
ENGROSSED HOUSE BILL 1224

State of Washington

63rd Legislature

2014 Regular Session

By Representatives Kretz, Takko, and Short

Read first time 01/21/13. Referred to Committee on Local Government.

1 AN ACT Relating to providing a process for county legislative
2 authorities to withdraw from voluntary planning under the growth
3 management act; and amending RCW 36.70A.040, 36.70A.070, 36.70A.110,
4 36.70A.115, 36.70A.120, 36.70A.140, 36.70A.150, 36.70A.160, 36.70A.200,
5 36.70A.210, 36.70A.350, 36.70A.360, 36.70A.370, 36.70A.410, 36.70A.430,
6 36.70A.520, 36.70A.530, and 36.70A.540.

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

8 **Sec. 1.** RCW 36.70A.040 and 2000 c 36 s 1 are each amended to read
9 as follows:

10 (1) Each county that has both a population of fifty thousand or
11 more and, until May 16, 1995, has had its population increase by more
12 than ten percent in the previous ten years or, on or after May 16,
13 1995, has had its population increase by more than seventeen percent in
14 the previous ten years, and the cities located within such county, and
15 any other county regardless of its population that has had its
16 population increase by more than twenty percent in the previous ten
17 years, and the cities located within such county, shall conform with
18 all of the requirements of this chapter. However, the county
19 legislative authority of such a county with a population of less than

1 fifty thousand population may adopt a resolution removing the county,
2 and the cities located within the county, from the requirements of
3 adopting comprehensive land use plans and development regulations under
4 this chapter if this resolution is adopted and filed with the
5 department by December 31, 1990, for counties initially meeting this
6 set of criteria, or within sixty days of the date the office of
7 financial management certifies that a county meets this set of criteria
8 under subsection (5) of this section. For the purposes of this
9 subsection, a county not currently planning under this chapter is not
10 required to include in its population count those persons confined in
11 a correctional facility under the jurisdiction of the department of
12 corrections that is located in the county.

13 Once a county meets either of these sets of criteria, the
14 requirement to conform with all of the requirements of this chapter
15 remains in effect, even if the county no longer meets one of these sets
16 of criteria.

17 (2)(a) The county legislative authority of any county that does not
18 meet either of the sets of criteria established under subsection (1) of
19 this section may adopt a resolution indicating its intention to have
20 subsection (1) of this section apply to the county. Each city, located
21 in a county that chooses to plan under this subsection, shall conform
22 with all of the requirements of this chapter. Once such a resolution
23 has been adopted, the county and the cities located within the county,
24 except as provided otherwise by this chapter, remain subject to all
25 (~~of the~~) requirements of this chapter.

26 (b) Until December 31, 2014, the legislative authority of a county
27 may adopt a withdrawal resolution exempting the county and the cities
28 located within the county from, except as provided otherwise by this
29 chapter, requirements to adopt comprehensive land use plans and
30 development regulations under this section if:

31 (i) The county has a population of twenty thousand or fewer
32 inhabitants at any time between January 1, 2010, and December 31, 2014;

33 (ii) The county previously adopted a resolution indicating its
34 intention to have subsection (1) of this section apply to the county;

35 (iii) At least sixty days prior to adopting the withdrawal
36 resolution, the county provides written notification to the legislative
37 body of each city within the county of its intent to consider adopting
38 the resolution; and

1 (iv) Before the county legislative authority adopts the withdrawal
2 resolution, the legislative bodies of at least sixty percent of those
3 cities having an aggregate population of at least seventy-five percent
4 of the incorporated county population adopt resolutions supporting the
5 action by the county and provide written notification of this support
6 to the county.

7 (c) Upon adoption of a withdrawal resolution under (b) of this
8 subsection, the county and the cities within the county are no longer
9 obligated to plan under this section and, except as provided otherwise
10 by this chapter, are exempt from this chapter. However, if a county
11 meets the population criteria for mandatory planning under subsection
12 (1) of this section as of January 1, 2010, or on any subsequent date,
13 the withdrawal resolution of the county is invalid and the county and
14 each city located within the county is required to comply with all the
15 requirements of this chapter.

16 (d) The county legislative authority of a county that has adopted
17 a withdrawal resolution under (b) of this subsection may subsequently
18 pass a resolution indicating its intention to have subsection (1) of
19 this section apply to the county.

20 (3) Any county or city that is initially required to conform with
21 all of the requirements of this chapter under subsection (1) of this
22 section shall take actions under this chapter as follows: (a) The
23 county legislative authority shall adopt a countywide planning policy
24 under RCW 36.70A.210; (b) the county and each city located within the
25 county shall designate critical areas, agricultural lands, forest
26 lands, and mineral resource lands, and adopt development regulations
27 conserving these designated agricultural lands, forest lands, and
28 mineral resource lands and protecting these designated critical areas,
29 under RCW 36.70A.170 and 36.70A.060; (c) the county shall designate and
30 take other actions related to urban growth areas under RCW 36.70A.110;
31 (d) if the county has a population of fifty thousand or more, the
32 county and each city located within the county shall adopt a
33 comprehensive plan under this chapter and development regulations that
34 are consistent with and implement the comprehensive plan on or before
35 July 1, 1994, and if the county has a population of less than fifty
36 thousand, the county and each city located within the county shall
37 adopt a comprehensive plan under this chapter and development
38 regulations that are consistent with and implement the comprehensive

1 plan by January 1, 1995, but if the governor makes written findings
2 that a county with a population of less than fifty thousand or a city
3 located within such a county is not making reasonable progress toward
4 adopting a comprehensive plan and development regulations the governor
5 may reduce this deadline for such actions to be taken by no more than
6 one hundred eighty days. Any county or city subject to this subsection
7 may obtain an additional six months before it is required to have
8 adopted its development regulations by submitting a letter notifying
9 the department (~~(of community, trade, and economic development)~~) of its
10 need prior to the deadline for adopting both a comprehensive plan and
11 development regulations.

12 (4)(a) Any county or city that is required to conform with all the
13 requirements of this chapter, as a result of the county legislative
14 authority adopting its resolution of intention under subsection (2) of
15 this section, shall take actions under this chapter as follows:
16 (~~(+a+)~~) (i) The county legislative authority shall adopt a county-wide
17 planning policy under RCW 36.70A.210; (~~(+b+)~~) (ii) the county and each
18 city that is located within the county shall adopt development
19 regulations conserving agricultural lands, forest lands, and mineral
20 resource lands it designated under RCW 36.70A.060 within one year of
21 the date the county legislative authority adopts its resolution of
22 intention; (~~(+c+)~~) (iii) the county shall designate and take other
23 actions related to urban growth areas under RCW 36.70A.110; and (~~(+d+)~~)
24 (iv) the county and each city that is located within the county shall
25 adopt a comprehensive plan and development regulations that are
26 consistent with and implement the comprehensive plan not later than
27 four years from the date the county legislative authority adopts its
28 resolution of intention, but a county or city may obtain an additional
29 six months before it is required to have adopted its development
30 regulations by submitting a letter notifying the department (~~(of~~
31 ~~community, trade, and economic development)~~) of its need prior to the
32 deadline for adopting both a comprehensive plan and development
33 regulations. The requirements of this subsection (4)(a)(iv), as they
34 apply to the rural element required by RCW 36.70A.070(5), are not
35 affected or otherwise modified by the adoption of a withdrawal
36 resolution under subsection (2)(b) of this section.

37 (b) The requirements of (a)(ii) of this subsection, as they apply

1 to the requirements of RCW 36.70A.060(1), are not affected or otherwise
2 modified by the adoption of a withdrawal resolution under subsection
3 (2)(b) of this section.

4 (5) If the office of financial management certifies that the
5 population of a county that previously had not been required to plan
6 under subsection (1) or (2) of this section has changed sufficiently to
7 meet either of the sets of criteria specified under subsection (1) of
8 this section, and where applicable, the county legislative authority
9 has not adopted a resolution removing the county from these
10 requirements as provided in subsection (1) of this section, the county
11 and each city within such county shall take actions under this chapter
12 as follows: (a) The county legislative authority shall adopt a
13 countywide planning policy under RCW 36.70A.210; (b) the county and
14 each city located within the county shall adopt development regulations
15 under RCW 36.70A.060 conserving agricultural lands, forest lands, and
16 mineral resource lands it designated within one year of the
17 certification by the office of financial management; (c) the county
18 shall designate and take other actions related to urban growth areas
19 under RCW 36.70A.110; and (d) the county and each city located within
20 the county shall adopt a comprehensive land use plan and development
21 regulations that are consistent with and implement the comprehensive
22 plan within four years of the certification by the office of financial
23 management, but a county or city may obtain an additional six months
24 before it is required to have adopted its development regulations by
25 submitting a letter notifying the department (~~(of community, trade, and~~
26 ~~economic development)) of its need prior to the deadline for adopting
27 both a comprehensive plan and development regulations.~~

28 (6) A copy of each document that is required under this section
29 shall be submitted to the department at the time of its adoption.

30 (7) Cities and counties planning under this chapter must amend the
31 transportation element of the comprehensive plan to be in compliance
32 with this chapter and chapter 47.80 RCW no later than December 31,
33 2000.

34 (8)(a) Each county that adopts a withdrawal resolution under
35 subsection (2)(b) of this section that is not in compliance with RCW
36 36.70A.060, 36.70A.170, or 36.70A.172 on the date of the adoption of
37 the resolution must, within one year of the adoption of the resolution,

1 adopt an ordinance complying with the applicable provisions of RCW
2 36.70A.060, 36.70A.170, and 36.70A.172.

3 (b) Each city that is both within a county that adopts a withdrawal
4 resolution under subsection (2)(b) of this section that is not in
5 compliance with RCW 36.70A.060, 36.70A.170, or 36.70A.172 on the date
6 of the adoption of the resolution must, within one year of the adoption
7 of the resolution, adopt an ordinance complying with the applicable
8 provisions of RCW 36.70A.060, 36.70A.170, and 36.70A.172.

9 **Sec. 2.** RCW 36.70A.070 and 2010 1st sp.s. c 26 s 6 are each
10 amended to read as follows:

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

18 Each comprehensive plan shall include a plan, scheme, or design for
19 each of the following:

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

35 (2) A housing element ensuring the vitality and character of
36 established residential neighborhoods that: (a) Includes an inventory
37 and analysis of existing and projected housing needs that identifies

1 the number of housing units necessary to manage projected growth; (b)
2 includes a statement of goals, policies, objectives, and mandatory
3 provisions for the preservation, improvement, and development of
4 housing, including single-family residences; (c) identifies sufficient
5 land for housing, including, but not limited to, government-assisted
6 housing, housing for low-income families, manufactured housing,
7 multifamily housing, and group homes and foster care facilities; and
8 (d) makes adequate provisions for existing and projected needs of all
9 economic segments of the community.

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

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

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

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

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

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

14 (i) Containing or otherwise controlling rural development;

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

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

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

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

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

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

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

37 (B) Any development or redevelopment other than an industrial area

1 or an industrial use within a mixed-use area or an industrial area
2 under this subsection (5)(d)(i) must be principally designed to serve
3 the existing and projected rural population.

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

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

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

35 (iv) A county shall adopt measures to minimize and contain the
36 existing areas or uses of more intensive rural development, as
37 appropriate, authorized under this subsection. Lands included in such
38 existing areas or uses shall not extend beyond the logical outer

1 boundary of the existing area or use, thereby allowing a new pattern of
2 low-density sprawl. Existing areas are those that are clearly
3 identifiable and contained and where there is a logical boundary
4 delineated predominately by the built environment, but that may also
5 include undeveloped lands if limited as provided in this subsection.
6 The county shall establish the logical outer boundary of an area of
7 more intensive rural development. In establishing the logical outer
8 boundary, the county shall address (A) the need to preserve the
9 character of existing natural neighborhoods and communities, (B)
10 physical boundaries, such as bodies of water, streets and highways, and
11 land forms and contours, (C) the prevention of abnormally irregular
12 boundaries, and (D) the ability to provide public facilities and public
13 services in a manner that does not permit low-density sprawl;

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

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

18 (B) On the date the county adopted a resolution under RCW
19 36.70A.040(2), in a county that is planning under all of the provisions
20 of this chapter under RCW 36.70A.040(2); or

21 (C) On the date the office of financial management certifies the
22 county's population as provided in RCW 36.70A.040(5), in a county that
23 is planning under all of the provisions of this chapter pursuant to RCW
24 36.70A.040(5).

25 (e) Exception. This subsection shall not be interpreted to permit
26 in the rural area a major industrial development or a master planned
27 resort unless otherwise specifically permitted under RCW 36.70A.360 and
28 36.70A.365.

29 (f) The requirements of this subsection (5) are not affected or
30 otherwise modified by the adoption of a withdrawal resolution under RCW
31 36.70A.040(2)(b).

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

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

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

37 (ii) Estimated traffic impacts to state-owned transportation
38 facilities resulting from land use assumptions to assist the department

1 of transportation in monitoring the performance of state facilities, to
2 plan improvements for the facilities, and to assess the impact of land-
3 use decisions on state-owned transportation facilities;

4 (iii) Facilities and services needs, including:

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

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

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

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

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

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

38 (iv) Finance, including:

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

3 (B) A multiyear financing plan based on the needs identified in the
4 comprehensive plan, the appropriate parts of which shall serve as the
5 basis for the six-year street, road, or transit program required by RCW
6 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795
7 for public transportation systems. The multiyear financing plan should
8 be coordinated with the ten-year investment program developed by the
9 office of financial management as required by RCW 47.05.030;

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

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

17 (vi) Demand-management strategies;

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

22 (b) After adoption of the comprehensive plan by jurisdictions
23 required to plan or who choose to plan under RCW 36.70A.040, local
24 jurisdictions must adopt and enforce ordinances which prohibit
25 development approval if the development causes the level of service on
26 a locally owned transportation facility to decline below the standards
27 adopted in the transportation element of the comprehensive plan, unless
28 transportation improvements or strategies to accommodate the impacts of
29 development are made concurrent with the development. These strategies
30 may include increased public transportation service, ride sharing
31 programs, demand management, and other transportation systems
32 management strategies. For the purposes of this subsection (6),
33 "concurrent with the development" means that improvements or strategies
34 are in place at the time of development, or that a financial commitment
35 is in place to complete the improvements or strategies within six
36 years.

37 (c) The transportation element described in this subsection (6),
38 the six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121

1 for counties, and RCW 35.58.2795 for public transportation systems, and
2 the ten-year investment program required by RCW 47.05.030 for the
3 state, must be consistent.

4 (7) An economic development element establishing local goals,
5 policies, objectives, and provisions for economic growth and vitality
6 and a high quality of life. The element shall include: (a) A summary
7 of the local economy such as population, employment, payroll, sectors,
8 businesses, sales, and other information as appropriate; (b) a summary
9 of the strengths and weaknesses of the local economy defined as the
10 commercial and industrial sectors and supporting factors such as land
11 use, transportation, utilities, education, workforce, housing, and
12 natural/cultural resources; and (c) an identification of policies,
13 programs, and projects to foster economic growth and development and to
14 address future needs. A city that has chosen to be a residential
15 community is exempt from the economic development element requirement
16 of this subsection.

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

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

31 **Sec. 3.** RCW 36.70A.110 and 2010 c 211 s 1 are each amended to read
32 as follows:

33 (1) Each county that is required or chooses to plan under RCW
34 36.70A.040 shall designate an urban growth area or areas within which
35 urban growth shall be encouraged and outside of which growth can occur
36 only if it is not urban in nature. Each city that is located in such
37 a county shall be included within an urban growth area. An urban

1 growth area may include more than a single city. An urban growth area
2 may include territory that is located outside of a city only if such
3 territory already is characterized by urban growth whether or not the
4 urban growth area includes a city, or is adjacent to territory already
5 characterized by urban growth, or is a designated new fully contained
6 community as defined by RCW 36.70A.350.

7 (2) Based upon the growth management population projection made for
8 the county by the office of financial management, the county and each
9 city within the county shall include areas and densities sufficient to
10 permit the urban growth that is projected to occur in the county or
11 city for the succeeding twenty-year period, except for those urban
12 growth areas contained totally within a national historical reserve.
13 As part of this planning process, each city within the county must
14 include areas sufficient to accommodate the broad range of needs and
15 uses that will accompany the projected urban growth including, as
16 appropriate, medical, governmental, institutional, commercial, service,
17 retail, and other nonresidential uses.

18 Each urban growth area shall permit urban densities and shall
19 include greenbelt and open space areas. In the case of urban growth
20 areas contained totally within a national historical reserve, the city
21 may restrict densities, intensities, and forms of urban growth as
22 determined to be necessary and appropriate to protect the physical,
23 cultural, or historic integrity of the reserve. An urban growth area
24 determination may include a reasonable land market supply factor and
25 shall permit a range of urban densities and uses. In determining this
26 market factor, cities and counties may consider local circumstances.
27 Cities and counties have discretion in their comprehensive plans to
28 make many choices about accommodating growth.

29 Within one year of July 1, 1990, each county that as of June 1,
30 1991, was required or chose to plan under RCW 36.70A.040, shall begin
31 consulting with each city located within its boundaries and each city
32 shall propose the location of an urban growth area. Within sixty days
33 of the date the county legislative authority of a county adopts its
34 resolution of intention or of certification by the office of financial
35 management, all other counties that are required or choose to plan
36 under RCW 36.70A.040 shall begin this consultation with each city
37 located within its boundaries. The county shall attempt to reach
38 agreement with each city on the location of an urban growth area within

1 which the city is located. If such an agreement is not reached with
2 each city located within the urban growth area, the county shall
3 justify in writing why it so designated the area an urban growth area.
4 A city may object formally with the department over the designation of
5 the urban growth area within which it is located. Where appropriate,
6 the department shall attempt to resolve the conflicts, including the
7 use of mediation services.

8 (3) Urban growth should be located first in areas already
9 characterized by urban growth that have adequate existing public
10 facility and service capacities to serve such development, second in
11 areas already characterized by urban growth that will be served
12 adequately by a combination of both existing public facilities and
13 services and any additional needed public facilities and services that
14 are provided by either public or private sources, and third in the
15 remaining portions of the urban growth areas. Urban growth may also be
16 located in designated new fully contained communities as defined by RCW
17 36.70A.350.

18 (4) In general, cities are the units of local government most
19 appropriate to provide urban governmental services. In general, it is
20 not appropriate that urban governmental services be extended to or
21 expanded in rural areas except in those limited circumstances shown to
22 be necessary to protect basic public health and safety and the
23 environment and when such services are financially supportable at rural
24 densities and do not permit urban development.

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

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

3 (7) An urban growth area designated in accordance with this section
4 may include within its boundaries urban service areas or potential
5 annexation areas designated for specific cities or towns within the
6 county.

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

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

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

16 (ii) Urban growth areas where expansions are precluded outside
17 floodplains because:

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

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

22 (iii) Urban growth area expansions where:

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

27 (B) Urban development already exists within a floodplain as of July
28 26, 2009, and is adjacent to, but outside of, the urban growth area,
29 and the expansion of the urban growth area is necessary to include such
30 urban development within the urban growth area; or

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

34 (I) The permissible use of the land is limited to one of the
35 following: Outdoor recreation; environmentally beneficial projects,
36 including but not limited to habitat enhancement or environmental
37 restoration; storm water facilities; flood control facilities; or
38 underground conveyances; and

1 (II) The development and use of such facilities or projects will
2 not decrease flood storage, increase storm water runoff, discharge
3 pollutants to fresh or salt waters during normal operations or floods,
4 or increase hazards to people and property.

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

8 (9) The requirements of this section do not apply to a county that
9 has adopted a withdrawal resolution under RCW 36.70A.040(2)(b).

10 **Sec. 4.** RCW 36.70A.115 and 2009 c 121 s 3 are each amended to read
11 as follows:

12 (1) Counties and cities that are required or choose to plan under
13 RCW 36.70A.040 shall ensure that, taken collectively, adoption of and
14 amendments to their comprehensive plans and/or development regulations
15 provide sufficient capacity of land suitable for development within
16 their jurisdictions to accommodate their allocated housing and
17 employment growth, including the accommodation of, as appropriate, the
18 medical, governmental, educational, institutional, commercial, and
19 industrial facilities related to such growth, as adopted in the
20 applicable countywide planning policies and consistent with the twenty-
21 year population forecast from the office of financial management.

22 (2) The requirements of this section do not apply to a county that
23 has adopted a withdrawal resolution under RCW 36.70A.040(2)(b) and the
24 cities within that county.

25 **Sec. 5.** RCW 36.70A.120 and 1993 sp.s. c 6 s 3 are each amended to
26 read as follows:

27 (1) Each county and city that is required or chooses to plan under
28 RCW 36.70A.040 shall perform its activities and make capital budget
29 decisions in conformity with its comprehensive plan.

30 (2) The requirements of this section do not apply to a county that
31 has adopted a withdrawal resolution under RCW 36.70A.040(2)(b) and the
32 cities within that county.

33 **Sec. 6.** RCW 36.70A.140 and 1995 c 347 s 107 are each amended to
34 read as follows:

35 (1) Each county and city that is required or chooses to plan under

1 RCW 36.70A.040 shall establish and broadly disseminate to the public a
2 public participation program identifying procedures providing for early
3 and continuous public participation in the development and amendment of
4 comprehensive land use plans and development regulations implementing
5 such plans. The procedures shall provide for broad dissemination of
6 proposals and alternatives, opportunity for written comments, public
7 meetings after effective notice, provision for open discussion,
8 communication programs, information services, and consideration of and
9 response to public comments. In enacting legislation in response to
10 the board's decision pursuant to RCW 36.70A.300 declaring part or all
11 of a comprehensive plan or development regulation invalid, the county
12 or city shall provide for public participation that is appropriate and
13 effective under the circumstances presented by the board's order.
14 Errors in exact compliance with the established program and procedures
15 shall not render the comprehensive land use plan or development
16 regulations invalid if the spirit of the program and procedures is
17 observed.

18 (2) The requirements of this section do not apply to a county that
19 has adopted a withdrawal resolution under RCW 36.70A.040(2)(b) and the
20 cities within that county.

21 **Sec. 7.** RCW 36.70A.150 and 1991 c 322 s 23 are each amended to
22 read as follows:

23 (1) Each county and city that is required or chooses to prepare a
24 comprehensive land use plan under RCW 36.70A.040 shall identify lands
25 useful for public purposes such as utility corridors, transportation
26 corridors, landfills, sewage treatment facilities, storm water
27 management facilities, recreation, schools, and other public uses. The
28 county shall work with the state and the cities within its borders to
29 identify areas of shared need for public facilities. The jurisdictions
30 within the county shall prepare a prioritized list of lands necessary
31 for the identified public uses including an estimated date by which the
32 acquisition will be needed.

33 The respective capital acquisition budgets for each jurisdiction
34 shall reflect the jointly agreed upon priorities and time schedule.

35 (2) The requirements of this section do not apply to a county that
36 has adopted a withdrawal resolution under RCW 36.70A.040(2)(b) and the
37 cities within that county.

1 **Sec. 8.** RCW 36.70A.160 and 1992 c 227 s 1 are each amended to read
2 as follows:

3 (1) Each county and city that is required or chooses to prepare a
4 comprehensive land use plan under RCW 36.70A.040 shall identify open
5 space corridors within and between urban growth areas. They shall
6 include lands useful for recreation, wildlife habitat, trails, and
7 connection of critical areas as defined in RCW 36.70A.030.
8 Identification of a corridor under this section by a county or city
9 shall not restrict the use or management of lands within the corridor
10 for agricultural or forest purposes. Restrictions on the use or
11 management of such lands for agricultural or forest purposes imposed
12 after identification solely to maintain or enhance the value of such
13 lands as a corridor may occur only if the county or city acquires
14 sufficient interest to prevent development of the lands or to control
15 the resource development of the lands. The requirement for acquisition
16 of sufficient interest does not include those corridors regulated by
17 the interstate commerce commission, under provisions of 16 U.S.C. Sec.
18 1247(d), 16 U.S.C. Sec. 1248, or 43 U.S.C. Sec. 912. Nothing in this
19 section shall be interpreted to alter the authority of the state, or a
20 county or city, to regulate land use activities.

21 (2) The city or county may acquire by donation or purchase the fee
22 simple or lesser interests in these open space corridors using funds
23 authorized by RCW 84.34.230 or other sources.

24 (3) The requirements of this section do not apply to a county that
25 has adopted a withdrawal resolution under RCW 36.70A.040(2)(b) and the
26 cities within that county.

27 **Sec. 9.** RCW 36.70A.200 and 2013 c 275 s 5 are each amended to read
28 as follows:

29 (1) The comprehensive plan of each county and city that is planning
30 under RCW 36.70A.040 shall include a process for identifying and siting
31 essential public facilities. Essential public facilities include those
32 facilities that are typically difficult to site, such as airports,
33 state education facilities and state or regional transportation
34 facilities as defined in RCW 47.06.140, regional transit authority
35 facilities as defined in RCW 81.112.020, state and local correctional
36 facilities, solid waste handling facilities, and inpatient facilities

1 including substance abuse facilities, mental health facilities, group
2 homes, and secure community transition facilities as defined in RCW
3 71.09.020.

4 (2) Each county and city planning under RCW 36.70A.040 shall, not
5 later than September 1, 2002, establish a process, or amend its
6 existing process, for identifying and siting essential public
7 facilities and adopt or amend its development regulations as necessary
8 to provide for the siting of secure community transition facilities
9 consistent with statutory requirements applicable to these facilities.

10 (3) Any city or county not planning under RCW 36.70A.040 shall, not
11 later than September 1, 2002, establish a process for siting secure
12 community transition facilities and adopt or amend its development
13 regulations as necessary to provide for the siting of such facilities
14 consistent with statutory requirements applicable to these facilities.

15 (4) The office of financial management shall maintain a list of
16 those essential state public facilities that are required or likely to
17 be built within the next six years. The office of financial management
18 may at any time add facilities to the list.

19 (5) No local comprehensive plan or development regulation may
20 preclude the siting of essential public facilities.

21 (6) No person may bring a cause of action for civil damages based
22 on the good faith actions of any county or city to provide for the
23 siting of secure community transition facilities in accordance with
24 this section and with the requirements of chapter 12, Laws of 2001 2nd
25 sp. sess. For purposes of this subsection, "person" includes, but is
26 not limited to, any individual, agency as defined in RCW 42.17A.005,
27 corporation, partnership, association, and limited liability entity.

28 (7) Counties or cities siting facilities pursuant to subsection (2)
29 or (3) of this section shall comply with RCW 71.09.341.

30 (8) The failure of a county or city to act by the deadlines
31 established in subsections (2) and (3) of this section is not:

32 (a) A condition that would disqualify the county or city for
33 grants, loans, or pledges under RCW 43.155.070 or 70.146.070;

34 (b) A consideration for grants or loans provided under RCW
35 43.17.250(3); or

36 (c) A basis for any petition under RCW 36.70A.280 or for any
37 private cause of action.

1 (9) The requirements of subsections (1), (2), and (5) through (8)
2 of this section do not apply to a county that has adopted a withdrawal
3 resolution under RCW 36.70A.040(2)(b) and the cities within that
4 county.

5 **Sec. 10.** RCW 36.70A.210 and 2009 c 121 s 2 are each amended to
6 read as follows:

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

17 (2) The legislative authority of a county that plans under RCW
18 36.70A.040 shall adopt a countywide planning policy in cooperation with
19 the cities located in whole or in part within the county as follows:

20 (a) No later than sixty calendar days from July 16, 1991, the
21 legislative authority of each county that as of June 1, 1991, was
22 required or chose to plan under RCW 36.70A.040 shall convene a meeting
23 with representatives of each city located within the county for the
24 purpose of establishing a collaborative process that will provide a
25 framework for the adoption of a countywide planning policy. In other
26 counties that are required or choose to plan under RCW 36.70A.040, this
27 meeting shall be convened no later than sixty days after the date the
28 county adopts its resolution of intention or was certified by the
29 office of financial management.

30 (b) The process and framework for adoption of a countywide planning
31 policy specified in (a) of this subsection shall determine the manner
32 in which the county and the cities agree to all procedures and
33 provisions including but not limited to desired planning policies,
34 deadlines, ratification of final agreements and demonstration thereof,
35 and financing, if any, of all activities associated therewith.

36 (c) If a county fails for any reason to convene a meeting with

1 representatives of cities as required in (a) of this subsection, the
2 governor may immediately impose any appropriate sanction or sanctions
3 on the county from those specified under RCW 36.70A.340.

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

20 (e) No later than July 1, 1992, the legislative authority of each
21 county that was required or chose to plan under RCW 36.70A.040 as of
22 June 1, 1991, or no later than fourteen months after the date the
23 county adopted its resolution of intention or was certified by the
24 office of financial management the county legislative authority of any
25 other county that is required or chooses to plan under RCW 36.70A.040,
26 shall adopt a countywide planning policy according to the process
27 provided under this section and that is consistent with the agreement
28 pursuant to (b) of this subsection, and after holding a public hearing
29 or hearings on the proposed countywide planning policy.

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

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

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

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

1 (d) Policies for countywide transportation facilities and
2 strategies;

3 (e) Policies that consider the need for affordable housing, such as
4 housing for all economic segments of the population and parameters for
5 its distribution;

6 (f) Policies for joint county and city planning within urban growth
7 areas;

8 (g) Policies for countywide economic development and employment,
9 which must include consideration of the future development of
10 commercial and industrial facilities; and

11 (h) An analysis of the fiscal impact.

12 (4) Federal agencies and Indian tribes may participate in and
13 cooperate with the countywide planning policy adoption process.
14 Adopted countywide planning policies shall be adhered to by state
15 agencies.

16 (5) Failure to adopt a countywide planning policy that meets the
17 requirements of this section may result in the imposition of a sanction
18 or sanctions on a county or city within the county, as specified in RCW
19 36.70A.340. In imposing a sanction or sanctions, the governor shall
20 specify the reasons for failure to adopt a countywide planning policy
21 in order that any imposed sanction or sanctions are fairly and
22 equitably related to the failure to adopt a countywide planning policy.

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

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

32 (8) The requirements of this section do not apply to a county that
33 has adopted a withdrawal resolution under RCW 36.70A.040(2)(b).

34 **Sec. 11.** RCW 36.70A.350 and 1991 sp.s. c 32 s 16 are each amended
35 to read as follows:

36 A county required or choosing to plan under RCW 36.70A.040 may
37 establish a process as part of its urban growth areas, that are

1 designated under RCW 36.70A.110, for reviewing proposals to authorize
2 new fully contained communities located outside of the initially
3 designated urban growth areas.

4 (1) A new fully contained community may be approved in a county
5 planning under this chapter if criteria including but not limited to
6 the following are met:

7 (a) New infrastructure is provided for and impact fees are
8 established consistent with the requirements of RCW 82.02.050;

9 (b) Transit-oriented site planning and traffic demand management
10 programs are implemented;

11 (c) Buffers are provided between the new fully contained
12 communities and adjacent urban development;

13 (d) A mix of uses is provided to offer jobs, housing, and services
14 to the residents of the new community;

15 (e) Affordable housing is provided within the new community for a
16 broad range of income levels;

17 (f) Environmental protection has been addressed and provided for;

18 (g) Development regulations are established to ensure urban growth
19 will not occur in adjacent nonurban areas;

20 (h) Provision is made to mitigate impacts on designated
21 agricultural lands, forest lands, and mineral resource lands;

22 (i) The plan for the new fully contained community is consistent
23 with the development regulations established for the protection of
24 critical areas by the county pursuant to RCW 36.70A.170.

25 (2) New fully contained communities may be approved outside
26 established urban growth areas only if a county reserves a portion of
27 the twenty-year population projection and offsets the urban growth area
28 accordingly for allocation to new fully contained communities that meet
29 the requirements of this chapter. Any county electing to establish a
30 new community reserve shall do so no more often than once every five
31 years as a part of the designation or review of urban growth areas
32 required by this chapter. The new community reserve shall be allocated
33 on a project-by-project basis, only after specific project approval
34 procedures have been adopted pursuant to this chapter as a development
35 regulation. When a new community reserve is established, urban growth
36 areas designated pursuant to this chapter shall accommodate the
37 unreserved portion of the twenty-year population projection.

1 Final approval of an application for a new fully contained
2 community shall be considered an adopted amendment to the comprehensive
3 plan prepared pursuant to RCW 36.70A.070 designating the new fully
4 contained community as an urban growth area.

5 (3) This section does not apply to a county that has adopted a
6 withdrawal resolution under RCW 36.70A.040(2)(b).

7 **Sec. 12.** RCW 36.70A.360 and 1998 c 112 s 2 are each amended to
8 read as follows:

9 (1) Counties that are required or choose to plan under RCW
10 36.70A.040 may permit master planned resorts which may constitute urban
11 growth outside of urban growth areas as limited by this section. A
12 master planned resort means a self-contained and fully integrated
13 planned unit development, in a setting of significant natural
14 amenities, with primary focus on destination resort facilities
15 consisting of short-term visitor accommodations associated with a range
16 of developed on-site indoor or outdoor recreational facilities.

17 (2) Capital facilities, utilities, and services, including those
18 related to sewer, water, storm water, security, fire suppression, and
19 emergency medical, provided on-site shall be limited to meeting the
20 needs of the master planned resort. Such facilities, utilities, and
21 services may be provided to a master planned resort by outside service
22 providers, including municipalities and special purpose districts,
23 provided that all costs associated with service extensions and capacity
24 increases directly attributable to the master planned resort are fully
25 borne by the resort. A master planned resort and service providers may
26 enter into agreements for shared capital facilities and utilities,
27 provided that such facilities and utilities serve only the master
28 planned resort or urban growth areas.

29 Nothing in this subsection may be construed as: Establishing an
30 order of priority for processing applications for water right permits,
31 for granting such permits, or for issuing certificates of water right;
32 altering or authorizing in any manner the alteration of the place of
33 use for a water right; or affecting or impairing in any manner
34 whatsoever an existing water right.

35 All waters or the use of waters shall be regulated and controlled
36 as provided in chapters 90.03 and 90.44 RCW and not otherwise.

1 (3) A master planned resort may include other residential uses
2 within its boundaries, but only if the residential uses are integrated
3 into and support the on-site recreational nature of the resort.

4 (4) A master planned resort may be authorized by a county only if:

5 (a) The comprehensive plan specifically identifies policies to
6 guide the development of master planned resorts;

7 (b) The comprehensive plan and development regulations include
8 restrictions that preclude new urban or suburban land uses in the
9 vicinity of the master planned resort, except in areas otherwise
10 designated for urban growth under RCW 36.70A.110;

11 (c) The county includes a finding as a part of the approval process
12 that the land is better suited, and has more long-term importance, for
13 the master planned resort than for the commercial harvesting of timber
14 or agricultural production, if located on land that otherwise would be
15 designated as forest land or agricultural land under RCW 36.70A.170;

16 (d) The county ensures that the resort plan is consistent with the
17 development regulations established for critical areas; and

18 (e) On-site and off-site infrastructure and service impacts are
19 fully considered and mitigated.

20 (5) This section does not apply to a county that has adopted a
21 withdrawal resolution under RCW 36.70A.040(2)(b).

22 **Sec. 13.** RCW 36.70A.370 and 1991 sp.s. c 32 s 18 are each amended
23 to read as follows:

24 (1) The state attorney general shall establish by October 1, 1991,
25 an orderly, consistent process, including a checklist if appropriate,
26 that better enables state agencies and local governments to evaluate
27 proposed regulatory or administrative actions to assure that such
28 actions do not result in an unconstitutional taking of private
29 property. It is not the purpose of this section to expand or reduce
30 the scope of private property protections provided in the state and
31 federal Constitutions. The attorney general shall review and update
32 the process at least on an annual basis to maintain consistency with
33 changes in case law.

34 (2) Local governments that are required or choose to plan under RCW
35 36.70A.040 and state agencies shall utilize the process established by
36 subsection (1) of this section to assure that proposed regulatory or

1 administrative actions do not result in an unconstitutional taking of
2 private property.

3 (3) The attorney general, in consultation with the Washington state
4 bar association, shall develop a continuing education course to
5 implement this section.

6 (4) The process used by government agencies shall be protected by
7 attorney client privilege. Nothing in this section grants a private
8 party the right to seek judicial relief requiring compliance with the
9 provisions of this section.

10 (5) The requirements of this section do not apply to a county that
11 has adopted a withdrawal resolution under RCW 36.70A.040(2)(b) and the
12 cities within that county.

13 **Sec. 14.** RCW 36.70A.410 and 1993 c 478 s 23 are each amended to
14 read as follows:

15 (1) No county or city that plans or elects to plan under this
16 chapter may enact or maintain an ordinance, development regulation,
17 zoning regulation or official control, policy, or administrative
18 practice which treats a residential structure occupied by persons with
19 handicaps differently than a similar residential structure occupied by
20 a family or other unrelated individuals. As used in this section,
21 "handicaps" are as defined in the federal fair housing amendments act
22 of 1988 (42 U.S.C. Sec. 3602).

23 (2) This section does not apply to a county that has adopted a
24 withdrawal resolution under RCW 36.70A.040(2)(b) and the cities within
25 that county.

26 **Sec. 15.** RCW 36.70A.430 and 1994 c 258 s 2 are each amended to
27 read as follows:

28 (1) For counties engaged in planning under this chapter, there
29 shall be established by December 31, 1994, a collaborative process to
30 review and coordinate state and local permits for all transportation
31 projects that cross more than one city or county boundary. This
32 process shall at a minimum, establish a mechanism among affected cities
33 and counties to designate a permit coordinating agency to facilitate
34 multijurisdictional review and approval of such transportation
35 projects.

1 (2) The requirements of this section do not apply to a county that
2 has adopted a withdrawal resolution under RCW 36.70A.040(2)(b) and the
3 cities within that county.

4 **Sec. 16.** RCW 36.70A.520 and 2000 c 196 s 1 are each amended to
5 read as follows:

6 Counties that are required or choose to plan under RCW 36.70A.040
7 may authorize and designate national historic towns that may constitute
8 urban growth outside of urban growth areas as limited by this section.
9 A national historic town means a town or district that has been
10 designated a national historic landmark by the United States secretary
11 of the interior pursuant to 16 U.S.C. 461 et seq., as amended, based on
12 its significant historic urban features, and which historically
13 contained a mix of residential and commercial or industrial uses.

14 A national historic town may be designated under this chapter by a
15 county only if:

16 (1) The comprehensive plan specifically identifies policies to
17 guide the preservation, redevelopment, infill, and development of the
18 town;

19 (2) The comprehensive plan and development regulations specify a
20 mix of residential, commercial, industrial, tourism-recreation,
21 waterfront, or other historical uses, along with other uses,
22 infrastructure, and services which promote the economic sustainability
23 of the town and its historic character. To promote historic
24 preservation, redevelopment, and an economically sustainable community,
25 the town also may include the types of uses that existed at times
26 during its history and is not limited to those present at the time of
27 the historic designation. Portions of the town may include urban
28 densities if they reflect density patterns that existed at times during
29 its history;

30 (3) The boundaries of the town include all of the area contained in
31 the national historic landmark designation, along with any additional
32 limited areas determined by the county as appropriate for transitional
33 uses and buffering. Provisions for transitional uses and buffering
34 must be compatible with the town's historic character and must protect
35 the existing natural and built environment under the requirements of
36 this chapter within and beyond the additional limited areas, including
37 visual compatibility. The comprehensive plan and development

1 regulations must include restrictions that preclude new urban or
2 suburban land uses in the vicinity of the town, including the
3 additional limited areas, except in areas otherwise designated for
4 urban growth under this chapter;

5 (4) The development regulations provide for architectural controls
6 and review procedures applicable to the rehabilitation, redevelopment,
7 infill, or new development to promote the historic character of the
8 town;

9 (5) The county finds that the national historic town is consistent
10 with the development regulations established for critical areas; and

11 (6) On-site and off-site infrastructure impacts are fully
12 considered and mitigated concurrent with development.

13 A county may allocate a portion of its twenty-year population
14 projection, prepared by the office of financial management, to the
15 national historic town corresponding to the projected number of
16 permanent residents within the national historic town.

17 This section does not apply to a county that has adopted a
18 withdrawal resolution under RCW 36.70A.040(2)(b).

19 **Sec. 17.** RCW 36.70A.530 and 2004 c 28 s 2 are each amended to read
20 as follows:

21 (1) Military installations are of particular importance to the
22 economic health of the state of Washington and it is a priority of the
23 state to protect the land surrounding our military installations from
24 incompatible development.

25 (2) Comprehensive plans, amendments to comprehensive plans,
26 development regulations, or amendments to development regulations
27 adopted under this section shall be adopted or amended concurrent with
28 the scheduled update provided in RCW 36.70A.130, except that counties
29 and cities identified in RCW 36.70A.130(4)(a) shall comply with this
30 section on or before December 1, 2005, and shall thereafter comply with
31 this section on a schedule consistent with RCW 36.70A.130(4).

32 (3) A comprehensive plan, amendment to a plan, a development
33 regulation or amendment to a development regulation, should not allow
34 development in the vicinity of a military installation that is
35 incompatible with the installation's ability to carry out its mission
36 requirements. A city or county may find that an existing comprehensive

1 plan or development regulations are compatible with the installation's
2 ability to carry out its mission requirements.

3 (4) As part of the requirements of RCW 36.70A.070(1) each county
4 and city planning under RCW 36.70A.040 that has a federal military
5 installation, other than a reserve center, that employs one hundred or
6 more personnel and is operated by the United States department of
7 defense within or adjacent to its border, shall notify the commander of
8 the military installation of the county's or city's intent to amend its
9 comprehensive plan or development regulations to address lands adjacent
10 to military installations to ensure those lands are protected from
11 incompatible development.

12 (5)(a) The notice provided under subsection (4) of this section
13 shall request from the commander of the military installation a written
14 recommendation and supporting facts relating to the use of land being
15 considered in the adoption of a comprehensive plan or an amendment to
16 a plan. The notice shall provide sixty days for a response from the
17 commander. If the commander does not submit a response to such request
18 within sixty days, the local government may presume that implementation
19 of the proposed plan or amendment will not have any adverse effect on
20 the operation of the installation.

21 (b) When a county or city intends to amend its development
22 regulations to be consistent with the comprehensive plan elements
23 addressed in (a) of this subsection, notice shall be provided to the
24 commander of the military installation consistent with subsection (4)
25 of this section. The notice shall request from the commander of the
26 military installation a written recommendation and supporting facts
27 relating to the use of land being considered in the amendment to the
28 development regulations. The notice shall provide sixty days for a
29 response from the commander to the requesting government. If the
30 commander does not submit a response to such request within sixty days,
31 the local government may presume that implementation of the proposed
32 development regulation or amendment will not have any adverse effect on
33 the operation of the installation.

34 (6) The requirements of this section do not apply to a county that
35 has adopted a withdrawal resolution under RCW 36.70A.040(2)(b) and the
36 cities within that county.

1 **Sec. 18.** RCW 36.70A.540 and 2009 c 80 s 1 are each amended to read
2 as follows:

3 (1)(a) Any city or county planning under RCW 36.70A.040 may enact
4 or expand affordable housing incentive programs providing for the
5 development of low-income housing units through development regulations
6 or conditions on rezoning or permit decisions, or both, on one or more
7 of the following types of development: Residential; commercial;
8 industrial; or mixed-use. An affordable housing incentive program may
9 include, but is not limited to, one or more of the following:

10 (i) Density bonuses within the urban growth area;

11 (ii) Height and bulk bonuses;

12 (iii) Fee waivers or exemptions;

13 (iv) Parking reductions; or

14 (v) Expedited permitting.

15 (b) The city or county may enact or expand such programs whether or
16 not the programs may impose a tax, fee, or charge on the development or
17 construction of property.

18 (c) If a developer chooses not to participate in an optional
19 affordable housing incentive program adopted and authorized under this
20 section, a city, county, or town may not condition, deny, or delay the
21 issuance of a permit or development approval that is consistent with
22 zoning and development standards on the subject property absent
23 incentive provisions of this program.

24 (2) Affordable housing incentive programs enacted or expanded under
25 this section shall comply with the following:

26 (a) The incentives or bonuses shall provide for the development of
27 low-income housing units;

28 (b) Jurisdictions shall establish standards for low-income renter
29 or owner occupancy housing, including income guidelines consistent with
30 local housing needs, to assist low-income households that cannot afford
31 market-rate housing. Low-income households are defined for renter and
32 owner occupancy program purposes as follows:

33 (i) Rental housing units to be developed shall be affordable to and
34 occupied by households with an income of fifty percent or less of the
35 county median family income, adjusted for family size;

36 (ii) Owner occupancy housing units shall be affordable to and
37 occupied by households with an income of eighty percent or less of the

1 county median family income, adjusted for family size. The legislative
2 authority of a jurisdiction, after holding a public hearing, may
3 establish lower income levels; and

4 (iii) The legislative authority of a jurisdiction, after holding a
5 public hearing, may also establish higher income levels for rental
6 housing or for owner occupancy housing upon finding that higher income
7 levels are needed to address local housing market conditions. The
8 higher income level for rental housing may not exceed eighty percent of
9 the county area median family income. The higher income level for
10 owner occupancy housing may not exceed one hundred percent of the
11 county area median family income. These established higher income
12 levels are considered "low-income" for the purposes of this section;

13 (c) The jurisdiction shall establish a maximum rent level or sales
14 price for each low-income housing unit developed under the terms of a
15 program and may adjust these levels or prices based on the average size
16 of the household expected to occupy the unit. For renter-occupied
17 housing units, the total housing costs, including basic utilities as
18 determined by the jurisdiction, may not exceed thirty percent of the
19 income limit for the low-income housing unit;

20 (d) Where a developer is utilizing a housing incentive program
21 authorized under this section to develop market rate housing, and is
22 developing low-income housing to satisfy the requirements of the
23 housing incentive program, the low-income housing units shall be
24 provided in a range of sizes comparable to those units that are
25 available to other residents. To the extent practicable, the number of
26 bedrooms in low-income units must be in the same proportion as the
27 number of bedrooms in units within the entire development. The
28 low-income units shall generally be distributed throughout the
29 development and have substantially the same functionality as the other
30 units in the development;

31 (e) Low-income housing units developed under an affordable housing
32 incentive program shall be committed to continuing affordability for at
33 least fifty years. A local government, however, may accept payments in
34 lieu of continuing affordability. The program shall include measures
35 to enforce continuing affordability and income standards applicable to
36 low-income units constructed under this section that may include, but
37 are not limited to, covenants, options, or other agreements to be
38 executed and recorded by owners and developers;

1 (f) Programs authorized under subsection (1) of this section may
2 apply to part or all of a jurisdiction and different standards may be
3 applied to different areas within a jurisdiction or to different types
4 of development. Programs authorized under this section may be modified
5 to meet local needs and may include provisions not expressly provided
6 in this section or RCW 82.02.020;

7 (g) Low-income housing units developed under an affordable housing
8 incentive program are encouraged to be provided within developments for
9 which a bonus or incentive is provided. However, programs may allow
10 units to be provided in a building located in the general area of the
11 development for which a bonus or incentive is provided; and

12 (h) Affordable housing incentive programs may allow a payment of
13 money or property in lieu of low-income housing units if the
14 jurisdiction determines that the payment achieves a result equal to or
15 better than providing the affordable housing on-site, as long as the
16 payment does not exceed the approximate cost of developing the same
17 number and quality of housing units that would otherwise be developed.
18 Any city or county shall use these funds or property to support the
19 development of low-income housing, including support provided through
20 loans or grants to public or private owners or developers of housing.

21 (3) Affordable housing incentive programs enacted or expanded under
22 this section may be applied within the jurisdiction to address the need
23 for increased residential development, consistent with local growth
24 management and housing policies, as follows:

25 (a) The jurisdiction shall identify certain land use designations
26 within a geographic area where increased residential development will
27 assist in achieving local growth management and housing policies;

28 (b) The jurisdiction shall provide increased residential
29 development capacity through zoning changes, bonus densities, height
30 and bulk increases, parking reductions, or other regulatory changes or
31 other incentives;

32 (c) The jurisdiction shall determine that increased residential
33 development capacity or other incentives can be achieved within the
34 identified area, subject to consideration of other regulatory controls
35 on development; and

36 (d) The jurisdiction may establish a minimum amount of affordable
37 housing that must be provided by all residential developments being

1 built under the revised regulations, consistent with the requirements
2 of this section.

3 (4) This section does not apply to a county that has adopted a
4 withdrawal resolution under RCW 36.70A.040(2)(b) and the cities within
5 that county.

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