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**HOUSE BILL 1923**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Representatives Fitzgibbon, Macri, Appleton, Doglio, Dolan, Santos, and Frame

AN ACT Relating to increasing urban residential building capacity; amending RCW 36.70A.030, 43.21C.450, 70.146.070, 43.155.070, 47.26.086, 43.21C.420, 36.70A.490, and 82.02.060; reenacting and amending RCW 36.70A.070; adding new sections to chapter 36.70A RCW; adding a new section to chapter 43.21C RCW; and adding a new section to chapter 35.21 RCW.

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

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

(1) A city planning pursuant to RCW 36.70A.040 with a population greater than ten thousand shall take two or more of the following actions by December 31, 2022, in order to increase its residential building capacity:

(a) Authorize development of at least fifty residential units per acre in locations that are located within one-half mile of a fixed guideway transit station;

(b) Authorize at least one duplex, triplex, or courtyard apartment on each parcel in one or more single-family residential zones unless a city documents a specific infrastructure of physical constraint that would make this requirement unfeasible for a particular parcel;

(c) Require no more than one on-site parking space per two dwelling units in multifamily zones that are located within one-half mile of a fixed guideway transit station;

(d) Authorize accessory dwelling units on all lots located in single-family residential zoning districts;

(e) Adopt a planned action pursuant to RCW 43.21C.420, except that an environmental impact statement pursuant to RCW 43.21C.030 is not required for such an action;

(f) Adopt a planned action pursuant to RCW 43.21C.440, except that an environmental impact statement pursuant to RCW 43.21C.030 is not required for such an action;

(g) Adapt the maximum feasible number of categorical exemptions pursuant to RCW 43.21C.229 for single-family and multifamily development.

(2) A city planning pursuant to RCW 36.70A.040 with a population greater than ten thousand shall take two or more of the following actions by December 31, 2022, in order to increase housing affordability:

(a) Adopt an inclusionary zoning program, in which twenty-five percent of the new housing capacity directed by this act consists of affordable housing; or

(b) Take some other action to address affordability for very low-income households.

(3) A city that is subject to subsections (1) and (2) of this section that fails to comply with subsections (1) and (2) of this section by December 31, 2021, shall update the housing element of its comprehensive plan as required by RCW 36.70A.070.

(4) The actions taken by a city to comply with subsections (1) and (2) of this section are not subject to appeal under chapter 43.21C RCW.

(5)(a) A city that is subject to the requirements of subsections (1) and (2) of this section shall certify to the department once it has complied with the requirements of subsections (1) and (2) of this section.

(b) When the department receives a certification from a city pursuant to (a) of this subsection (5), the department shall take such investigative steps as are necessary to confirm the accuracy of the certification. Once the department has confirmed the accuracy of the certification, the department shall issue a letter verifying the city's compliance.

(c) A city who has received a letter of verification from the department is eligible to receive a one-time grant from the department of one hundred thousand dollars in order to support planning and outreach efforts.

(6) A city that is subject to the requirements of subsections (1) and (2) of this section that fails to comply with subsections (1) and (2) of this section by December 31, 2021, may not receive grants, loans, or any other form of funding from the following accounts until the city certifies to the department that the city has complied with subsections (1) and (2) of this section: The public works assistance account established in RCW 43.155.050; the water quality capital account created in RCW 70.146.100; or the transportation improvement account created in RCW 47.26.084.

(7) In meeting the requirements of subsections (1) and (2) of this section, cities are encouraged to utilize strategies that increase residential building capacity in areas with frequent transit service and with the transportation and utility infrastructure that supports the additional residential building capacity.

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

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

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

(2)(a) A housing element ensuring the vitality and character of established residential neighborhoods that: ((~~(a)~~)) (i) Includes an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth and quantifies existing and projected housing needs for all income levels, including extremely low-income households, with documentation of housing and household characteristics, including housing stock condition, overcrowding, and comparison of level of payment with ability to pay; ((~~(b)~~)) (ii) includes a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including single-family residences; ((~~(c)~~)) (iii) includes policies, regulations, and programs to conserve and preserve existing private market and subsidized affordable housing and existing manufactured home parks. In cities with populations of more than eighty thousand, the housing element must include policies, regulations, and programs to minimize displacement; (iv) identifies sufficient land for housing, including, but not limited to, government-assisted housing, housing for low-income families, manufactured housing, multifamily housing, and group homes and foster care facilities. If the inventory in (a) of this subsection demonstrates a lack of sufficient sites to accommodate housing needs for extremely low-income, very low-income, and low-income households, the housing element must include a program to make sufficient sites available at multifamily densities available for development; ((~~and (d)~~)) (v) makes adequate provisions for existing and projected needs of all economic segments of the community; (vi) analyzes population and employment trends, with documentation of projections; (vii) provides a zone where emergency shelters are permitted without a discretionary review process; (viii) includes an eight-year schedule of programs and actions to implement the policies of the housing element and to accommodate the planned housing units, including incentives and funding for affordable housing; and (ix) reviews and evaluates the previous housing element, including an evaluation of success in attaining planned housing units, achievement of goals and policies, and implementation of the schedule of programs and actions. In counties and cities subject to the review and evaluation requirements of RCW 36.70A.215, any revision to the housing element shall include consideration of prior review and evaluation reports and any reasonable measures identified.

(b) The department must review and, if compliant with the requirements of this subsection, approve the housing element of each planning jurisdiction after each periodic review required under RCW 36.70A.130.

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

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

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

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

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

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

(i) Containing or otherwise controlling rural development;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Land use assumptions used in estimating travel;

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

(iii) Facilities and services needs, including:

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

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

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

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

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

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

(iv) Finance, including:

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

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

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

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

(vi) Demand-management strategies;

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

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

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

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

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

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

**Sec.**  RCW 36.70A.030 and 2017 3rd sp.s. c 18 s 2 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

(9) "Freight rail dependent uses" means buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of goods where the use is dependent on and makes use of an adjacent short line railroad. Such facilities are both urban and rural development for purposes of this chapter. "Freight rail dependent uses" does not include buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of coal, liquefied natural gas, or "crude oil" as defined in RCW 90.56.010.

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

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

(12) "Minerals" include gravel, sand, and valuable metallic substances.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(23) "Wetland" or "wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands.

(24) "Affordable housing" means, unless the context clearly indicates otherwise, residential housing whose monthly costs, including utilities other than telephone, do not exceed thirty percent of the monthly income of a household whose income is sixty percent of the median family income adjusted for family size, for the county where the household is located, as reported by the United States department of housing and urban development.

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

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

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

**Sec.**  RCW 43.21C.450 and 2012 1st sp.s. c 1 s 307 are each amended to read as follows:

The following nonproject actions are categorically exempt from the requirements of this chapter:

(1) Amendments to development regulations that are required to ensure consistency with an adopted comprehensive plan pursuant to RCW 36.70A.040, where the comprehensive plan was previously subjected to environmental review pursuant to this chapter and the impacts associated with the proposed regulation were specifically addressed in the prior environmental review;

(2) Amendments to development regulations that are required to ensure consistency with a shoreline master program approved pursuant to RCW 90.58.090, where the shoreline master program was previously subjected to environmental review pursuant to this chapter and the impacts associated with the proposed regulation were specifically addressed in the prior environmental review;

(3) Amendments to development regulations that, upon implementation of a project action, will provide increased environmental protection, limited to the following:

(a) Increased protections for critical areas, such as enhanced buffers or setbacks;

(b) Increased vegetation retention or decreased impervious surface areas in shoreline jurisdiction; and

(c) Increased vegetation retention or decreased impervious surface areas in critical areas;

(4) Amendments to technical codes adopted by a county, city, or town to ensure consistency with minimum standards contained in state law, including the following:

(a) Building codes required by chapter 19.27 RCW;

(b) Energy codes required by chapter 19.27A RCW; and

(c) Electrical codes required by chapter 19.28 RCW;

(5) Amendments to development regulations in order to comply with section 1 of this act.

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

In counties and cities planning under RCW 36.70A.040, minimum residential parking requirements mandated by municipal zoning ordinances are subject to the following requirements:

(1) For affordable housing units that are located within one-quarter mile of a transit stop that receives transit service at least four times per hour for twelve or more hours per day, minimum residential parking requirements may be no greater than one parking space per bedroom.

(2) For housing units that are specifically for seniors or people with disabilities, that are located within one-quarter mile of a transit stop that receives transit service at least four times per hour for twelve or more hours per day, no minimum residential parking requirement may be imposed.

**Sec.**  RCW 70.146.070 and 2013 c 275 s 4 are each amended to read as follows:

(1) When making grants or loans for water pollution control facilities, the department shall consider the following:

(a) The protection of water quality and public health;

(b) The cost to residential ratepayers if they had to finance water pollution control facilities without state assistance;

(c) Actions required under federal and state permits and compliance orders;

(d) The level of local fiscal effort by residential ratepayers since 1972 in financing water pollution control facilities;

(e) Except as otherwise conditioned by RCW 70.146.110, whether the entity receiving assistance is a Puget Sound partner, as defined in RCW 90.71.010;

(f) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310;

(g) Except as otherwise provided in RCW 70.146.120, and effective one calendar year following the development and statewide availability of model evergreen community management plans and ordinances under RCW 35.105.050, whether the project is sponsored by an entity that has been recognized, and what gradation of recognition was received, in the evergreen community recognition program created in RCW 35.105.030;

(h) The extent to which the applicant county or city, or if the applicant is another public body, the extent to which the county or city in which the applicant public body is located, has established programs to mitigate nonpoint pollution of the surface or subterranean water sought to be protected by the water pollution control facility named in the application for state assistance; and

(i) The recommendations of the Puget Sound partnership, created in RCW 90.71.210, and any other board, council, commission, or group established by the legislature or a state agency to study water pollution control issues in the state.

(2) Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town planning under RCW 36.70A.040 may not receive a grant or loan for water pollution control facilities unless it has adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. A county, city, or town that has adopted a comprehensive plan and development regulations as provided in RCW 36.70A.040 may request a grant or loan for water pollution control facilities. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting a grant or loan under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 that has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 is not prohibited from receiving a grant or loan under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before the department executes a contractual agreement for the grant or loan.

(3) Whenever the department is considering awarding grants or loans for public facilities to special districts requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, it shall consider whether the county, city, or town planning under RCW 36.70A.040 in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

(4) The department may not award a grant or loan for a public facility located in a city subject to the requirements of section 1(1) and (2) of this act unless the city has certified to the department of commerce that it is in compliance with section 1(1) and (2) of this act, as appropriate.

(5) After January 1, 2010, any project designed to address the effects of water pollution on Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

**Sec.**  RCW 43.155.070 and 2017 3rd sp.s. c 10 s 9 are each amended to read as follows:

(1) To qualify for financial assistance under this chapter the board must determine that a local government meets all of the following conditions:

(a) The city or county must be imposing a tax under chapter 82.46 RCW at a rate of at least one-quarter of one percent;

(b) The local government must have developed a capital facility plan; and

(c) The local government must be using all local revenue sources which are reasonably available for funding public works, taking into consideration local employment and economic factors.

(2) Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town planning under RCW 36.70A.040 may not receive financial assistance under this chapter unless it has adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting or receiving financial assistance under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 that has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 may apply for and receive financial assistance under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before executing a contractual agreement for financial assistance with the board.

(3) In considering awarding financial assistance for public facilities to special districts requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, the board must consider whether the county, city, or town planning under RCW 36.70A.040 in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

(4) The board may not award financial assistance for a proposed facility located in a city subject to the requirements of section 1(1) and (2) of this act unless the city has certified to the department of commerce that it is in compliance with section 1(1) and (2) of this act, as appropriate, of this act.

(5)(a) The board must develop a process to prioritize applications and funding of loans and grants for public works projects submitted by local governments. The board must consider, at a minimum and in any order, the following factors in prioritizing projects:

(i) Whether the project is critical in nature and would affect the health and safety of many people;

(ii) The extent to which the project leverages other funds;

(iii) The extent to which the project is ready to proceed to construction;

(iv) Whether the project is located in an area of high unemployment, compared to the average state unemployment;

(v) Whether the project promotes the sustainable use of resources and environmental quality, as applicable;

(vi) Whether the project consolidates or regionalizes systems;

(vii) Whether the project encourages economic development through mixed‑use and mixed income development consistent with chapter 36.70A RCW;

(viii) Whether the system is being well‑managed in the present and for long‑term sustainability;

(ix) Achieving equitable distribution of funds by geography and population;

(x) The extent to which the project meets the following state policy objectives:

(A) Efficient use of state resources;

(B) Preservation and enhancement of health and safety;

(C) Abatement of pollution and protection of the environment;

(D) Creation of new, family-wage jobs, and avoidance of shifting existing jobs from one Washington state community to another;

(E) Fostering economic development consistent with chapter 36.70A RCW;

(F) Efficiency in delivery of goods and services and transportation; and

(G) Reduction of the overall cost of public infrastructure;

(xi) Whether the applicant sought or is seeking funding for the project from other sources; and

(xii) Other criteria that the board considers necessary to achieve the purposes of this chapter.

(b) Before September 1, 2018, and each year thereafter, the board must develop and submit a report regarding the construction loans and grants to the office of financial management and appropriate fiscal committees of the senate and house of representatives. The report must include:

(i) The total number of applications and amount of funding requested for public works projects;

(ii) A list and description of projects approved in the preceding fiscal year with project scores against the board's prioritization criteria;

(iii) The total amount of loan and grants disbursements made from the public works assistance account in the preceding fiscal year;

(iv) The total amount of loan repayments in the preceding fiscal year for outstanding loans from the public works assistance account;

(v) The total amount of loan repayments due for outstanding loans for each fiscal year over the following ten-year period; and

(vi) The total amount of funds obligated and timing of when the funds were obligated in the preceding fiscal year.

(c) The maximum amount of funding that the board may provide for any jurisdiction is ten million dollars per biennium.

((~~(5)~~)) (6) Existing debt or financial obligations of local governments may not be refinanced under this chapter. Each local government applicant must provide documentation of attempts to secure additional local or other sources of funding for each public works project for which financial assistance is sought under this chapter.

((~~(6)~~)) (7) Before September 1st of each year, the board must develop and submit to the appropriate fiscal committees of the senate and house of representatives a description of the loans and grants made under RCW 43.155.065 and 43.155.068.

((~~(7)~~)) (8) The board may not sign contracts or otherwise financially obligate funds from the public works assistance account before the legislature has appropriated funds to the board for the purpose of funding public works projects under this chapter.

((~~(8)~~)) (9) To qualify for loans, grants, or pledges for solid waste or recycling facilities under this chapter, a city or county must demonstrate that the solid waste or recycling facility is consistent with and necessary to implement the comprehensive solid waste management plan adopted by the city or county under chapter 70.95 RCW.

((~~(9)~~)) (10) After January 1, 2010, any project designed to address the effects of stormwater or wastewater on Puget Sound may be funded under this section only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

((~~(10)~~)) (11) For projects involving repair, replacement, or improvement of a wastewater treatment plant or other public works facility for which an investment grade efficiency audit is reasonably obtainable, the public works board must require as a contract condition that the project sponsor undertake an investment grade efficiency audit. The project sponsor may finance the costs of the audit as part of its public works assistance account program loan or grant.

((~~(11)~~)) (12) The board must implement policies and procedures designed to maximize local government consideration of other funds to finance local infrastructure.

**Sec.**  RCW 47.26.086 and 2011 c 120 s 7 are each amended to read as follows:

Transportation improvement account projects selected for funding programs after fiscal year 1995 are governed by the requirements of this section.

The board shall allocate funds from the account by June 30th of each year for the ensuing fiscal year to urban counties, cities with a population of five thousand and over, and to transportation benefit districts. Projects may include, but are not limited to, multiagency projects and arterial improvement projects in fast-growing areas. The board shall endeavor to provide geographical diversity in selecting improvement projects to be funded from the account.

To be eligible to receive these funds, a project must be consistent with the Growth Management Act, the Clean Air Act including conformity, and the Commute Trip Reduction Law and consideration must have been given to the project's relationship, both actual and potential, with the statewide rail passenger program and rapid mass transit. For a project located in a city that is subject to the requirements of section 1(1) and (2) of this act, the city must certify to the department of commerce that it is in compliance with section 1(1) and (2) of this act, as appropriate, in order for the project to be eligible to receive these funds. Projects must be consistent with any adopted high capacity transportation plan, must consider existing or reasonably foreseeable congestion levels attributable to economic development or growth and all modes of transportation and safety, and must be partially funded by local government or private contributions, or a combination of such contributions. Priority consideration shall be given to those projects with the greatest percentage of local or private contribution, or both.

Within one year after board approval of an application for funding, the lead agency shall provide written certification to the board of the pledged local and private funding for the phase of the project approved. Funds allocated to an applicant that does not certify its funding within one year after approval may be reallocated by the board.

NEW SECTION. **Sec.**  A new section is added to chapter 43.21C RCW to read as follows:

(1) A project action evaluated under this chapter by a city, town, or county planning under RCW 36.70A.040 is exempt from appeals under this chapter on the basis of the evaluation of or impacts to transportation elements of the environment, so long as the project does not present significant adverse impacts to state highways and the project is:

(a)(i) Consistent with a locally adopted transportation plan; or

(ii) Consistent with the transportation element of a comprehensive plan; and

(b)(i) A project for which traffic or parking impact fees are imposed pursuant to RCW 82.02.050 through 82.02.090; or

(ii) A project for which traffic or parking impacts are expressly mitigated by an ordinance, or ordinances, of general application adopted by the city, town, or county.

(2) For purposes of this section, "impacts to transportation elements of the environment" include impacts to transportation systems; vehicular traffic; waterborne, rail, and air traffic; parking; movement or circulation of people or goods; and traffic hazards.

**Sec.**  RCW 43.21C.420 and 2010 c 153 s 2 are each amended to read as follows:

(1) Cities with a population greater than five thousand, in accordance with their existing comprehensive planning and development regulation authority under chapter 36.70A RCW, and in accordance with this section, may adopt optional elements of their comprehensive plans and optional development regulations that apply within specified subareas of the cities, that are either:

(a) Areas designated as mixed-use or urban centers in a land use or transportation plan adopted by a regional transportation planning organization; or

(b) Areas within one-half mile of a major transit stop that are zoned to have an average minimum density of fifteen dwelling units or more per gross acre.

(2) Cities located on the east side of the Cascade mountains and located in a county with a population of two hundred thirty thousand or less, in accordance with their existing comprehensive planning and development regulation authority under chapter 36.70A RCW, and in accordance with this section, may adopt optional elements of their comprehensive plans and optional development regulations that apply within the mixed-use or urban centers. The optional elements of their comprehensive plans and optional development regulations must enhance pedestrian, bicycle, transit, or other nonvehicular transportation methods.

(3) A major transit stop is defined as:

(a) A stop on a high capacity transportation service funded or expanded under the provisions of chapter 81.104 RCW;

(b) Commuter rail stops;

(c) Stops on rail or fixed guideway systems, including transitways;

(d) Stops on bus rapid transit routes or routes that run on high occupancy vehicle lanes; or

(e) Stops for a bus or other transit mode providing fixed route service at intervals of at least thirty minutes during the peak hours of operation.

(4)(a) A city that elects to adopt such an optional comprehensive plan element and optional development regulations shall prepare a nonproject environmental impact statement, pursuant to RCW 43.21C.030, assessing and disclosing the probable significant adverse environmental impacts of the optional comprehensive plan element and development regulations and of future development that is consistent with the plan and regulations.

(b) At least one community meeting must be held on the proposed subarea plan before the scoping notice for such a nonproject environmental impact statement is issued. Notice of scoping for such a nonproject environmental impact statement and notice of the community meeting required by this section must be mailed to all property owners of record within the subarea to be studied, to all property owners within one hundred fifty feet of the boundaries of such a subarea, to all affected federally recognized tribal governments whose ceded area is within one-half mile of the boundaries of the subarea, and to agencies with jurisdiction over the future development anticipated within the subarea.

(c) ((~~In cities with over five hundred thousand residents, notice of scoping for such a nonproject environmental impact statement and notice of the community meeting required by this section must be mailed to all small businesses as defined in RCW 19.85.020, and to all community preservation and development authorities established under chapter 43.167 RCW, located within the subarea to be studied or within one hundred fifty feet of the boundaries of such subarea. The process for community involvement must have the goal of fair treatment and meaningful involvement of all people with respect to the development and implementation of the subarea planning process.~~

~~(d)~~)) The notice of the community meeting must include general illustrations and descriptions of buildings generally representative of the maximum building envelope that will be allowed under the proposed plan and indicate that future appeals of proposed developments that are consistent with the plan will be limited. Notice of the community meeting must include signs located on major travel routes in the subarea. If the building envelope increases during the process, another notice complying with the requirements of this section must be issued before the next public involvement opportunity.

((~~(e)~~)) (d) Any person that has standing to appeal the adoption of this subarea plan or the implementing regulations under RCW 36.70A.280 has standing to bring an appeal of the nonproject environmental impact statement required by this subsection.

((~~(f) Cities with over five hundred thousand residents shall prepare a study that accompanies or is appended to the nonproject environmental impact statement, but must not be part of that statement, that analyzes the extent to which the proposed subarea plan may result in the displacement or fragmentation of existing businesses, existing residents, including people living with poverty, families with children, and intergenerational households, or cultural groups within the proposed subarea plan. The city shall also discuss the results of the analysis at the community meeting.~~

~~(g)~~)) (e) As an incentive for development authorized under this section, a city shall consider establishing a transfer of development rights program in consultation with the county where the city is located, that conserves county-designated agricultural and forestland of long-term commercial significance. If the city decides not to establish a transfer of development rights program, the city must state in the record the reasons for not adopting the program. The city's decision not to establish a transfer of development rights program is not subject to appeal. Nothing in this subsection (4)((~~(g)~~)) (e) may be used as a basis to challenge the optional comprehensive plan or subarea plan policies authorized under this section.

(5)(a) Until July 1, ((~~2018~~)) 2029, a proposed development that meets the criteria of (b) of this subsection may not be challenged in administrative or judicial appeals for noncompliance with this chapter as long as a complete application for such a development that vests the application or would later lead to vested status under city or state law is submitted to the city within a time frame established by the city, but not to exceed the following time frames:

(i) Nineteen years from the date of issuance of the final environmental impact statement, for projects that are consistent with an optional element adopted by a city as of the effective date of this section; or

(ii) Ten years from the date of issuance of the final environmental impact statement, for projects that are consistent with an optional element adopted by a city after the effective date of this section.

(b) A proposed development may not be challenged, consistent with the timelines established in (a) of this subsection, so long as the development:

(i) Is consistent with the optional comprehensive plan or subarea plan policies and development regulations adopted under subsection (1) or (2) of this section;

(ii) Sets aside or requires the occupancy of at least ten percent of the dwelling units, or a greater percentage as determined by city development regulations, within the development for low-income households at a sale price or rental amount that is considered affordable by a city's housing programs. This subsection (5)(b)(ii) applies only to projects that are consistent with an optional element adopted by a city pursuant to this section after the effective date of this section; and ((~~that~~))

(iii) Is environmentally reviewed under subsection (4) of this section ((~~may not be challenged in administrative or judicial appeals for noncompliance with this chapter as long as a complete application for such a development that vests the application or would later lead to vested status under city or state law is submitted to the city within a time frame established by the city, but not to exceed ten years from the date of issuance of the final environmental impact statement~~)).

((~~(b)~~)) (c) After July 1, ((~~2018~~)) 2029, the immunity from appeals under this chapter of any application that vests or will vest under this subsection or the ability to vest under this subsection is still valid, provided that the final subarea environmental impact statement is issued by July 1, ((~~2018~~)) 2029. After July 1, ((~~2018~~)) 2029, a city may continue to collect reimbursement fees under subsection (6) of this section for the proportionate share of a subarea environmental impact statement issued prior to July 1, ((~~2018~~)) 2029.

(6) It is recognized that a city that prepares a nonproject environmental impact statement under subsection (4) of this section must endure a substantial financial burden. A city may recover or apply for a grant or loan to prospectively cover its reasonable expenses of preparation of a nonproject environmental impact statement prepared under subsection (4) of this section through access to financial assistance under RCW 36.70A.490 or funding from private sources. In addition, a city is authorized to recover a portion of its reasonable expenses of preparation of such a nonproject environmental impact statement by the assessment of reasonable and proportionate fees upon subsequent development that is consistent with the plan and development regulations adopted under subsection (5) of this section, as long as the development makes use of and benefits ((~~[from]~~)) from, as described in subsection (5) of this section, ((~~from~~)) the nonproject environmental impact statement prepared by the city. Any assessment fees collected from subsequent development may be used to reimburse funding received from private sources. In order to collect such fees, the city must enact an ordinance that sets forth objective standards for determining how the fees to be imposed upon each development will be proportionate to the impacts of each development and to the benefits accruing to each development from the nonproject environmental impact statement. Any disagreement about the reasonableness or amount of the fees imposed upon a development may not be the basis for delay in issuance of a project permit for that development. The fee assessed by the city may be paid with the written stipulation "paid under protest" and if the city provides for an administrative appeal of its decision on the project for which the fees are imposed, any dispute about the amount of the fees must be resolved in the same administrative appeal process.

(7) If a proposed development is inconsistent with the optional comprehensive plan or subarea plan policies and development regulations adopted under subsection (1) of this section, the city shall require additional environmental review in accordance with this chapter.

**Sec.**  RCW 36.70A.490 and 2012 1st sp.s. c 1 s 309 are each amended to read as follows:

The growth management planning and environmental review fund is hereby established in the state treasury. Moneys may be placed in the fund from the proceeds of bond sales, tax revenues, budget transfers, federal appropriations, gifts, or any other lawful source. Moneys in the fund may be spent only after appropriation. Moneys in the fund shall be used to make grants or loans to local governments for the purposes set forth in RCW 43.21C.240, 43.21C.031, or 36.70A.500, and to cover costs associated with the adoption of optional elements of comprehensive plans consistent with RCW 43.21C.420. Any payment of either principal or interest, or both, derived from loans made from this fund must be deposited into the fund.

NEW SECTION. **Sec.**  A new section is added to chapter 35.21 RCW to read as follows:

Permanent supportive housing shall be a permitted use in all areas where multifamily housing is permitted.

**Sec.**  RCW 82.02.060 and 2012 c 200 s 1 are each amended to read as follows:

The local ordinance by which impact fees are imposed:

(1) Shall include a schedule of impact fees which shall be adopted for each type of development activity that is subject to impact fees, specifying the amount of the impact fee to be imposed for each type of system improvement. The schedule shall be based upon a formula or other method of calculating such impact fees. In determining proportionate share, the formula or other method of calculating impact fees shall incorporate, among other things, the following:

(a) The cost of public facilities necessitated by new development;

(b) An adjustment to the cost of the public facilities for past or future payments made or reasonably anticipated to be made by new development to pay for particular system improvements in the form of user fees, debt service payments, taxes, or other payments earmarked for or proratable to the particular system improvement;

(c) The availability of other means of funding public facility improvements;

(d) The cost of existing public facilities improvements; and

(e) The methods by which public facilities improvements were financed;

(2) May provide an exemption for low-income housing, and other development activities with broad public purposes, from these impact fees, provided that the impact fees for such development activity shall be paid from public funds other than impact fee accounts;

(3) May provide an exemption from impact fees for low-income housing. Local governments that grant exemptions for low-income housing under this subsection (3) may either: Grant a partial exemption of not more than eighty percent of impact fees, in which case there is no explicit requirement to pay the exempted portion of the fee from public funds other than impact fee accounts; or provide a full waiver, in which case the remaining percentage of the exempted fee must be paid from public funds other than impact fee accounts. An exemption for low-income housing granted under subsection (2) of this section or this subsection (3) must be conditioned upon requiring the developer to record a covenant that, except as provided otherwise by this subsection, prohibits using the property for any purpose other than for low-income housing. At a minimum, the covenant must address price restrictions and household income limits for the low-income housing, and that if the property is converted to a use other than for low-income housing, the property owner must pay the applicable impact fees in effect at the time of conversion. Covenants required by this subsection must be recorded with the applicable county auditor or recording officer. A local government granting an exemption under subsection (2) of this section or this subsection (3) for low-income housing may not collect revenue lost through granting an exemption by increasing impact fees unrelated to the exemption. A school district who receives school impact fees must approve any exemption under subsection (2) of this section or this subsection (3);

(4) May not charge a higher per unit fee for multifamily residential construction than for single-family residential construction;

(5) Shall provide a credit for the value of any dedication of land for, improvement to, or new construction of any system improvements provided by the developer, to facilities that are identified in the capital facilities plan and that are required by the county, city, or town as a condition of approving the development activity;

((~~(5)~~)) (6) Shall allow the county, city, or town imposing the impact fees to adjust the standard impact fee at the time the fee is imposed to consider unusual circumstances in specific cases to ensure that impact fees are imposed fairly;

((~~(6)~~)) (7) Shall include a provision for calculating the amount of the fee to be imposed on a particular development that permits consideration of studies and data submitted by the developer to adjust the amount of the fee;

((~~(7)~~)) (8) Shall establish one or more reasonable service areas within which it shall calculate and impose impact fees for various land use categories per unit of development; and

((~~(8)~~)) (9) May provide for the imposition of an impact fee for system improvement costs previously incurred by a county, city, or town to the extent that new growth and development will be served by the previously constructed improvements provided such fee shall not be imposed to make up for any system improvement deficiencies.

For purposes of this section, "low-income housing" means housing with a monthly housing expense, that is no greater than thirty percent of eighty percent of the median family income adjusted for family size, for the county where the project is located, as reported by the United States department of housing and urban development.

**--- END ---**