a  
37 requirement to reassess the land use element if probable funding  
38 falls short of meeting existing needs and to ensure that the land use  
39 element, capital facilities plan element, and financing plan within  
40 the capital facilities plan element are coordinated and consistent.

1 Park and recreation facilities shall be included in the capital  
2 facilities plan element.

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

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

11 (a) Growth management act goals and local circumstances. Because  
12 circumstances vary from county to county, in establishing patterns of  
13 rural densities and uses, a county may consider local circumstances,  
14 but shall develop a written record explaining how the rural element  
15 harmonizes the planning goals in RCW 36.70A.020 and meets the  
16 requirements of this chapter.

17 (b) Rural development. The rural element shall permit rural  
18 development, forestry, and agriculture in rural areas. The rural  
19 element shall provide for a variety of rural densities, uses,  
20 essential public facilities, and rural governmental services needed  
21 to serve the permitted densities and uses. To achieve a variety of  
22 rural densities and uses, counties may provide for clustering,  
23 density transfer, design guidelines, conservation easements, and  
24 other innovative techniques that will accommodate appropriate rural  
25 densities and uses that are not characterized by urban growth and  
26 that are consistent with rural character.

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

30 (i) Containing or otherwise controlling rural development;

31 (ii) Assuring visual compatibility of rural development with the  
32 surrounding rural area;

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

35 (iv) Protecting critical areas, as provided in RCW 36.70A.060,  
36 and surface water and groundwater resources, which may include  
37 measures that rely on or refer to applicable water resources  
38 management rules adopted by the department of ecology; and

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

1 (d) Limited areas of more intensive rural development. Subject to  
2 the requirements of this subsection and except as otherwise  
3 specifically provided in this subsection (5)(d), the rural element  
4 may allow for limited areas of more intensive rural development,  
5 including necessary public facilities and public services to serve  
6 the limited area as follows:

7 (i) Rural development consisting of the infill, development, or  
8 redevelopment of existing commercial, industrial, residential, or  
9 mixed-use areas, whether characterized as shoreline development,  
10 villages, hamlets, rural activity centers, or crossroads  
11 developments.

12 (A) A commercial, industrial, residential, shoreline, or mixed-  
13 use area are subject to the requirements of (d)(iv) of this  
14 subsection, but are not subject to the requirements of (c)(ii) and  
15 (iii) of this subsection.

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

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

25 (ii) The intensification of development on lots containing, or  
26 new development of, small-scale recreational or tourist uses,  
27 including commercial facilities to serve those recreational or  
28 tourist uses, that rely on a rural location and setting, but that do  
29 not include new residential development. A small-scale recreation or  
30 tourist use is not required to be principally designed to serve the  
31 existing and projected rural population. Public services and public  
32 facilities shall be limited to those necessary to serve the  
33 recreation or tourist use and shall be provided in a manner that does  
34 not permit low-density sprawl;

35 (iii) The intensification of development on lots containing  
36 isolated nonresidential uses or new development of isolated cottage  
37 industries and isolated small-scale businesses that are not  
38 principally designed to serve the existing and projected rural  
39 population and nonresidential uses, but do provide job opportunities  
40 for rural residents. Rural counties may allow the expansion of small-

1 scale businesses as long as those small-scale businesses conform with  
2 the rural character of the area as defined by the local government  
3 according to RCW 36.70A.030(15). Rural counties may also allow new  
4 small-scale businesses to utilize a site previously occupied by an  
5 existing business as long as the new small-scale business conforms to  
6 the rural character of the area as defined by the local government  
7 according to RCW 36.70A.030(15). Public services and public  
8 facilities shall be limited to those necessary to serve the isolated  
9 nonresidential use and shall be provided in a manner that does not  
10 permit low-density sprawl;

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

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

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

33 (B) On the date the county adopted a resolution under RCW  
34 36.70A.040(2), in a county that is planning under all of the  
35 provisions of this chapter under RCW 36.70A.040(2); or

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

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

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

7 (a) The transportation element shall include the following  
8 subelements:

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

10 (ii) Estimated traffic impacts to state-owned transportation  
11 facilities resulting from land use assumptions to assist the  
12 department of transportation in monitoring the performance of state  
13 facilities, to plan improvements for the facilities, and to assess  
14 the impact of land-use decisions on state-owned transportation  
15 facilities;

16 (iii) Facilities and services needs, including:

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

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

26 (C) For state-owned transportation facilities, level of service  
27 standards for highways, as prescribed in chapters 47.06 and 47.80  
28 RCW, to gauge the performance of the system. The purposes of  
29 reflecting level of service standards for state highways in the local  
30 comprehensive plan are to monitor the performance of the system, to  
31 evaluate improvement strategies, and to facilitate coordination  
32 between the county's or city's six-year street, road, or transit  
33 program and the office of financial management's ten-year investment  
34 program. The concurrency requirements of (b) of this subsection do  
35 not apply to transportation facilities and services of statewide  
36 significance except for counties consisting of islands whose only  
37 connection to the mainland are state highways or ferry routes. In  
38 these island counties, state highways and ferry route capacity must  
39 be a factor in meeting the concurrency requirements in (b) of this  
40 subsection;

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

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

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

11 (iv) Finance, including:

12 (A) An analysis of funding capability to judge needs against  
13 probable funding resources;

14 (B) A multiyear financing plan based on the needs identified in  
15 the comprehensive plan, the appropriate parts of which shall serve as  
16 the basis for the six-year street, road, or transit program required  
17 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW  
18 35.58.2795 for public transportation systems. The multiyear financing  
19 plan should be coordinated with the ten-year investment program  
20 developed by the office of financial management as required by RCW  
21 47.05.030;

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

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

29 (vi) Demand-management strategies;

30 (vii) Pedestrian and bicycle component to include collaborative  
31 efforts to identify and designate planned improvements for pedestrian  
32 and bicycle facilities and corridors that address and encourage  
33 enhanced community access and promote healthy lifestyles.

34 (b) After adoption of the comprehensive plan by jurisdictions  
35 required to plan or who choose to plan under RCW 36.70A.040, local  
36 jurisdictions must adopt and enforce ordinances which prohibit  
37 development approval if the development causes the level of service  
38 on a locally owned transportation facility to decline below the  
39 standards adopted in the transportation element of the comprehensive  
40 plan, unless transportation improvements or strategies to accommodate



1 the impacts of development are made concurrent with the development.  
2 These strategies may include increased public transportation service,  
3 ride-sharing programs, demand management, and other transportation  
4 systems management strategies. For the purposes of this subsection  
5 (6), "concurrent with the development" means that improvements or  
6 strategies are in place at the time of development, or that a  
7 financial commitment is in place to complete the improvements or  
8 strategies within six years. If the collection of impact fees is  
9 delayed under RCW 82.02.050(3), the six-year period required by this  
10 subsection (6)(b) must begin after full payment of all impact fees is  
11 due to the county or city.

12 (c) The transportation element described in this subsection (6),  
13 the six-year plans required by RCW 35.77.010 for cities, RCW  
14 36.81.121 for counties, and RCW 35.58.2795 for public transportation  
15 systems, and the ten-year investment program required by RCW  
16 47.05.030 for the state, must be consistent.

17 (7) An economic development element establishing local goals,  
18 policies, objectives, and provisions for economic growth and vitality  
19 and a high quality of life. The element shall include: (a) A summary  
20 of the local economy such as population, employment, payroll,  
21 sectors, businesses, sales, and other information as appropriate; (b)  
22 a summary of the strengths and weaknesses of the local economy  
23 defined as the commercial and industrial sectors and supporting  
24 factors such as land use, transportation, utilities, education,  
25 workforce, housing, and natural/cultural resources; and (c) an  
26 identification of policies, programs, and projects to foster economic  
27 growth and development and to address future needs. A city that has  
28 chosen to be a residential community is exempt from the economic  
29 development element requirement of this subsection.

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

37 (9) It is the intent that new or amended elements required after  
38 January 1, 2002, be adopted concurrent with the scheduled update  
39 provided in RCW 36.70A.130. Requirements to incorporate any such new  
40 or amended elements shall be null and void until funds sufficient to

1 cover applicable local government costs are appropriated and  
2 distributed by the state at least two years before local government  
3 must update comprehensive plans as required in RCW 36.70A.130.

4 **Sec. 3.** RCW 36.70A.070 and 2017 c 331 s 2 are each amended to  
5 read as follows:

6 The comprehensive plan of a county or city that is required or  
7 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,  
8 and descriptive text covering objectives, principles, and standards  
9 used to develop the comprehensive plan. The plan shall be an  
10 internally consistent document and all elements shall be consistent  
11 with the future land use map. A comprehensive plan shall be adopted  
12 and amended with public participation as provided in RCW 36.70A.140.  
13 Each comprehensive plan shall include a plan, scheme, or design for  
14 each of the following:

15 (1) A land use element designating the proposed general  
16 distribution and general location and extent of the uses of land,  
17 where appropriate, for agriculture, timber production, housing,  
18 commerce, industry, recreation, open spaces, general aviation  
19 airports, public utilities, public facilities, and other land uses.  
20 The land use element shall include population densities, building  
21 intensities, and estimates of future population growth. The land use  
22 element shall provide for protection of the quality and quantity of  
23 groundwater used for public water supplies. In providing for the  
24 protection of the quantity of groundwater used for public water  
25 supplies under this subsection, a county or city may rely on or refer  
26 to applicable water resources management rules adopted by the  
27 department of ecology. Wherever possible, the land use element should  
28 consider utilizing urban planning approaches that promote physical  
29 activity. Where applicable, the land use element shall review  
30 drainage, flooding, and storm water run-off in the area and nearby  
31 jurisdictions and provide guidance for corrective actions to mitigate  
32 or cleanse those discharges that pollute waters of the state,  
33 including Puget Sound or waters entering Puget Sound.

34 (2) A housing element ensuring the vitality and character of  
35 established residential neighborhoods that: (a) Includes an inventory  
36 and analysis of existing and projected housing needs that identifies  
37 the number of housing units necessary to manage projected growth; (b)  
38 includes a statement of goals, policies, objectives, and mandatory  
39 provisions for the preservation, improvement, and development of

1 housing, including single-family residences; (c) identifies  
2 sufficient land for housing, including, but not limited to,  
3 government-assisted housing, housing for low-income families,  
4 manufactured housing, multifamily housing, and group homes and foster  
5 care facilities; and (d) makes adequate provisions for existing and  
6 projected needs of all economic segments of the community.

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

21 (4) A utilities element consisting of the general location,  
22 proposed location, and capacity of all existing and proposed  
23 utilities, including, but not limited to, electrical lines,  
24 telecommunication lines, and natural gas lines.

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

29 (a) Growth management act goals and local circumstances. Because  
30 circumstances vary from county to county, in establishing patterns of  
31 rural densities and uses, a county may consider local circumstances,  
32 but shall develop a written record explaining how the rural element  
33 harmonizes the planning goals in RCW 36.70A.020 and meets the  
34 requirements of this chapter.

35 (b) Rural development. The rural element shall permit rural  
36 development, forestry, and agriculture in rural areas. The rural  
37 element shall provide for a variety of rural densities, uses,  
38 essential public facilities, and rural governmental services needed  
39 to serve the permitted densities and uses. To achieve a variety of  
40 rural densities and uses, counties may provide for clustering,

1 density transfer, design guidelines, conservation easements, and  
2 other innovative techniques that will accommodate appropriate rural  
3 economic advancement, densities, and uses that are not characterized  
4 by urban growth and that are consistent with rural character.

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

8 (i) Containing or otherwise controlling rural development;

9 (ii) Assuring visual compatibility of rural development with the  
10 surrounding rural area;

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

13 (iv) Protecting critical areas, as provided in RCW 36.70A.060,  
14 and surface water and groundwater resources, which may include  
15 measures that rely on or refer to applicable water resources  
16 management rules adopted by the department of ecology; and

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

19 (d) Limited areas of more intensive rural development. Subject to  
20 the requirements of this subsection and except as otherwise  
21 specifically provided in this subsection (5)(d), the rural element  
22 may allow for limited areas of more intensive rural development,  
23 including necessary public facilities and public services to serve  
24 the limited area as follows:

25 (i) Rural development consisting of the infill, development, or  
26 redevelopment of existing commercial, industrial, residential, or  
27 mixed-use areas, whether characterized as shoreline development,  
28 villages, hamlets, rural activity centers, or crossroads  
29 developments.

30 (A) A commercial, industrial, residential, shoreline, or mixed-  
31 use area are subject to the requirements of (d)(iv) of this  
32 subsection, but are not subject to the requirements of (c)(ii) and  
33 (iii) of this subsection.

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

38 (C) Any development or redevelopment in terms of building size,  
39 scale, use, or intensity shall be consistent with the character of  
40 the existing areas. Development and redevelopment may include changes

1 in use from vacant land or a previously existing use so long as the  
2 new use conforms to the requirements of this subsection (5);

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

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

29 (iv) A county shall adopt measures to minimize and contain the  
30 existing areas or uses of more intensive rural development, as  
31 appropriate, authorized under this subsection. Lands included in such  
32 existing areas or uses shall not extend beyond the logical outer  
33 boundary of the existing area or use, thereby allowing a new pattern  
34 of low-density sprawl. Existing areas are those that are clearly  
35 identifiable and contained and where there is a logical boundary  
36 delineated predominately by the built environment, but that may also  
37 include undeveloped lands if limited as provided in this subsection.  
38 The county shall establish the logical outer boundary of an area of  
39 more intensive rural development. In establishing the logical outer  
40 boundary, the county shall address (A) the need to preserve the

1 character of existing natural neighborhoods and communities, (B)  
2 physical boundaries, such as bodies of water, streets and highways,  
3 and land forms and contours, (C) the prevention of abnormally  
4 irregular boundaries, and (D) the ability to provide public  
5 facilities and public services in a manner that does not permit low-  
6 density sprawl;

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

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

11 (B) On the date the county adopted a resolution under RCW  
12 36.70A.040(2), in a county that is planning under all of the  
13 provisions of this chapter under RCW 36.70A.040(2); or

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

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

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

24 (a) The transportation element shall include the following  
25 subelements:

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

27 (ii) Estimated traffic impacts to state-owned transportation  
28 facilities resulting from land use assumptions to assist the  
29 department of transportation in monitoring the performance of state  
30 facilities, to plan improvements for the facilities, and to assess  
31 the impact of land-use decisions on state-owned transportation  
32 facilities;

33 (iii) Facilities and services needs, including:

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

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

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

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

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

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

29 (iv) Finance, including:

30 (A) An analysis of funding capability to judge needs against  
31 probable funding resources;

32 (B) A multiyear financing plan based on the needs identified in  
33 the comprehensive plan, the appropriate parts of which shall serve as  
34 the basis for the six-year street, road, or transit program required  
35 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW  
36 35.58.2795 for public transportation systems. The multiyear financing  
37 plan should be coordinated with the ten-year investment program  
38 developed by the office of financial management as required by RCW  
39 47.05.030;

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

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

8 (vi) Demand-management strategies;

9 (vii) Pedestrian and bicycle component to include collaborative  
10 efforts to identify and designate planned improvements for pedestrian  
11 and bicycle facilities and corridors that address and encourage  
12 enhanced community access and promote healthy lifestyles.

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

31 (c) The transportation element described in this subsection (6),  
32 the six-year plans required by RCW 35.77.010 for cities, RCW  
33 36.81.121 for counties, and RCW 35.58.2795 for public transportation  
34 systems, and the ten-year investment program required by RCW  
35 47.05.030 for the state, must be consistent.

36 (7) An economic development element establishing local goals,  
37 policies, objectives, and provisions for economic growth and vitality  
38 and a high quality of life. (~~The element may include the provisions~~  
39 ~~in section 3 of this act.~~) A city that has chosen to be a



1 residential community is exempt from the economic development element  
2 requirement of this subsection.

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

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

17 **Sec. 4.** RCW 58.17.110 and 1995 c 32 s 3 are each amended to read  
18 as follows:

19 (1) The city, town, or county legislative body shall inquire into  
20 the public use and interest proposed to be served by the  
21 establishment of the subdivision and dedication. It shall determine:  
22 (a) If appropriate provisions are made for, but not limited to, the  
23 public health, safety, and general welfare, for open spaces, drainage  
24 ways, streets or roads, alleys, other public ways, transit stops,  
25 potable water supplies, sanitary wastes, parks and recreation,  
26 playgrounds, schools and schoolgrounds, and shall consider all other  
27 relevant facts, including sidewalks and other planning features that  
28 assure safe walking conditions for students who only walk to and from  
29 school; and (b) whether the public interest will be served by the  
30 subdivision and dedication.

31 (2) A proposed subdivision and dedication shall not be approved  
32 unless the city, town, or county legislative body makes written  
33 findings that: (a) Appropriate provisions are made for the public  
34 health, safety, and general welfare and for such open spaces,  
35 drainage ways, streets or roads, alleys, other public ways, transit  
36 stops, potable water supplies, sanitary wastes, parks and recreation,  
37 playgrounds, schools and schoolgrounds and all other relevant facts,  
38 including sidewalks and other planning features that assure safe  
39 walking conditions for students who only walk to and from school; and

1 (b) the public use and interest will be served by the platting of  
2 such subdivision and dedication. If it finds that the proposed  
3 subdivision and dedication make such appropriate provisions and that  
4 the public use and interest will be served, then the legislative body  
5 shall approve the proposed subdivision and dedication. Dedication of  
6 land to any public body, provision of public improvements to serve  
7 the subdivision, and/or impact fees imposed under RCW 82.02.050  
8 through 82.02.090 may be required as a condition of subdivision  
9 approval. Dedications shall be clearly shown on the final plat. No  
10 dedication, provision of public improvements, or impact fees imposed  
11 under RCW 82.02.050 through 82.02.090 shall be allowed that  
12 constitutes an unconstitutional taking of private property. The  
13 legislative body shall not as a condition to the approval of any  
14 subdivision require a release from damages to be procured from other  
15 property owners.

16 (3) If the preliminary plat includes a dedication of a public  
17 park with an area of less than two acres and the donor has designated  
18 that the park be named in honor of a deceased individual of good  
19 character, the city, town, or county legislative body must adopt the  
20 designated name.

21 (4) In approving a subdivision, dedication, or short subdivision  
22 under this chapter, a city, town, or county may rely on or refer to  
23 applicable water resources management rules adopted by the department  
24 of ecology to determine if appropriate provisions have been made for  
25 potable water supplies. Such a determination does not require  
26 impairment review by the applicant, city, town, or county.

27 **Sec. 5.** RCW 90.03.247 and 2003 c 39 s 48 are each amended to  
28 read as follows:

29 (1) Whenever an application for a permit to make beneficial use  
30 of public waters is approved relating to a stream or other water body  
31 for which minimum flows or levels have been adopted and are in effect  
32 and applicable to the approval at the time of approval, the  
33 ((permit)) approval shall be conditioned to: (a) Protect the levels  
34 or flows; (b) comply with applicable mitigation requirements  
35 established in the rule setting forth minimum flows or levels; or (c)  
36 mitigate impacts to fish or aquatic habitat by providing replacement  
37 water rights offsetting the impacts in time and in place, providing  
38 replacement water rights resulting in no net annual increase in the  
39 quantity of water diverted or withdrawn from the stream or water

1 body, or providing other measures designed to mitigate the impact of  
2 the water appropriation. Mitigation that does not involve the  
3 provision of replacement water rights offsetting impacts in time and  
4 in place may be allowed only if the department determines that in-  
5 time and in-place water mitigation is not reasonably available and  
6 that the proposed mitigation will protect fish and aquatic habitat.  
7 An applicant may propose, but the department may not require,  
8 mitigation of impacts that are not caused by the applicant's water  
9 diversion or withdrawal. This subsection applies to approvals by the  
10 department under this chapter and chapters 90.38, 90.42, 90.44, and  
11 90.54 RCW.

12 (2) No agency may establish minimum flows and levels or similar  
13 water flow or level restrictions for any stream or lake of the state  
14 other than the department of ecology whose authority to establish is  
15 exclusive, as provided in chapter 90.03 RCW and RCW 90.22.010 and  
16 90.54.040. The provisions of other statutes, including but not  
17 limited to ((~~RCW 77.55.100 and~~)) chapter 43.21C RCW, may not be  
18 interpreted in a manner that is inconsistent with this section. In  
19 establishing such minimum flows, levels, or similar restrictions, the  
20 department shall, during all stages of development by the department  
21 of ecology of minimum flow proposals, consult with, and carefully  
22 consider the recommendations of, the department of fish and wildlife,  
23 the department of ((~~community, trade, and economic development~~))  
24 commerce, the department of agriculture, and representatives of the  
25 affected Indian tribes. Nothing herein shall preclude the department  
26 of fish and wildlife, the department of ((~~community, trade, and~~  
27 ~~economic development~~)) commerce, or the department of agriculture  
28 from presenting its views on minimum flow needs at any public hearing  
29 or to any person or agency, and the department of fish and wildlife,  
30 the department of ((~~community, trade, and economic development~~))  
31 commerce, and the department of agriculture are each empowered to  
32 participate in proceedings of the federal energy regulatory  
33 commission and other agencies to present its views on minimum flow  
34 needs.

35 **Sec. 6.** RCW 18.104.055 and 2005 c 84 s 4 are each amended to  
36 read as follows:

37 (1) A fee is hereby imposed on each well constructed in this  
38 state on or after July 1, 2005.

1 (2)(a) The fee for one water well, other than a dewatering well,  
2 with a minimum top casing diameter of less than twelve inches is two  
3 hundred dollars. This fee does not apply to a ground source heat pump  
4 boring or a grounding well.

5 (b) The fee for one water well, other than a dewatering well,  
6 with a minimum top casing diameter of twelve inches or greater is  
7 three hundred dollars.

8 (c) The fee for a resource protection well, except for an  
9 environmental investigation well, a ground source heat pump boring,  
10 or a grounding well, is forty dollars for each well.

11 (d) The fee for an environmental investigation well in which  
12 groundwater is sampled or measured is forty dollars for construction  
13 of up to four environmental investigation wells per project, ten  
14 dollars for each additional environmental investigation well  
15 constructed on a project with more than four wells. There is no fee  
16 for soil or vapor sampling purposes.

17 (e) The fee for a ground source heat pump boring or a grounding  
18 well is forty dollars for construction of up to four ground source  
19 heat pump borings or grounding wells per project and ten dollars for  
20 each additional ground source heat pump boring or grounding well  
21 constructed on a project with more than four wells.

22 (f) The combined fee for construction and decommissioning of a  
23 dewatering well system shall be forty dollars for each two hundred  
24 horizontal lineal feet, or portion thereof, of the dewatering well  
25 system.

26 (g) The fee to decommission a water well is fifty dollars.

27 (h) The fee to decommission a resource protection well, except  
28 for an environmental investigation well, is twenty dollars. There is  
29 no fee to decommission an environmental investigation well or a  
30 geotechnical soil boring.

31 (i) The fee to decommission a ground source heat pump boring or a  
32 grounding well is twenty dollars.

33 (3) For a well constructed under subsection (2)(a) or (b) of this  
34 section, the department must collect an additional fee of three  
35 hundred dollars. The amounts collected under this subsection must be  
36 used by the department for projects designed to measure or improve  
37 stream flow, projects that restore or enhance aquatic habitat, or  
38 water infrastructure projects. This fee may not be used in any manner  
39 so as to require mitigation when drilling a well constructed under  
40 subsection (2)(a) or (b) of this section.

1       (4) The fees imposed by this section shall be paid at the time  
2 the notice of well construction is submitted to the department as  
3 provided by RCW 18.104.048. The department by rule may adopt  
4 procedures to permit the fees required for resource protection wells  
5 to be paid after the number of wells actually constructed has been  
6 determined. The department shall refund the amount of any fee  
7 collected for wells, borings, probes, or excavations as long as  
8 construction has not started and the department has received a refund  
9 request within one hundred eighty days from the time the department  
10 received the fee. The refund request shall be made on a form provided  
11 by the department.

12       **Sec. 7.** RCW 18.104.150 and 1993 c 387 s 20 are each amended to  
13 read as follows:

14       (1) Except as provided in subsection (3) of this section, all  
15 fees paid under this chapter shall be credited by the state treasurer  
16 to the reclamation account established by chapter 89.16 RCW. Subject  
17 to legislative appropriation, the fees collected under this chapter  
18 shall be allocated and expended by the director for the  
19 administration of the well construction, well operators' licensing,  
20 and education programs.

21       (2) The department shall provide grants to local governing  
22 entities that have been delegated portions of the well construction  
23 program pursuant to RCW 18.104.043 to assist in supporting well  
24 inspectors hired by the local governing body. Grants provided to a  
25 local governing body shall not exceed the revenues generated from  
26 fees for the portion of the program delegated and from the area in  
27 which authority is delegated to the local governing body.

28       (3) All fees collected under RCW 18.104.055(3) must be deposited  
29 into the water resources project account created in section 8 of this  
30 act. Subject to legislative appropriation, the director shall  
31 allocate and expend fees collected under RCW 18.104.055(3) for  
32 projects designed to measure or improve stream flow, projects that  
33 restore or enhance aquatic habitat, or water infrastructure projects.  
34 The director may seek the advice of an advisory committee when  
35 allocating or expending fees collected under RCW 18.104.055(3).

36       NEW SECTION. **Sec. 8.** A new section is added to chapter 90.54  
37 RCW to read as follows:

1 (1) The water resources project account is created in the state  
2 treasury. All receipts collected under RCW 18.104.055(3) must be  
3 deposited into the account. Moneys in the account may only be spent  
4 after appropriation. Moneys in the account may only be used for  
5 projects designed to measure or improve stream flow, projects that  
6 restore or enhance aquatic habitat, or water infrastructure projects.

7 (2) Consistent with RCW 43.01.036, the department must submit a  
8 report to the legislature by December 1, 2020, that includes:

- 9 (a) The amount of fees collected under RCW 18.104.055(3);  
10 (b) How these fees were allocated;  
11 (c) A description of the projects;  
12 (d) An evaluation of the effectiveness of the projects; and  
13 (e) Any recommendations to the legislature regarding the fees  
14 collected under RCW 18.104.055(3).

15 NEW SECTION. **Sec. 9.** Section 2 of this act expires July 23,  
16 2017.

17 NEW SECTION. **Sec. 10.** If any provision of this act or its  
18 application to any person or circumstance is held invalid, the  
19 remainder of the act or the application of the provision to other  
20 persons or circumstances is not affected.

21 NEW SECTION. **Sec. 11.** Except for section 3 of this act, which  
22 takes effect July 23, 2017, this act is necessary for the immediate  
23 preservation of the public peace, health, or safety, or support of  
24 the state government and its existing public institutions, and takes  
25 effect immediately.

26 NEW SECTION. **Sec. 12.** Nothing in this act shall be construed to  
27 affect the ability of any person to pursue a cause of action  
28 cognizable under Washington state law for the protection of the  
29 person's water right.

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