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HOUSE BILL 2206

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State of Washington

66th Legislature

2020 Regular Session

By Representatives MacEwen, Van Werven, and Young

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1 AN ACT Relating to equity by authorizing government services  
2 outside of urban growth areas; amending RCW 36.70A.108 and  
3 36.70A.110; reenacting and amending RCW 36.70A.030 and 36.70A.070;  
4 and creating a new section.

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

6 NEW SECTION. **Sec. 1.** The growth management act promises a high  
7 quality of life to residents of the state and economic development  
8 programs to be shared with communities experiencing insufficient  
9 economic growth. Planning policies are to establish availability of  
10 affordable housing to all economic segments of the population, and  
11 promote a variety of residential densities and housing types. The  
12 policies are to protect the environment, including water quality. In  
13 order to make these enacted statements become reality in some  
14 locations, local governments need increased flexibility to extend  
15 water and sewer services outside of the arbitrary urban growth  
16 boundaries. This act provides equity for communities in recognition  
17 that the urban growth boundaries are artificial constructs that  
18 provoke disparate treatment to communities of lower-income  
19 individuals, which tend to include people of color, seniors, and  
20 people with disabilities. Local governments are not required to  
21 provide the same level of government services throughout rural areas

1 as are provided in urban areas, yet there is a recognition that, in  
2 some locations, extension of public services is prudent and desirable  
3 to the community.

4 **Sec. 2.** RCW 36.70A.030 and 2019 c 348 s 2 are each reenacted and  
5 amended to read as follows:

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

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

11 (2) "Affordable housing" means, unless the context clearly  
12 indicates otherwise, residential housing whose monthly costs,  
13 including utilities other than telephone, do not exceed thirty  
14 percent of the monthly income of a household whose income is:

15 (a) For rental housing, sixty percent of the median household  
16 income adjusted for household size, for the county where the  
17 household is located, as reported by the United States department of  
18 housing and urban development; or

19 (b) For owner-occupied housing, eighty percent of the median  
20 household income adjusted for household size, for the county where  
21 the household is located, as reported by the United States department  
22 of housing and urban development.

23 (3) "Agricultural land" means land primarily devoted to the  
24 commercial production of horticultural, viticultural, floricultural,  
25 dairy, apiary, vegetable, or animal products or of berries, grain,  
26 hay, straw, turf, seed, Christmas trees not subject to the excise tax  
27 imposed by RCW 84.33.100 through 84.33.140, finfish in upland  
28 hatcheries, or livestock, and that has long-term commercial  
29 significance for agricultural production.

30 (4) "City" means any city or town, including a code city.

31 (5) "Comprehensive land use plan," "comprehensive plan," or  
32 "plan" means a generalized coordinated land use policy statement of  
33 the governing body of a county or city that is adopted pursuant to  
34 this chapter.

35 (6) "Critical areas" include the following areas and ecosystems:

36 (a) Wetlands; (b) areas with a critical recharging effect on aquifers  
37 used for potable water; (c) fish and wildlife habitat conservation  
38 areas; (d) frequently flooded areas; and (e) geologically hazardous  
39 areas. "Fish and wildlife habitat conservation areas" does not

1 include such artificial features or constructs as irrigation delivery  
2 systems, irrigation infrastructure, irrigation canals, or drainage  
3 ditches that lie within the boundaries of and are maintained by a  
4 port district or an irrigation district or company.

5 (7) "Department" means the department of commerce.

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

16 (9) "Extremely low-income household" means a single person,  
17 family, or unrelated persons living together whose adjusted income is  
18 at or below thirty percent of the median household income adjusted  
19 for household size, for the county where the household is located, as  
20 reported by the United States department of housing and urban  
21 development.

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

37 (11) "Freight rail dependent uses" means buildings and other  
38 infrastructure that are used in the fabrication, processing, storage,  
39 and transport of goods where the use is dependent on and makes use of  
40 an adjacent short line railroad. Such facilities are both urban and

1 rural development for purposes of this chapter. "Freight rail  
2 dependent uses" does not include buildings and other infrastructure  
3 that are used in the fabrication, processing, storage, and transport  
4 of coal, liquefied natural gas, or "crude oil" as defined in RCW  
5 90.56.010.

6 (12) "Geologically hazardous areas" means areas that because of  
7 their susceptibility to erosion, sliding, earthquake, or other  
8 geological events, are not suited to the siting of commercial,  
9 residential, or industrial development consistent with public health  
10 or safety concerns.

11 (13) "Long-term commercial significance" includes the growing  
12 capacity, productivity, and soil composition of the land for long-  
13 term commercial production, in consideration with the land's  
14 proximity to population areas, and the possibility of more intense  
15 uses of the land.

16 (14) "Low-income household" means a single person, family, or  
17 unrelated persons living together whose adjusted income is at or  
18 below eighty percent of the median household income adjusted for  
19 household size, for the county where the household is located, as  
20 reported by the United States department of housing and urban  
21 development.

22 (15) "Minerals" include gravel, sand, and valuable metallic  
23 substances.

24 (16) "Permanent supportive housing" is subsidized, leased housing  
25 with no limit on length of stay, paired with on-site or off-site  
26 voluntary services designed to support a person living with a  
27 disability to be a successful tenant in a housing arrangement,  
28 improve the resident's health status, and connect residents of the  
29 housing with community-based health care, treatment, and employment  
30 services.

31 (17) "Public facilities" include streets, roads, highways,  
32 sidewalks, street and road lighting systems, traffic signals,  
33 domestic water systems, storm and sanitary sewer systems, parks and  
34 recreational facilities, and schools.

35 (18) "Public services" include fire protection and suppression,  
36 law enforcement, public health, education, recreation, environmental  
37 protection, and other governmental services.

38 (19) "Recreational land" means land so designated under RCW  
39 36.70A.1701 and that, immediately prior to this designation, was  
40 designated as agricultural land of long-term commercial significance

1 under RCW 36.70A.170. Recreational land must have playing fields and  
2 supporting facilities existing before July 1, 2004, for sports played  
3 on grass playing fields.

4 (20) "Rural character" refers to the patterns of land use and  
5 development established by a county in the rural element of its  
6 comprehensive plan:

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

9 (b) That foster traditional rural lifestyles, rural-based  
10 economies, and opportunities to both live and work in rural areas;

11 (c) That provide visual landscapes that are traditionally found  
12 in rural areas and communities;

13 (d) That are compatible with the use of the land by wildlife and  
14 for fish and wildlife habitat;

15 (e) That reduce the inappropriate conversion of undeveloped land  
16 into sprawling, low-density development; and

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

19 ~~(g))~~) That are consistent with the protection of natural surface  
20 water flows and groundwater and surface water recharge and discharge  
21 areas.

22 (21) "Rural development" refers to development outside the urban  
23 growth area and outside agricultural, forest, and mineral resource  
24 lands designated pursuant to RCW 36.70A.170. Rural development can  
25 consist of a variety of uses and residential densities, including  
26 clustered residential development, at levels that are consistent with  
27 the preservation of rural character and the requirements of the rural  
28 element. Rural development does not refer to agriculture or forestry  
29 activities that may be conducted in rural areas.

30 (22) "Rural governmental services" or "rural services" include  
31 those public services and public facilities (~~((historically and))~~)  
32 typically delivered at an intensity usually found in rural areas, and  
33 may include domestic water systems, fire and police protection  
34 services, transportation and public transit services, sanitary sewer  
35 systems, and other public utilities (~~((associated with rural  
36 development and normally not associated with urban areas. Rural  
37 services do not include storm or sanitary sewers, except as otherwise  
38 authorized by RCW 36.70A.110(4))~~)).

1 (23) "Short line railroad" means those railroad lines designated  
2 class II or class III by the United States surface transportation  
3 board.

4 (24) "Urban governmental services" or "urban services" include  
5 those public services and public facilities at an intensity  
6 historically and typically provided in cities, specifically including  
7 storm and sanitary sewer systems, domestic water systems, street  
8 cleaning services, fire and police protection services, public  
9 transit services, and other public utilities associated with urban  
10 areas and normally not associated with rural areas.

11 (25) "Urban growth" refers to growth that makes intensive use of  
12 land for the location of buildings, structures, and impermeable  
13 surfaces to such a degree as to be incompatible with the primary use  
14 of land for the production of food, other agricultural products, or  
15 fiber, or the extraction of mineral resources, rural uses, rural  
16 development, and natural resource lands designated pursuant to RCW  
17 36.70A.170. A pattern of more intensive rural development, as  
18 provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed  
19 to spread over wide areas, urban growth typically requires urban  
20 governmental services. "Characterized by urban growth" refers to land  
21 having urban growth located on it, or to land located in relationship  
22 to an area with urban growth on it as to be appropriate for urban  
23 growth.

24 (26) "Urban growth areas" means those areas designated by a  
25 county pursuant to RCW 36.70A.110.

26 (27) "Very low-income household" means a single person, family,  
27 or unrelated persons living together whose adjusted income is at or  
28 below fifty percent of the median household income adjusted for  
29 household size, for the county where the household is located, as  
30 reported by the United States department of housing and urban  
31 development.

32 (28) "Wetland" or "wetlands" means areas that are inundated or  
33 saturated by surface water or groundwater at a frequency and duration  
34 sufficient to support, and that under normal circumstances do  
35 support, a prevalence of vegetation typically adapted for life in  
36 saturated soil conditions. Wetlands generally include swamps,  
37 marshes, bogs, and similar areas. Wetlands do not include those  
38 artificial wetlands intentionally created from nonwetland sites,  
39 including, but not limited to, irrigation and drainage ditches,  
40 grass-lined swales, canals, detention facilities, wastewater

1 treatment facilities, farm ponds, and landscape amenities, or those  
2 wetlands created after July 1, 1990, that were unintentionally  
3 created as a result of the construction of a road, street, or  
4 highway. Wetlands may include those artificial wetlands intentionally  
5 created from nonwetland areas created to mitigate conversion of  
6 wetlands.

7 **Sec. 3.** RCW 36.70A.070 and 2017 3rd sp.s. c 18 s 4 and 2017 3rd  
8 sp.s. c 16 s 4 are each reenacted and amended to read as follows:

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

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

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

1 sufficient land for housing, including, but not limited to,  
2 government-assisted housing, housing for low-income families,  
3 manufactured housing, multifamily housing, and group homes and foster  
4 care facilities; and (d) makes adequate provisions for existing and  
5 projected needs of all economic segments of the community. In  
6 counties and cities subject to the review and evaluation requirements  
7 of RCW 36.70A.215, any revision to the housing element shall include  
8 consideration of prior review and evaluation reports and any  
9 reasonable measures identified.

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

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

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

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

38 (b) Rural development. The rural element shall permit rural  
39 development, forestry, and agriculture in rural areas. The rural  
40 element shall provide for a variety of rural densities, uses,



1 essential public facilities, and (~~rural~~) governmental services  
2 needed to serve the permitted densities and uses. To achieve a  
3 variety of rural densities and uses, counties may provide for  
4 clustering, density transfer, design guidelines, conservation  
5 easements, and other innovative techniques that will accommodate  
6 appropriate (~~rural~~) economic advancement, densities, and uses  
7 (~~that are not characterized by urban growth and that are~~)  
8 consistent with rural character.

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

12 (i) Containing or otherwise controlling rural development;

13 (ii) Assuring visual compatibility of rural development with the  
14 surrounding rural area;

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

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

19 (~~(v))~~ (iv) Protecting against conflicts with the use of  
20 agricultural, forest, and mineral resource lands designated under RCW  
21 36.70A.170.

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

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

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

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

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

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

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

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

1 The county shall establish the logical outer boundary of an area of  
2 more intensive rural development. In establishing the logical outer  
3 boundary, the county shall address (A) the need to preserve the  
4 character of existing natural neighborhoods and communities, (B)  
5 physical boundaries, such as bodies of water, streets and highways,  
6 and land forms and contours, (C) the prevention of abnormally  
7 irregular boundaries, and (D) the ability to provide public  
8 facilities and public services in a manner that does not permit low-  
9 density sprawl;

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

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

14 (B) On the date the county adopted a resolution under RCW  
15 36.70A.040(2), in a county that is planning under all of the  
16 provisions of this chapter under RCW 36.70A.040(2); or

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

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

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

27 (a) The transportation element shall include the following  
28 subelements:

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

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

36 (iii) Facilities and services needs, including:

37 (A) An inventory of air, water, and ground transportation  
38 facilities and services, including transit alignments and general  
39 aviation airport facilities, to define existing capital facilities  
40 and travel levels as a basis for future planning. This inventory must

1 include state-owned transportation facilities within the city or  
2 county's jurisdictional boundaries;

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

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

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

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

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

31 (iv) Finance, including:

32 (A) An analysis of funding capability to judge needs against  
33 probable funding resources;

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

1 developed by the office of financial management as required by RCW  
2 47.05.030;

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

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

10 (vi) Demand-management strategies;

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

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

33 (c) The transportation element described in this subsection (6),  
34 the six-year plans required by RCW 35.77.010 for cities, RCW  
35 36.81.121 for counties, and RCW 35.58.2795 for public transportation  
36 systems, and the ten-year investment program required by RCW  
37 47.05.030 for the state, must be consistent.

38 (7) An economic development element establishing local goals,  
39 policies, objectives, and provisions for economic growth and vitality  
40 and a high quality of life. 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 36.70A.108 and 2017 3rd sp.s. c 18 s 5 are each  
18 amended to read as follows:

19 (1) The transportation element required by RCW 36.70A.070 may  
20 include, in addition to improvements or strategies to accommodate the  
21 impacts of development authorized under RCW 36.70A.070(6)(b),  
22 multimodal transportation improvements or strategies that are made  
23 concurrent with the development. These transportation improvements or  
24 strategies may include, but are not limited to, measures implementing  
25 or evaluating:

26 (a) Multiple modes of transportation with peak and nonpeak hour  
27 capacity performance standards for locally owned transportation  
28 facilities; and

29 (b) Modal performance standards meeting the peak and nonpeak hour  
30 capacity performance standards.

31 (2) Any county located to the west of the crest of the Cascade  
32 mountains that has both a population of at least four hundred  
33 thousand and a border that touches another state, and any city in  
34 such county, may include development of freight rail dependent uses  
35 on land adjacent to a short line railroad in the transportation  
36 element required by RCW 36.70A.070. Such counties and cities may also  
37 modify development regulations to include development of freight rail  
38 dependent uses (~~that do not require urban governmental services in~~  
39 ~~rural lands~~)).

1 (3) Nothing in this section or RCW 36.70A.070(6)(b) shall be  
2 construed as prohibiting a county or city planning under RCW  
3 36.70A.040 from exercising existing authority to develop multimodal  
4 improvements or strategies to satisfy the concurrency requirements of  
5 this chapter.

6 (4) Nothing in this section is intended to affect or otherwise  
7 modify the authority of jurisdictions planning under RCW 36.70A.040.

8 **Sec. 5.** 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  
34 is not appropriate that urban governmental services be extended to or  
35 expanded in rural areas except in those limited circumstances shown  
36 to be necessary to protect basic public health and safety and the  
37 environment and when such services are financially supportable at  
38 rural densities and do not permit urban development.~~) Cities may  
39 extend or expand urban governmental services into rural areas but are  
40 not required to do so.



1 (5) On or before October 1, 1993, each county that was initially  
2 required to plan under RCW 36.70A.040(1) shall adopt development  
3 regulations designating interim urban growth areas under this  
4 chapter. Within three years and three months of the date the county  
5 legislative authority of a county adopts its resolution of intention  
6 or of certification by the office of financial management, all other  
7 counties that are required or choose to plan under RCW 36.70A.040  
8 shall adopt development regulations designating interim urban growth  
9 areas under this chapter. Adoption of the interim urban growth areas  
10 may only occur after public notice; public hearing; and compliance  
11 with the state environmental policy act, chapter 43.21C RCW, and  
12 under this section. Such action may be appealed to the growth  
13 management hearings board under RCW 36.70A.280. Final urban growth  
14 areas shall be adopted at the time of comprehensive plan adoption  
15 under this chapter.

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

18 (7) An urban growth area designated in accordance with this  
19 section may include within its boundaries urban service areas or  
20 potential annexation areas designated for specific cities or towns  
21 within the county.

22 (8)(a) Except as provided in (b) of this subsection, the  
23 expansion of an urban growth area is prohibited into the one hundred  
24 year floodplain of any river or river segment that: (i) Is located  
25 west of the crest of the Cascade mountains; and (ii) has a mean  
26 annual flow of one thousand or more cubic feet per second as  
27 determined by the department of ecology.

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

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

31 (ii) Urban growth areas where expansions are precluded outside  
32 floodplains because:

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

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

37 (iii) Urban growth area expansions where:

38 (A) Public facilities already exist within the floodplain and the  
39 expansion of an existing public facility is only possible on the land

1 to be included in the urban growth area and located within the  
2 floodplain; or

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

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

10 (I) The permissible use of the land is limited to one of the  
11 following: Outdoor recreation; environmentally beneficial projects,  
12 including but not limited to habitat enhancement or environmental  
13 restoration; stormwater facilities; flood control facilities; or  
14 underground conveyances; and

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

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

22 (9) If a county, city, or utility has adopted a capital facility  
23 plan or utilities element to provide sewer service within the urban  
24 growth areas during the twenty-year planning period, nothing in this  
25 chapter obligates counties, cities, or utilities to install sanitary  
26 sewer systems to properties within urban growth areas designated  
27 under subsection (2) of this section by the end of the twenty-year  
28 planning period when those properties:

29 (a)(i) Have existing, functioning, nonpolluting on-site sewage  
30 systems;

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

34 (iii) Have no redevelopment capacity; or

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

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