
SECOND ENGROSSED SUBSTITUTE SENATE BILL 5275

State of Washington

67th Legislature

2021 Regular Session

By Senate Housing & Local Government (originally sponsored by Senators Short, Lovelett, Das, Wellman, and Wilson, C.)

READ FIRST TIME 02/15/21.

1 AN ACT Relating to enhancing opportunity in limited areas of more
2 intense rural development; and amending RCW 36.70A.070.

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

4 **Sec. 1.** RCW 36.70A.070 and 2021 c 254 s 2 are each amended to
5 read as follows:

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

15 (1) A land use element designating the proposed general
16 distribution and general location and extent of the uses of land,
17 where appropriate, for agriculture, timber production, housing,
18 commerce, industry, recreation, open spaces, general aviation
19 airports, public utilities, public facilities, and other land uses.
20 The land use element shall include population densities, building
21 intensities, and estimates of future population growth. The land use

1 element shall provide for protection of the quality and quantity of
2 groundwater used for public water supplies. Wherever possible, the
3 land use element should consider utilizing urban planning approaches
4 that promote physical activity. Where applicable, the land use
5 element shall review drainage, flooding, and stormwater runoff in the
6 area and nearby jurisdictions and provide guidance for corrective
7 actions to mitigate or cleanse those discharges that pollute waters
8 of the state, including Puget Sound or waters entering Puget Sound.

9 (2) A housing element ensuring the vitality and character of
10 established residential neighborhoods that:

11 (a) Includes an inventory and analysis of existing and projected
12 housing needs that identifies the number of housing units necessary
13 to manage projected growth, as provided by the department of
14 commerce, including:

15 (i) Units for moderate, low, very low, and extremely low-income
16 households; and

17 (ii) Emergency housing, emergency shelters, and permanent
18 supportive housing;

19 (b) Includes a statement of goals, policies, objectives, and
20 mandatory provisions for the preservation, improvement, and
21 development of housing, including single-family residences, and
22 within an urban growth area boundary, moderate density housing
23 options including ~~((+,+))~~, but not limited to, duplexes, triplexes,
24 and townhomes;

25 (c) Identifies sufficient capacity of land for housing including,
26 but not limited to, government-assisted housing, housing for
27 moderate, low, very low, and extremely low-income households,
28 manufactured housing, multifamily housing, group homes, foster care
29 facilities, emergency housing, emergency shelters, permanent
30 supportive housing, and within an urban growth area boundary,
31 consideration of duplexes, triplexes, and townhomes;

32 (d) Makes adequate provisions for existing and projected needs of
33 all economic segments of the community, including:

34 (i) Incorporating consideration for low, very low, extremely low,
35 and moderate-income households;

36 (ii) Documenting programs and actions needed to achieve housing
37 availability including gaps in local funding, barriers such as
38 development regulations, and other limitations;

39 (iii) Consideration of housing locations in relation to
40 employment location; and

1 (iv) Consideration of the role of accessory dwelling units in
2 meeting housing needs;

3 (e) Identifies local policies and regulations that result in
4 racially disparate impacts, displacement, and exclusion in housing,
5 including:

6 (i) Zoning that may have a discriminatory effect;

7 (ii) Disinvestment; and

8 (iii) Infrastructure availability;

9 (f) Identifies and implements policies and regulations to address
10 and begin to undo racially disparate impacts, displacement, and
11 exclusion in housing caused by local policies, plans, and actions;

12 (g) Identifies areas that may be at higher risk of displacement
13 from market forces that occur with changes to zoning development
14 regulations and capital investments; and

15 (h) Establishes antidisplacement policies, with consideration
16 given to the preservation of historical and cultural communities as
17 well as investments in low, very low, extremely low, and moderate-
18 income housing; equitable development initiatives; inclusionary
19 zoning; community planning requirements; tenant protections; land
20 disposition policies; and consideration of land that may be used for
21 affordable housing.

22 In counties and cities subject to the review and evaluation
23 requirements of RCW 36.70A.215, any revision to the housing element
24 shall include consideration of prior review and evaluation reports
25 and any reasonable measures identified. The housing element should
26 link jurisdictional goals with overall county goals to ensure that
27 the housing element goals are met.

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

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

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

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

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

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

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

30 (i) Containing or otherwise controlling rural development;

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

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

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

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

39 (d) Limited areas of more intensive rural development. Subject to
40 the requirements of this subsection and except as otherwise

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

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

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

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

18 (C) Any development or redevelopment in terms of building size,
19 scale, use, or intensity (~~(shall be consistent with the character of~~
20 ~~the existing areas)~~) may be permitted subject to confirmation from
21 all existing providers of public facilities and public services of
22 sufficient capacity of existing public facilities and public services
23 to serve any new or additional demand from the new development or
24 redevelopment. Development and redevelopment may include changes in
25 use from vacant land or a previously existing use so long as the new
26 use conforms to the requirements of this subsection (5) and is
27 consistent with the local character. Any commercial development or
28 redevelopment within a mixed-use area must be principally designed to
29 serve the existing and projected rural population and must meet the
30 following requirements:

31 (I) Any included retail or food service space must not exceed the
32 footprint of previously occupied space or 5,000 square feet,
33 whichever is greater, for the same or similar use; and

34 (II) Any included retail or food service space must not exceed
35 2,500 square feet for a new use;

36 (ii) The intensification of development on lots containing, or
37 new development of, small-scale recreational or tourist uses,
38 including commercial facilities to serve those recreational or
39 tourist uses, that rely on a rural location and setting, but that do
40 not include new residential development. A small-scale recreation or

1 tourist use is not required to be principally designed to serve the
2 existing and projected rural population. Public services and public
3 facilities shall be limited to those necessary to serve the
4 recreation or tourist use and shall be provided in a manner that does
5 not permit low-density sprawl;

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

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

1 (v) For purposes of this subsection (5)(d) (~~(of this~~
2 ~~subsection)~~), an existing area or existing use is one that was in
3 existence:

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

6 (B) On the date the county adopted a resolution under RCW
7 36.70A.040(2), in a county that is planning under all of the
8 provisions of this chapter under RCW 36.70A.040(2); or

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

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

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

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

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

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

28 (iii) Facilities and services needs, including:

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

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

38 (C) For state-owned transportation facilities, level of service
39 standards for highways, as prescribed in chapters 47.06 and 47.80
40 RCW, to gauge the performance of the system. The purposes of

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

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

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

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

23 (iv) Finance, including:

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

26 (B) A multiyear financing plan based on the needs identified in
27 the comprehensive plan, the appropriate parts of which shall serve as
28 the basis for the six-year street, road, or transit program required
29 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW
30 35.58.2795 for public transportation systems. The multiyear financing
31 plan should be coordinated with the ten-year investment program
32 developed by the office of financial management as required by RCW
33 47.05.030;

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

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

1 (vi) Demand-management strategies;

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

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

24 (c) The transportation element described in this subsection (6),
25 the six-year plans required by RCW 35.77.010 for cities, RCW
26 36.81.121 for counties, and RCW 35.58.2795 for public transportation
27 systems, and the ten-year investment program required by RCW
28 47.05.030 for the state, must be consistent.

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

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

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

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