

WSR 26-05-065

PROPOSED RULES

DEPARTMENT OF COMMERCE

[Filed February 17, 2026, 10:04 a.m.]

[Original Notice.]

Preproposal statement of inquiry was filed as WSR 26-01-182.

Title of Rule and Other Identifying Information: Chapter 365-199 WAC, Procedures for making determinations of compliance for jurisdictions seeking voluntary reversion to partial planning status, certification of an empirical parking study, and certification and approval of alternative pathways to the density requirements in RCW 36.70A.635(1).

Hearing Location(s): On March 25, 2026, at 10:00 a.m. Pacific Time, virtually via Zoom. Register at <https://wastatecommerce.zoom.us/meeting/register/FhwPVXXEQmOTgfpbGga7mA>. [Rule-making public comment web page at] <https://app.smartsheet.com/b/form/019be175845474ad8a5cf09c96a10084>.

Date of Intended Adoption: April 22, 2026.

Submit Written Comments to: Deborah Jacobs, 1011 Plum Street S.E., Olympia, WA 98504, email [gmarulemaking@commerce.wa.gov](mailto:gmarulemaking@commerce.wa.gov), beginning March 6, 2026, by March 27, 2026.

Assistance for Persons with Disabilities: Contact Deborah Jacobs, phone 360-725-2719, email [Deborah.Jacobs@commerce.wa.gov](mailto:Deborah.Jacobs@commerce.wa.gov), by March 13, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making seeks to establish a brief adjudicative proceeding for jurisdictions to appeal certain determinations made by the department of commerce (commerce) concerning the Growth Management Act (GMA). Commerce has responsibility to make determinations such as whether certain jurisdictions meet the criteria for extensions concerning implementation of density requirements under RCW 36.70A.637 and 36.70A.638, and for certification of parking studies under RCW 36.70A.681 and empirical parking studies under RCW 36.70A.635. However, commerce does not currently have an established process for jurisdictions that wish to appeal such determinations. The proposed brief adjudicative proceeding procedural rules provides a mechanism for expedient appeals of determinations made concerning GMA.

Reasons Supporting Proposal: The addition of a brief adjudicative proceeding procedure will give jurisdictions an avenue to challenge certain commerce growth management services determinations, creating greater due process.

Statutory Authority for Adoption: RCW 36.70A.190 (4) (b), 36.70A.638(6), 36.70A.639, and 34.05.220.

Statute Being Implemented: Chapter 36.70A RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington state department of commerce, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Andersen, 601 East Riverside Avenue, Suite 470, Spokane, WA 98202, 509-818-1029; Enforcement: Environmental and Land Use Hearings Office, 1111 Israel Road S.W., Suite 301, Tumwater, WA 98501, 360-664-9160.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Commerce is not explicitly listed in subsection (5)(b)(i) and does not intend to make this section voluntarily applicable to this rule per subsection [(5)(b)](ii). These are procedural rules that relate to government operations, consistent with RCW 34.05.328 (5)(b)(ii). Therefore, unless subsection (5)(a)(ii) is invoked by the joint administrative rules review committee after filing the CR-102, no cost-benefit analysis is required.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; rule content is explicitly and specifically dictated by statute; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

February 17, 2026  
Amanda Hathaway  
Rules Coordinator

## RDS-6958.1

### NEW SECTION

**WAC 365-199-100 Brief adjudicative proceedings.** (1) **Application of brief adjudicative proceedings.** If an adjudicative proceeding is requested, a brief adjudicative proceeding will be conducted where the matter involves one or more of the following:

- (a) A determination whether a city meets the criteria for an extension under RCW 36.70A.637;
- (b) A determination whether a city meets the criteria for an extension under RCW 36.70A.638;
- (c) A determination whether a local government meets the criteria for certification of its parking study under RCW 36.70A.681;
- (d) A determination whether a local government's empirical parking study meets the criteria for certification under RCW 36.70A.635(7);
- (e) If an adjudicative proceeding is requested in a matter not listed in this subsection, a brief adjudicative proceeding may be conducted in the discretion of the presiding officer when it appears that:
  - (i) Only legal issues exist; or
  - (ii) Both parties have agreed to a brief adjudicative proceeding;
 and
  - (iii) The protection of the public interest does not require that the department provide notice and an opportunity to participate to people other than the parties.

(2) **Request for adjudicative proceeding.** A local government must file an application for an adjudicative proceeding within 20 days of service of a decision letter from commerce, unless otherwise provided by statute. An application for brief adjudicative proceeding shall include a written explanation of the applicant's view of the matter and a copy of any other documents the applicant wishes to have the department consider.

(3) **Preliminary record.** The preliminary record in brief adjudicative proceedings shall consist of the application the local government submitted and any associated documents, all documents relied on by commerce in making its decision, and all correspondence between the local government and commerce regarding the application.

(4) **Conduct of brief adjudicative proceedings.**

(a) Brief adjudicative proceedings are conducted by a presiding officer designated by the director, pursuant to RCW 34.05.425. The presiding officer for brief adjudicative proceedings shall have agency expertise in the subject matter but may not have personally participated in the decision to issue the initiating document.

(b) The parties or their representatives may present written documentation. The presiding officer for brief adjudicative proceedings shall designate in writing the date by which written documents must be submitted by the parties.

(c) The presiding officer for brief adjudicative proceedings may, in their discretion, entertain oral argument from the parties or their representatives.

(d) No witnesses may appear to testify.

(e) In addition to the record, the presiding officer for brief adjudicative proceedings may employ agency expertise as a basis for decision.

(f) Within 10 days of the final date for submission of materials or oral argument, if any, the presiding officer for brief adjudicative proceedings shall enter an initial order.

(g) If no review is taken of the initial order within 21 days, as authorized by RCW 34.05.488 and 34.05.491, the initial order shall be the final order. A request for administrative review is deemed to have been denied if the agency does not make a disposition of the matter within 20 days after the request is submitted.