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**SENATE BILL 5390**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Senators Lias, Gildon, Nguyen, and Saldaña

Read first time 01/29/21. Referred to Committee on Housing & Local Government.

1 AN ACT Relating to increasing housing supply through the growth  
2 management act and housing density tax incentives for local  
3 governments; amending RCW 36.70A.110, 36.70A.210, and 82.45.060;  
4 reenacting and amending RCW 36.70A.070; and adding a new section to  
5 chapter 36.70A RCW.

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

7 **Sec. 1.** 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

1 airports, public utilities, public facilities, and other land uses.  
2 The land use element shall include population densities, building  
3 intensities to ensure that provisions for housing within subsection  
4 (2) of this section are properly planned for and housing targets are  
5 implemented for those subject to the requirements, and estimates of  
6 future population growth. The land use element shall provide for  
7 protection of the quality and quantity of groundwater used for public  
8 water supplies. Wherever possible, the land use element should  
9 consider utilizing urban planning approaches that promote physical  
10 activity. Where applicable, the land use element shall review  
11 drainage, flooding, and stormwater runoff in the area and nearby  
12 jurisdictions and provide guidance for corrective actions to mitigate  
13 or cleanse those discharges that pollute waters of the state,  
14 including Puget Sound or waters entering Puget Sound.

15 (2) A housing element ensuring the vitality and character of  
16 established residential neighborhoods that: (a) Includes an inventory  
17 and analysis of existing and projected housing needs that identifies  
18 the number of housing units necessary to manage projected growth; (b)  
19 includes a statement of goals, policies, objectives, and mandatory  
20 provisions for the preservation, improvement, and development of  
21 housing, including (~~single-family residences~~) all housing types  
22 identified in (c) of this subsection; (c) identifies sufficient land  
23 for housing(~~(r)~~) including, but not limited to, government-assisted  
24 housing, housing for low-income families, manufactured housing,  
25 multifamily housing, (~~and~~) group homes and foster care facilities,  
26 and single-family detached dwellings, duplexes, triplexes,  
27 fourplexes, townhomes, accessory dwelling units, and courtyard  
28 apartments; (~~and~~) (d) makes adequate provisions for existing and  
29 projected needs of all economic segments of the community, including  
30 consideration of housing locations in relation to employment  
31 locations; and (e) implements the requirements of RCW 36.70A.110 and  
32 countywide planning policies pursuant to RCW 36.70A.210. In counties  
33 and cities subject to the review and evaluation requirements of RCW  
34 36.70A.215, any revision to the housing element shall include  
35 consideration of prior review and evaluation reports and any  
36 reasonable measures identified.

37 (3) A capital facilities plan element consisting of: (a) An  
38 inventory of existing capital facilities owned by public entities,  
39 showing the locations and capacities of the capital facilities; (b) a  
40 forecast of the future needs for such capital facilities; (c) the

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

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

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

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

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

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

38 (i) Containing or otherwise controlling rural development;

39 (ii) Assuring visual compatibility of rural development with the  
40 surrounding rural area;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (a) The transportation element shall include the following  
15 subelements:

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

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

23 (iii) Facilities and services needs, including:

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

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

33 (C) For state-owned transportation facilities, level of service  
34 standards for highways, as prescribed in chapters 47.06 and 47.80  
35 RCW, to gauge the performance of the system. The purposes of  
36 reflecting level of service standards for state highways in the local  
37 comprehensive plan are to monitor the performance of the system, to  
38 evaluate improvement strategies, and to facilitate coordination  
39 between the county's or city's six-year street, road, or transit  
40 program and the office of financial management's ten-year investment

1 program. The concurrency requirements of (b) of this subsection do  
2 not apply to transportation facilities and services of statewide  
3 significance except for counties consisting of islands whose only  
4 connection to the mainland are state highways or ferry routes. In  
5 these island counties, state highways and ferry route capacity must  
6 be a factor in meeting the concurrency requirements in (b) of this  
7 subsection;

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

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

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

18 (iv) Finance, including:

19 (A) An analysis of funding capability to judge needs against  
20 probable funding resources;

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

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

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

36 (vi) Demand-management strategies;

37 (vii) Pedestrian and bicycle component to include collaborative  
38 efforts to identify and designate planned improvements for pedestrian  
39 and bicycle facilities and corridors that address and encourage  
40 enhanced community access and promote healthy lifestyles.

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

19 (c) The transportation element described in this subsection (6),  
20 the six-year plans required by RCW 35.77.010 for cities, RCW  
21 36.81.121 for counties, and RCW 35.58.2795 for public transportation  
22 systems, and the ten-year investment program required by RCW  
23 47.05.030 for the state, must be consistent.

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

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

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

1 distributed by the state at least two years before local government  
2 must update comprehensive plans as required in RCW 36.70A.130.

3 **Sec. 2.** RCW 36.70A.110 and 2017 c 305 s 1 are each amended to  
4 read as follows:

5 (1) Each county that is required or chooses to plan under RCW  
6 36.70A.040 shall designate an urban growth area or areas within which  
7 urban growth shall be encouraged and outside of which growth can  
8 occur only if it is not urban in nature. Each city that is located in  
9 such a county shall be included within an urban growth area. An urban  
10 growth area may include more than a single city. An urban growth area  
11 may include territory that is located outside of a city only if such  
12 territory already is characterized by urban growth whether or not the  
13 urban growth area includes a city, or is adjacent to territory  
14 already characterized by urban growth, or is a designated new fully  
15 contained community as defined by RCW 36.70A.350.

16 (2) Based upon the growth management population projection made  
17 for the county by the office of financial management, the county and  
18 each city within the county shall include areas and densities  
19 sufficient to permit the urban growth that is projected to occur in  
20 the county or city for the succeeding twenty-year period, except for  
21 those urban growth areas contained totally within a national  
22 historical reserve. This includes areas and densities sufficient to  
23 meet mandatory provisions for the development of housing as provided  
24 for in RCW 36.70A.070 and 36.70A.210. As part of this planning  
25 process, each city within the county must include areas sufficient to  
26 accommodate the broad range of needs and uses that will accompany the  
27 projected urban growth including, as appropriate, medical,  
28 governmental, institutional, commercial, service, retail, and other  
29 nonresidential uses.

30 (3) Each urban growth area shall permit urban densities and shall  
31 include greenbelt and open space areas. For counties and cities  
32 within those counties planning under RCW 36.70A.215, urban densities  
33 of no less than six net dwelling units per acre for areas zoned for  
34 and which allow housing is required. A county or city subject to the  
35 minimum six net dwelling units per acre minimum requirement may opt  
36 out of this requirement when it can be demonstrated that the area  
37 being subjected to this requirement meets one or more of the  
38 following standards:

1 (a) The presence of critical areas would prevent the area or  
2 areas from being developed at six net dwelling units per acre;

3 (b) The area is more than .5 miles from a major transit stop as  
4 defined in RCW 43.21C.420(3);

5 (c) The area is within a national historic reserve;

6 (d) The county or city demonstrates that the area or areas are  
7 not necessary to meet housing requirements in this section or RCW  
8 36.70A.070 or 36.70A.210; or

9 (e) The county or city documents a specific infrastructure or  
10 physical constraint that would make this requirement infeasible for a  
11 particular area, and efforts are being taken to remedy such  
12 deficiency.

13 (4) In the case of urban growth areas contained totally within a  
14 national historical reserve, the city may restrict densities,  
15 intensities, and forms of urban growth as determined to be necessary  
16 and appropriate to protect the physical, cultural, or historic  
17 integrity of the reserve. An urban growth area determination may  
18 include a reasonable land market supply factor and shall permit a  
19 range of urban densities and uses. In determining this market factor,  
20 cities and counties may consider local circumstances. Cities and  
21 counties have discretion in their comprehensive plans to make many  
22 choices about accommodating growth. Within one year of July 1, 1990,  
23 each county that as of June 1, 1991, was required or chose to plan  
24 under RCW 36.70A.040, shall begin consulting with each city located  
25 within its boundaries and each city shall propose the location of an  
26 urban growth area. Within sixty days of the date the county  
27 legislative authority of a county adopts its resolution of intention  
28 or of certification by the office of financial management, all other  
29 counties that are required or choose to plan under RCW 36.70A.040  
30 shall begin this consultation with each city located within its  
31 boundaries. The county shall attempt to reach agreement with each  
32 city on the location of an urban growth area within which the city is  
33 located. If such an agreement is not reached with each city located  
34 within the urban growth area, the county shall justify in writing why  
35 it so designated the area an urban growth area. A city may object  
36 formally with the department over the designation of the urban growth  
37 area within which it is located. Where appropriate, the department  
38 shall attempt to resolve the conflicts, including the use of  
39 mediation services.

1        ~~((3))~~ (5) Urban growth should be located first in areas already  
2 characterized by urban growth that have adequate existing public  
3 facility and service capacities to serve such development, second in  
4 areas already characterized by urban growth that will be served  
5 adequately by a combination of both existing public facilities and  
6 services and any additional needed public facilities and services  
7 that are provided by either public or private sources, and third in  
8 the remaining portions of the urban growth areas. Urban growth may  
9 also be located in designated new fully contained communities as  
10 defined by RCW 36.70A.350.

11        ~~((4))~~ (6) In general, cities are the units of local government  
12 most appropriate to provide urban governmental services. In general,  
13 it is not appropriate that urban governmental services be extended to  
14 or expanded in rural areas except in those limited circumstances  
15 shown to be necessary to protect basic public health and safety and  
16 the environment and when such services are financially supportable at  
17 rural densities and do not permit urban development.

18        ~~((5))~~ (7) On or before October 1, 1993, each county that was  
19 initially required to plan under RCW 36.70A.040(1) shall adopt  
20 development regulations designating interim urban growth areas under  
21 this chapter. Within three years and three months of the date the  
22 county legislative authority of a county adopts its resolution of  
23 intention or of certification by the office of financial management,  
24 all other counties that are required or choose to plan under RCW  
25 36.70A.040 shall adopt development regulations designating interim  
26 urban growth areas under this chapter. Adoption of the interim urban  
27 growth areas may only occur after public notice; public hearing; and  
28 compliance with the state environmental policy act, chapter 43.21C  
29 RCW, and under this section. Such action may be appealed to the  
30 growth management hearings board under RCW 36.70A.280. Final urban  
31 growth areas shall be adopted at the time of comprehensive plan  
32 adoption under this chapter.

33        ~~((6))~~ (8) Each county shall include designations of urban  
34 growth areas in its comprehensive plan.

35        ~~((7))~~ (9) An urban growth area designated in accordance with  
36 this section may include within its boundaries urban service areas or  
37 potential annexation areas designated for specific cities or towns  
38 within the county.

39        ~~((8))~~ (10) (a) Except as provided in (b) of this subsection, the  
40 expansion of an urban growth area is prohibited into the one hundred

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

5 (b) Subsection (~~((8))~~) (10)(a) of this section does not apply to:

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

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

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

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

14 (iii) Urban growth area expansions where:

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

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

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

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

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

35 (c) For the purposes of this subsection (~~((8))~~) (10), "one  
36 hundred year floodplain" means the same as "special flood hazard  
37 area" as set forth in WAC 173-158-040 as it exists on July 26, 2009.

38 (~~((9))~~) (11) If a county, city, or utility has adopted a capital  
39 facility plan or utilities element to provide sewer service within  
40 the urban growth areas during the twenty-year planning period,

1 nothing in this chapter obligates counties, cities, or utilities to  
2 install sanitary sewer systems to properties within urban growth  
3 areas designated under subsection (2) of this section by the end of  
4 the twenty-year planning period when those properties:

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

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

10 (iii) Have no redevelopment capacity; or

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

14 **Sec. 3.** RCW 36.70A.210 and 2009 c 121 s 2 are each amended to  
15 read as follows:

16 (1) The legislature recognizes that counties are regional  
17 governments within their boundaries, and cities are primary providers  
18 of urban governmental services within urban growth areas. For the  
19 purposes of this section, a "countywide planning policy" is a written  
20 policy statement or statements used solely for establishing a  
21 countywide framework from which county and city comprehensive plans  
22 are developed and adopted pursuant to this chapter. This framework  
23 shall ensure that city and county comprehensive plans are consistent  
24 as required in RCW 36.70A.100. Nothing in this section shall be  
25 construed to alter the land-use powers of cities.

26 (2) The legislative authority of a county that plans under RCW  
27 36.70A.040 shall adopt a countywide planning policy in cooperation  
28 with the cities located in whole or in part within the county as  
29 follows:

30 (a) No later than sixty calendar days from July 16, 1991, the  
31 legislative authority of each county that as of June 1, 1991, was  
32 required or chose to plan under RCW 36.70A.040 shall convene a  
33 meeting with representatives of each city located within the county  
34 for the purpose of establishing a collaborative process that will  
35 provide a framework for the adoption of a countywide planning policy.  
36 In other counties that are required or choose to plan under RCW  
37 36.70A.040, this meeting shall be convened no later than sixty days  
38 after the date the county adopts its resolution of intention or was  
39 certified by the office of financial management.

1 (b) The process and framework for adoption of a countywide  
2 planning policy specified in (a) of this subsection shall determine  
3 the manner in which the county and the cities agree to all procedures  
4 and provisions including but not limited to desired planning  
5 policies, deadlines, ratification of final agreements and  
6 demonstration thereof, and financing, if any, of all activities  
7 associated therewith.

8 (c) If a county fails for any reason to convene a meeting with  
9 representatives of cities as required in (a) of this subsection, the  
10 governor may immediately impose any appropriate sanction or sanctions  
11 on the county from those specified under RCW 36.70A.340.

12 (d) If there is no agreement by October 1, 1991, in a county that  
13 was required or chose to plan under RCW 36.70A.040 as of June 1,  
14 1991, or if there is no agreement within one hundred twenty days of  
15 the date the county adopted its resolution of intention or was  
16 certified by the office of financial management in any other county  
17 that is required or chooses to plan under RCW 36.70A.040, the  
18 governor shall first inquire of the jurisdictions as to the reason or  
19 reasons for failure to reach an agreement. If the governor deems it  
20 appropriate, the governor may immediately request the assistance of  
21 the department of (~~community, trade, and economic development~~)  
22 commerce to mediate any disputes that preclude agreement. If  
23 mediation is unsuccessful in resolving all disputes that will lead to  
24 agreement, the governor may impose appropriate sanctions from those  
25 specified under RCW 36.70A.340 on the county, city, or cities for  
26 failure to reach an agreement as provided in this section. The  
27 governor shall specify the reason or reasons for the imposition of  
28 any sanction.

29 (e) No later than July 1, 1992, the legislative authority of each  
30 county that was required or chose to plan under RCW 36.70A.040 as of  
31 June 1, 1991, or no later than fourteen months after the date the  
32 county adopted its resolution of intention or was certified by the  
33 office of financial management the county legislative authority of  
34 any other county that is required or chooses to plan under RCW  
35 36.70A.040, shall adopt a countywide planning policy according to the  
36 process provided under this section and that is consistent with the  
37 agreement pursuant to (b) of this subsection, and after holding a  
38 public hearing or hearings on the proposed countywide planning  
39 policy.

1 (3) A countywide planning policy shall at a minimum, address the  
2 following:

3 (a) Policies to implement RCW 36.70A.110;

4 (b) Policies for promotion of contiguous and orderly development  
5 and provision of urban services to such development;

6 (c) Policies for siting public capital facilities of a countywide  
7 or statewide nature, including transportation facilities of statewide  
8 significance as defined in RCW 47.06.140;

9 (d) Policies for countywide transportation facilities and  
10 strategies;

11 (e) Policies that consider the need for (~~affordable housing,~~  
12 ~~such as~~) housing for all economic segments of the population and  
13 parameters for its distribution. For counties and cities within those  
14 counties planning under RCW 36.70A.215, housing targets for housing  
15 types identified in RCW 36.70A.070(2) shall be adopted in order to  
16 demonstrate that a county and cities within that county are  
17 collectively planning for the existing and projected housing needs of  
18 all economic segments of the community as required by RCW  
19 36.70A.070(2). Policies must seek to balance housing supply with  
20 employment in the jurisdiction, giving special consideration to  
21 workforce housing and creating opportunities for first-time  
22 homeownership. For counties and cities within those counties subject  
23 to housing target requirements, this provision does not become  
24 effective until January 1, 2025;

25 (f) Policies for joint county and city planning within urban  
26 growth areas;

27 (g) Policies for countywide economic development and employment,  
28 which must include consideration of the future development of  
29 commercial and industrial facilities; and

30 (h) An analysis of the fiscal impact.

31 (4) Federal agencies and Indian tribes may participate in and  
32 cooperate with the countywide planning policy adoption process.  
33 Adopted countywide planning policies shall be adhered to by state  
34 agencies.

35 (5) Failure to adopt a countywide planning policy that meets the  
36 requirements of this section may result in the imposition of a  
37 sanction or sanctions on a county or city within the county, as  
38 specified in RCW 36.70A.340. In imposing a sanction or sanctions, the  
39 governor shall specify the reasons for failure to adopt a countywide  
40 planning policy in order that any imposed sanction or sanctions are

1 fairly and equitably related to the failure to adopt a countywide  
2 planning policy.

3 (6) Cities and the governor may appeal an adopted countywide  
4 planning policy to the growth management hearings board within sixty  
5 days of the adoption of the countywide planning policy.

6 (7) Multicounty planning policies shall be adopted by two or more  
7 counties, each with a population of four hundred fifty thousand or  
8 more, with contiguous urban areas and may be adopted by other  
9 counties, according to the process established under this section or  
10 other processes agreed to among the counties and cities within the  
11 affected counties throughout the multicounty region.

12 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70A  
13 RCW to read as follows:

14 (1) Cities within counties planning under RCW 36.70A.215 and  
15 those counties may establish one or more real estate excise tax  
16 density incentive zones. A real estate excise tax density incentive  
17 zone is an area within an urban growth area where the city or county  
18 adopts zoning and development regulations to increase housing supply  
19 by allowing construction of additional housing types as outright  
20 permitted uses. Creation of a real estate excise tax density  
21 incentive zone enables the local government to receive a portion of  
22 the tax imposed under chapter 82.45 RCW for sales of qualified  
23 residential dwelling units within the zone.

24 (2) A real estate excise tax density incentive zone may only be  
25 located within a designated urban growth area, and must allow the  
26 following housing types: Single-family detached dwellings at a net  
27 density of at least six dwelling units per acre, duplexes, triplexes,  
28 fourplexes, townhomes, accessory dwelling units, and courtyard  
29 apartments.

30 (3) A real estate excise tax density incentive zone may also  
31 allow as outright permitted uses housing types and densities that  
32 exceed the minimum requirements in subsection (2) of this section.

33 (4)(a) For the purposes of this section, a "qualified residential  
34 dwelling" is either an individual residential dwelling unit or a  
35 residential building of two or more dwelling units constructed within  
36 a real estate excise tax density incentive zone that achieves a net  
37 increase in the total number of residential dwelling units compared  
38 to the maximum number of residential dwelling units that could have  
39 been built prior to the adoption of zoning and development

1 regulations creating the real estate excise tax density incentive  
2 zone.

3 (b) If the qualified residential dwelling has two or more  
4 dwelling units, the amount distributed to the local government under  
5 RCW 82.45.060(4)(c) shall be reduced by the percent attributable to  
6 the number of new dwelling units within the building that could have  
7 been built under the zoning and development regulations that existed  
8 prior to the creation of the local real estate excise tax density  
9 incentive zone.

10 (5) A sale that does not involve a net increase above the maximum  
11 number of residential dwelling units that could have been constructed  
12 as an outright permitted use, prior to the creation of the real  
13 estate excise tax density incentive zone, is not a sale of a  
14 qualified residential dwelling unit.

15 (6) A real estate excise tax density incentive zone may be  
16 established for areas where a city or county previously enacted  
17 zoning and development regulations meeting the minimum requirements  
18 in this section, but not prior to January 1, 2017. A real estate  
19 excise tax density incentive zone may not be established later than  
20 one year after the date by which a city or county is required to  
21 update its growth management comprehensive plan under RCW 36.70A.130.  
22 Once a real estate excise tax density incentive zone is established  
23 in compliance with this section, a qualified residential dwelling  
24 unit may be constructed at any time.

25 **Sec. 5.** RCW 82.45.060 and 2019 c 424 s 1 are each amended to  
26 read as follows:

27 (1) There is imposed an excise tax upon each sale of real  
28 property.

29 (a) Through December 31, 2019, the rate of the tax imposed under  
30 this section is 1.28 percent of the selling price.

31 (b) Beginning January 1, 2020, except as provided in (c) of this  
32 subsection, the rate of the tax imposed under this section is as  
33 follows:

34 (i) 1.1 percent of the portion of the selling price that is less  
35 than or equal to five hundred thousand dollars;

36 (ii) 1.28 percent of the portion of the selling price that is  
37 greater than five hundred thousand dollars and equal to or less than  
38 one million five hundred thousand dollars;

1 (iii) 2.75 percent of the portion of the selling price that is  
2 greater than one million five hundred thousand dollars and equal to  
3 or less than three million dollars;

4 (iv) Three percent of the portion of the selling price that is  
5 greater than three million dollars.

6 (c) The sale of real property that is classified as timberland or  
7 agricultural land is subject to the tax imposed under this section at  
8 a rate of 1.28 percent of the selling price.

9 (2) Beginning July 1, 2022, and every fourth year thereafter:

10 (a) The department must adjust the selling price threshold in  
11 subsection (1)(b)(i) of this section to reflect the lesser of the  
12 growth of the consumer price index for shelter or five percent. If  
13 the growth is equal to or less than zero percent, the current selling  
14 price threshold continues to apply.

15 (b) The department must adjust the selling price thresholds in  
16 subsection (1)(b)(ii) through (iv) of this section by the dollar  
17 amount of any increase in the selling price threshold in subsection  
18 (1)(b)(i) of this section.

19 (c) The department must publish updated selling price thresholds  
20 by September 1, 2022, and September 1st of every fourth year  
21 thereafter. Updated selling price thresholds will apply beginning  
22 January 1, 2023, and January 1st every fourth year thereafter.  
23 Adjusted selling price thresholds must be rounded to the nearest one  
24 thousand dollars. No changes may be made to adjusted selling price  
25 thresholds once such adjustments take effect.

26 (d) The most recent selling price threshold becomes the base for  
27 subsequent adjustments.

28 (e) The department must report adjustments to the selling price  
29 thresholds to the fiscal committees of the legislature, beginning  
30 December 1, 2022, and December 1st every fourth year thereafter.

31 (3)(a) The department must publish guidance to assist sellers in  
32 properly classifying real property on the real estate excise tax  
33 affidavit for purposes of determining the proper amount of tax due  
34 under this section. Real property with multiple uses must be  
35 classified according to the property's predominant use. The  
36 department's guidance must include factors for use in determining the  
37 predominant use of real property.

38 (b) County treasurers are not responsible for verifying that the  
39 seller has properly classified real property reported on a real  
40 estate excise tax affidavit. The department is solely responsible for

1 such verification as part of its audit responsibilities under RCW  
2 82.45.150.

3 (4) (a) Beginning July 1, 2013, and ending December 31, 2019, an  
4 amount equal to two percent of the proceeds of this tax must be  
5 deposited in the public works assistance account created in RCW  
6 43.155.050, an amount equal to four and one-tenth percent must be  
7 deposited in the education legacy trust account created in RCW  
8 83.100.230, an amount equal to one and six-tenths percent must be  
9 deposited in the city-county assistance account created in RCW  
10 43.08.290, and the remainder must be deposited in the general fund.

11 (b) Beginning January 1, 2020, amounts collected from the tax  
12 imposed under this section must be deposited as provided in RCW  
13 82.45.230 less any amount distributed to a city or county pursuant to  
14 (c) of this subsection (4).

15 (c) Beginning July 1, 2023, the amounts collected on the sale of  
16 a qualified residential dwelling constructed within a real estate  
17 excise tax density incentive zone created under section 4 of this act  
18 shall be distributed to a city or county as follows:

19 (i) For a qualified residential dwelling unit located more  
20 than .5 miles from a mass transit stop as defined in RCW  
21 43.21C.420(3), 50 percent of the amounts collected to the city or  
22 county where the dwelling is located;

23 (ii) For a qualified residential dwelling unit located less than  
24 or equal to .5 miles from a mass transit stop as defined in RCW  
25 43.21C.420(3), 25 percent of the amounts collected to the city or  
26 county where the dwelling is located.

27 (d) The distribution to a city or county under (c) of this  
28 subsection applies to both the initial and all subsequent sales of a  
29 qualified residential dwelling unit. The amounts distributed to a  
30 city and county may be used solely for:

31 (i) Costs associated with adoption or amendment of plans under  
32 chapter 36.70A RCW;

33 (ii) Preparation of the review and evaluation report pursuant to  
34 RCW 36.70A.215;

35 (iii) Long-term planning;

36 (iv) Code and development regulation amendments for the purpose  
37 of increasing housing supply; or

38 (v) Code and development regulation amendments that decrease the  
39 amount of time necessary to obtain permits for housing.

1 (5) The definitions in this subsection apply throughout this  
2 section unless the context clearly requires otherwise.

3 (a) "Agricultural land" means farm and agricultural land and farm  
4 and agricultural conservation land, as those terms are defined in RCW  
5 84.34.020, including any structures on such land.

6 (b) "Consumer price index for shelter" means the most current  
7 seasonally adjusted index for the shelter expenditure category of the  
8 consumer price index for all urban consumers (CPI-U) as published by  
9 July 31st by the bureau of labor statistics of the United States  
10 department of labor.

11 (c) "Growth of the consumer price index for shelter" means the  
12 percentage increase in the consumer price index for shelter as  
13 measured from data published by the bureau of labor statistics of the  
14 United States department of labor by July 31st for the most recent  
15 three-year period for the selling price threshold adjustment in 2022,  
16 and the most recent four-year period for subsequent selling price  
17 threshold adjustments.

18 (d) "Timberland" means land classified under chapter 84.34 RCW or  
19 designated under chapter 84.33 RCW, including any structures and  
20 standing timber on such land, and standing timber sold apart from the  
21 land upon which it sits.

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