
HOUSE BILL 1403

State of Washington

68th Legislature

2023 Regular Session

By Representatives Goehner, Chapman, Griffey, Corry, Rude, Couture, Christian, and Cheney

1 AN ACT Relating to making it possible for more properties to have
2 access to water, storm drains, and sanitary sewage systems; amending
3 RCW 36.70A.030, 36.70A.110, 36.70A.280, 36.70A.320, 36.70B.040,
4 36.93.100, and 36.93.105; reenacting and amending RCW 36.70A.070;
5 adding a new section to chapter 36.70 RCW; creating a new section;
6 and repealing RCW 35.67.022 and 35.91.025.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that there needs to
9 be increased flexibility in extending publicly provided water, sewer,
10 and storm drain facilities beyond municipal and urban growth
11 boundaries and that doing so does not automatically create sprawl. It
12 is a community's choice on whether it is feasible, economical, and
13 environmentally prudent to provide such services. This act intends to
14 remove barriers that prevent communities from using certain types of
15 water, sewer, and storm drain systems that have been designated urban
16 levels of service, and authorize local communities to make the choice
17 to use these important technologies. Any ordinance, rule, or policy
18 that prevents what this act authorizes should be modified or
19 repealed.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70
2 RCW to read as follows:

3 A city may extend water or sewer facilities as defined in RCW
4 35.91.015 into areas beyond the city limits and designated urban
5 growth areas.

6 **Sec. 3.** RCW 36.70A.030 and 2021 c 254 s 6 are each amended to
7 read as follows:

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

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

13 (2) "Affordable housing" means, unless the context clearly
14 indicates otherwise, residential housing whose monthly costs,
15 including utilities other than telephone, do not exceed thirty
16 percent of the monthly income of a household whose income is:

17 (a) For rental housing, sixty percent of the median household
18 income adjusted for household size, for the county where the
19 household is located, as reported by the United States department of
20 housing and urban development; or

21 (b) For owner-occupied housing, eighty percent of the median
22 household income adjusted for household size, for the county where
23 the household is located, as reported by the United States department
24 of housing and urban development.

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

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

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

37 (6) "Critical areas" include the following areas and ecosystems:

38 (a) Wetlands; (b) areas with a critical recharging effect on aquifers
39 used for potable water; (c) fish and wildlife habitat conservation

1 areas; (d) frequently flooded areas; and (e) geologically hazardous
2 areas. "Fish and wildlife habitat conservation areas" does not
3 include such artificial features or constructs as irrigation delivery
4 systems, irrigation infrastructure, irrigation canals, or drainage
5 ditches that lie within the boundaries of and are maintained by a
6 port district or an irrigation district or company.

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

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

18 (9) "Emergency housing" means temporary indoor accommodations for
19 individuals or families who are homeless or at imminent risk of
20 becoming homeless that is intended to address the basic health, food,
21 clothing, and personal hygiene needs of individuals or families.
22 Emergency housing may or may not require occupants to enter into a
23 lease or an occupancy agreement.

24 (10) "Emergency shelter" means a facility that provides a
25 temporary shelter for individuals or families who are currently
26 homeless. Emergency shelter may not require occupants to enter into a
27 lease or an occupancy agreement. Emergency shelter facilities may
28 include day and warming centers that do not provide overnight
29 accommodations.

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

36 (12) "Forestland" means land primarily devoted to growing trees
37 for long-term commercial timber production on land that can be
38 economically and practically managed for such production, including
39 Christmas trees subject to the excise tax imposed under RCW 84.33.100
40 through 84.33.140, and that has long-term commercial significance. In

1 determining whether forestland is primarily devoted to growing trees
2 for long-term commercial timber production on land that can be
3 economically and practically managed for such production, the
4 following factors shall be considered: (a) The proximity of the land
5 to urban, suburban, and rural settlements; (b) surrounding parcel
6 size and the compatibility and intensity of adjacent and nearby land
7 uses; (c) long-term local economic conditions that affect the ability
8 to manage for timber production; and (d) the availability of public
9 facilities and services conducive to conversion of forestland to
10 other uses.

11 (13) "Freight rail dependent uses" means buildings and other
12 infrastructure that are used in the fabrication, processing, storage,
13 and transport of goods where the use is dependent on and makes use of
14 an adjacent short line railroad. Such facilities are both urban and
15 rural development for purposes of this chapter. "Freight rail
16 dependent uses" does not include buildings and other infrastructure
17 that are used in the fabrication, processing, storage, and transport
18 of coal, liquefied natural gas, or "crude oil" as defined in RCW
19 90.56.010.

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

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

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

36 (17) "Minerals" include gravel, sand, and valuable metallic
37 substances.

38 (18) "Moderate-income household" means a single person, family,
39 or unrelated persons living together whose adjusted income is at or
40 below 120 percent of the median household income adjusted for

1 household size, for the county where the household is located, as
2 reported by the United States department of housing and urban
3 development.

4 (19) "Permanent supportive housing" is subsidized, leased housing
5 with no limit on length of stay that prioritizes people who need
6 comprehensive support services to retain tenancy and utilizes
7 admissions practices designed to use lower barriers to entry than
8 would be typical for other subsidized or unsubsidized rental housing,
9 especially related to rental history, criminal history, and personal
10 behaviors. Permanent supportive housing is paired with on-site or
11 off-site voluntary services designed to support a person living with
12 a complex and disabling behavioral health or physical health
13 condition who was experiencing homelessness or was at imminent risk
14 of homelessness prior to moving into housing to retain their housing
15 and be a successful tenant in a housing arrangement, improve the
16 resident's health status, and connect the resident of the housing
17 with community-based health care, treatment, or employment services.
18 Permanent supportive housing is subject to all of the rights and
19 responsibilities defined in chapter 59.18 RCW.

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

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

27 (22) "Recreational land" means land so designated under RCW
28 36.70A.1701 and that, immediately prior to this designation, was
29 designated as agricultural land of long-term commercial significance
30 under RCW 36.70A.170. Recreational land must have playing fields and
31 supporting facilities existing before July 1, 2004, for sports played
32 on grass playing fields.

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

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

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

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

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

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

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

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

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

20 (25) "Rural governmental services" or "rural services" include
21 those public services and public facilities historically and
22 typically delivered at an intensity usually found in rural areas, and
23 may include domestic water systems, fire and police protection
24 services, transportation and public transit services, and other
25 public utilities associated with rural development and normally not
26 associated with urban areas. (~~Rural services do not include storm or~~
27 ~~sanitary sewers, except as otherwise authorized by RCW~~
28 ~~36.70A.110(4).)~~)

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

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

39 (28) "Urban growth" refers to growth that makes intensive use of
40 land for the location of buildings, structures, and impermeable

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

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

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

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

35 **Sec. 4.** RCW 36.70A.070 and 2022 c 246 s 2 and 2022 c 220 s 1 are
36 each reenacted and amended to read as follows:

37 The comprehensive plan of a county or city that is required or
38 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,
39 and descriptive text covering objectives, principles, and standards

1 used to develop the comprehensive plan. (~~The plan shall be an~~
2 ~~internally consistent document and all elements shall be consistent~~
3 ~~with the future land use map.~~) A comprehensive plan shall be adopted
4 and amended with public participation as provided in RCW 36.70A.140.
5 Each comprehensive plan shall include a plan, scheme, or design for
6 each of the following:

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

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

24 (a) Includes an inventory and analysis of existing and projected
25 housing needs that identifies the number of housing units necessary
26 to manage projected growth, as provided by the department of
27 commerce, including:

28 (i) Units for moderate, low, very low, and extremely low-income
29 households; and

30 (ii) Emergency housing, emergency shelters, and permanent
31 supportive housing;

32 (b) Includes a statement of goals, policies, objectives, and
33 mandatory provisions for the preservation, improvement, and
34 development of housing, including single-family residences, and
35 within an urban growth area boundary, moderate density housing
36 options including, but not limited to, duplexes, triplexes, and
37 townhomes;

38 (c) Identifies sufficient capacity of land for housing including,
39 but not limited to, government-assisted housing, housing for
40 moderate, low, very low, and extremely low-income households,

1 manufactured housing, multifamily housing, group homes, foster care
2 facilities, emergency housing, emergency shelters, permanent
3 supportive housing, and within an urban growth area boundary,
4 consideration of duplexes, triplexes, and townhomes;

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

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

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

12 (iii) Consideration of housing locations in relation to
13 employment location; and

14 (iv) Consideration of the role of accessory dwelling units in
15 meeting housing needs;

16 (e) Identifies local policies and regulations that result in
17 racially disparate impacts, displacement, and exclusion in housing,
18 including:

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

20 (ii) Disinvestment; and

21 (iii) Infrastructure availability;

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

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

28 (h) Establishes antidisplacement policies, with consideration
29 given to the preservation of historical and cultural communities as
30 well as investments in low, very low, extremely low, and moderate-
31 income housing; equitable development initiatives; inclusionary
32 zoning; community planning requirements; tenant protections; land
33 disposition policies; and consideration of land that may be used for
34 affordable housing.

35 In counties and cities subject to the review and evaluation
36 requirements of RCW 36.70A.215, any revision to the housing element
37 shall include consideration of prior review and evaluation reports
38 and any reasonable measures identified. The housing element should
39 link jurisdictional goals with overall county goals to ensure that
40 the housing element goals are met.

1 The adoption of ordinances, development regulations and
2 amendments to such regulations, and other nonproject actions taken by
3 a city that is required or chooses to plan under RCW 36.70A.040 that
4 increase housing capacity, increase housing affordability, and
5 mitigate displacement as required under this subsection (2) and that
6 apply outside of critical areas are not subject to administrative or
7 judicial appeal under chapter 43.21C RCW unless the adoption of such
8 ordinances, development regulations and amendments to such
9 regulations, or other nonproject actions has a probable significant
10 adverse impact on fish habitat.

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

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

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

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

39 (b) Rural development. The rural element shall permit rural
40 development, forestry, and agriculture in rural areas. The rural

1 element shall provide for a variety of rural densities, uses,
2 essential public facilities, and rural governmental services needed
3 to serve the permitted densities and uses. To achieve a variety of
4 rural densities and uses, counties may provide for clustering,
5 density transfer, design guidelines, conservation easements, and
6 other innovative techniques that will accommodate appropriate rural
7 economic advancement, densities, and uses that are not characterized
8 by urban growth and that are consistent with rural character.

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

12 (i) (~~Containing or otherwise controlling~~) Controlling rural
13 development;

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

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

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

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

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

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

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

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

1 (C) Any development or redevelopment in terms of building size,
2 scale, use, or intensity (~~(may be permitted subject to confirmation~~
3 ~~from all existing providers of public facilities and public services~~
4 ~~of sufficient capacity of existing public facilities and public~~
5 ~~services to serve any new or additional demand from the new~~
6 ~~development or redevelopment)) shall be consistent with the needs of
7 the people in those communities, including access to domestic water,
8 storm, and sanitary sewer systems that are feasible and affordable
9 for the location. Development and redevelopment may include changes
10 in use from vacant land or a previously existing use so long as the
11 new use conforms to the requirements of this subsection (5) and is
12 consistent with the local character. Any commercial development or
13 redevelopment within a mixed-use area must be principally designed to
14 serve the existing and projected rural population and must meet the
15 following requirements:~~

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

19 (II) Any included retail or food service space must not exceed
20 2,500 square feet for a new use;

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

31 (iii) The intensification of development on lots containing
32 isolated nonresidential uses or new development of isolated cottage
33 industries and isolated small-scale businesses that are not
34 principally designed to serve the existing and projected rural
35 population and nonresidential uses, but do provide job opportunities
36 for rural residents. Rural counties may allow the expansion of small-
37 scale businesses as long as those small-scale businesses conform with
38 the rural character of the area as defined by the local government
39 according to RCW 36.70A.030(23). Rural counties may also allow new
40 small-scale businesses to utilize a site previously occupied by an

1 existing business as long as the new small-scale business conforms to
2 the rural character of the area as defined by the local government
3 according to RCW 36.70A.030(23). Public services and public
4 facilities shall be limited to those necessary to serve the isolated
5 nonresidential use, and shall be provided in a manner that (~~does not~~
6 ~~permit~~) moderates low-density sprawl;

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

24 (v) For purposes of this subsection (5)(d), an existing area or
25 existing use is one that was in existence:

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

28 (B) On the date the county adopted a resolution under RCW
29 36.70A.040(2), in a county that is planning under all of the
30 provisions of this chapter under RCW 36.70A.040(2); or

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

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

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

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

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

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

10 (iii) Facilities and services needs, including:

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

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

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

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

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

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

5 (iv) Finance, including:

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

8 (B) A multiyear financing plan based on the needs identified in
9 the comprehensive plan, the appropriate parts of which shall serve as
10 the basis for the six-year street, road, or transit program required
11 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW
12 35.58.2795 for public transportation systems. The multiyear financing
13 plan should be coordinated with the ten-year investment program
14 developed by the office of financial management as required by RCW
15 47.05.030;

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

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

23 (vi) Demand-management strategies;

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

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

1 financial commitment is in place to complete the improvements or
2 strategies within six years. If the collection of impact fees is
3 delayed under RCW 82.02.050(3), the six-year period required by this
4 subsection (6)(b) must begin after full payment of all impact fees is
5 due to the county or city.

6 (c) The transportation element described in this subsection (6),
7 the six-year plans required by RCW 35.77.010 for cities, RCW
8 36.81.121 for counties, and RCW 35.58.2795 for public transportation
9 systems, and the ten-year investment program required by RCW
10 47.05.030 for the state, must be consistent.

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

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

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

30 **Sec. 5.** RCW 36.70A.110 and 2022 c 252 s 4 are each amended to
31 read as follows:

32 (1) Each county that is required or chooses to plan under RCW
33 36.70A.040 shall designate an urban growth area or areas within which
34 urban growth shall be encouraged and outside of which growth can
35 occur only if it is not urban in nature. Each city that is located in
36 such a county shall be included within an urban growth area. An urban
37 growth area may include more than a single city. An urban growth area
38 may include territory that is located outside of a city only if such
39 territory already is characterized by urban growth whether or not the

1 urban growth area includes a city, or is adjacent to territory
2 already characterized by urban growth, or is a designated new fully
3 contained community as defined by RCW 36.70A.350. When a federally
4 recognized Indian tribe whose reservation or ceded lands lie within
5 the county or city has voluntarily chosen to participate in the
6 planning process pursuant to RCW 36.70A.040, the county or city and
7 the tribe shall coordinate their planning efforts for any areas
8 planned for urban growth consistent with the terms outlined in the
9 memorandum of agreement provided for in RCW 36.70A.040(8).

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

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

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

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

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

20 (4) In general, cities are the units of local government most
21 appropriate to provide urban governmental services. (~~In general, it
22 is not appropriate that urban governmental services be extended to or
23 expanded in rural areas except in those limited circumstances shown
24 to be necessary to protect basic public health and safety and the
25 environment and when such services are financially supportable at
26 rural densities and do not permit urban development.~~) Urban
27 governmental services may be extended beyond the city and urban
28 growth areas to meet the needs of the people living within those
29 communities, including access to publicly provided domestic water,
30 storm, and sanitary sewer systems.

31 (5) On or before October 1, 1993, each county that was initially
32 required to plan under RCW 36.70A.040(1) shall adopt development
33 regulations designating interim urban growth areas under this
34 chapter. Within three years and three months of the date the county
35 legislative authority of a county adopts its resolution of intention
36 or of certification by the office of financial management, all other
37 counties that are required or choose to plan under RCW 36.70A.040
38 shall adopt development regulations designating interim urban growth
39 areas under this chapter. Adoption of the interim urban growth areas
40 may only occur after public notice; public hearing; and compliance

1 with the state environmental policy act, chapter 43.21C RCW, and
2 under this section. Such action may be appealed to the growth
3 management hearings board under RCW 36.70A.280. Final urban growth
4 areas shall be adopted at the time of comprehensive plan adoption
5 under this chapter.

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

8 (7) An urban growth area designated in accordance with this
9 section may include within its boundaries urban service areas or
10 potential annexation areas designated for specific cities or towns
11 within the county.

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

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

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

21 (ii) Urban growth areas where expansions are precluded outside
22 floodplains because:

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

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

27 (iii) Urban growth area expansions where:

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

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

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

39 (I) The permissible use of the land is limited to one of the
40 following: Outdoor recreation; environmentally beneficial projects,

1 including but not limited to habitat enhancement or environmental
2 restoration; stormwater facilities; flood control facilities; or
3 underground conveyances; and

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

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

11 (9) If a county, city, or utility has adopted a capital facility
12 plan or utilities element to provide sewer service within the urban
13 growth areas during the twenty-year planning period, nothing in this
14 chapter obligates counties, cities, or utilities to install sanitary
15 sewer systems to properties within urban growth areas designated
16 under subsection (2) of this section by the end of the twenty-year
17 planning period when those properties:

18 (a)(i) Have existing, functioning, nonpolluting on-site sewage
19 systems;

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

23 (iii) Have no redevelopment capacity; or

24 (b) Do not require sewer service because development densities
25 are limited due to wetlands, floodplains, fish and wildlife habitats,
26 or geological hazards.

27 (10) The provision of water, sanitary sewage systems, and storm
28 drains may be used to protect basic public health, safety, and the
29 environment on properties outside of city and urban growth area
30 boundaries.

31 **Sec. 6.** RCW 36.70A.280 and 2011 c 360 s 17 are each amended to
32 read as follows:

33 (1) The growth management hearings board shall hear and determine
34 only those petitions alleging either:

35 (a) That, except as provided otherwise by this subsection, a
36 state agency, county, or city planning under this chapter is not in
37 compliance with the requirements of this chapter, chapter 90.58 RCW
38 as it relates to the adoption of shoreline master programs or
39 amendments thereto, or chapter 43.21C RCW as it relates to plans,

1 development regulations, or amendments, adopted under RCW 36.70A.040
2 or chapter 90.58 RCW. Nothing in this subsection authorizes the board
3 to hear petitions alleging noncompliance (~~(with RCW 36.70A.5801)~~) due
4 to the existence of or extension of water, storm drainage, or
5 sewerage systems beyond city or urban growth area boundaries;

6 (b) That the twenty-year growth management planning population
7 projections adopted by the office of financial management pursuant to
8 RCW 43.62.035 should be adjusted;

9 (c) That the approval of a work plan adopted under RCW
10 36.70A.735(1)(a) is not in compliance with the requirements of the
11 program established under RCW 36.70A.710;

12 (d) That regulations adopted under RCW 36.70A.735(1)(b) are not
13 regionally applicable and cannot be adopted, wholly or partially, by
14 another jurisdiction; or

15 (e) That a department certification under RCW 36.70A.735(1)(c) is
16 erroneous.

17 (2) A petition may be filed only by: (a) The state, or a county
18 or city that plans under this chapter; (b) a person who has
19 participated orally or in writing before the county or city regarding
20 the matter on which a review is being requested; (c) a person who is
21 certified by the governor within sixty days of filing the request
22 with the board; or (d) a person qualified pursuant to RCW 34.05.530.

23 (3) For purposes of this section "person" means any individual,
24 partnership, corporation, association, state agency, governmental
25 subdivision or unit thereof, or public or private organization or
26 entity of any character.

27 (4) To establish participation standing under subsection (2)(b)
28 of this section, a person must show that his or her participation
29 before the county or city was reasonably related to the person's
30 issue as presented to the board.

31 (5) When considering a possible adjustment to a growth management
32 planning population projection prepared by the office of financial
33 management, the board shall consider the implications of any such
34 adjustment to the population forecast for the entire state.

35 The rationale for any adjustment that is adopted by the board
36 must be documented and filed with the office of financial management
37 within ten working days after adoption.

38 If adjusted by the board, a county growth management planning
39 population projection shall only be used for the planning purposes
40 set forth in this chapter and shall be known as the "board adjusted

1 population projection." None of these changes shall affect the
2 official state and county population forecasts prepared by the office
3 of financial management, which shall continue to be used for state
4 budget and planning purposes.

5 **Sec. 7.** RCW 36.70A.320 and 1997 c 429 s 20 are each amended to
6 read as follows:

7 (1) Except as provided in subsection (5) of this section,
8 comprehensive plans and development regulations, and amendments
9 thereto, adopted under this chapter are presumed valid upon adoption.

10 (2) Except as otherwise provided in subsection (4) of this
11 section, the burden is on the petitioner to demonstrate that any
12 action taken by a state agency, county, or city under this chapter is
13 not in compliance with the requirements of this chapter.

14 (3) In any petition under this chapter, the board, after full
15 consideration of the petition, shall determine whether there is
16 compliance with the requirements of this chapter. In making its
17 determination, the board shall consider the criteria adopted by the
18 department under RCW 36.70A.190(4). The board shall find compliance
19 unless it determines that the action by the state agency, county, or
20 city is clearly erroneous in view of the entire record before the
21 board and in light of the goals and requirements of this chapter.

22 A finding of noncompliance may not be based on the provision of
23 water, sewer, or storm water facilities or services extended outside
24 of a city's boundaries, including if such facilities or services are
25 inconsistent with the comprehensive plans of the city or county,
26 development regulations, or other plan or policy created to implement
27 this chapter, nor shall state funding be restricted or reduced for
28 such a reason.

29 (4) A county or city subject to a determination of invalidity
30 made under RCW 36.70A.300 or 36.70A.302 has the burden of
31 demonstrating that the ordinance or resolution it has enacted in
32 response to the determination of invalidity will no longer
33 substantially interfere with the fulfillment of the goals of this
34 chapter under the standard in RCW 36.70A.302(1).

35 (5) The shoreline element of a comprehensive plan and the
36 applicable development regulations adopted by a county or city shall
37 take effect as provided in chapter 90.58 RCW.

1 **Sec. 8.** RCW 36.70B.040 and 1997 c 429 s 46 are each amended to
2 read as follows:

3 (1) A proposed project's consistency with a local government's
4 development regulations adopted under chapter 36.70A RCW, or, in the
5 absence of applicable development regulations, the appropriate
6 elements of the comprehensive plan adopted under chapter 36.70A RCW
7 shall be decided by the local government during project review by
8 consideration of:

9 (a) The type of land use;

10 (b) The level of development, such as units per acre or other
11 measures of density;

12 (c) Infrastructure, including public facilities and services
13 needed to serve the development; and

14 (d) The characteristics of the development, such as development
15 standards.

16 (2) In deciding whether a project is consistent, the
17 determinations made pursuant to RCW 36.70B.030(2) shall be
18 controlling.

19 (3) For purposes of this section, the term "consistency" shall
20 include all terms used in this chapter and chapter 36.70A RCW to
21 refer to performance in accordance with this chapter and chapter
22 36.70A RCW, including but not limited to compliance, conformity, and
23 consistency.

24 (4) Nothing in this section requires documentation, dictates an
25 agency's procedures for considering consistency, or limits a city or
26 county from asking more specific or related questions with respect to
27 any of the four main categories listed in subsection (1)(a) through
28 (d) of this section.

29 (5) (a) The department of (~~community, trade, and economic~~
30 ~~development~~) commerce is authorized to develop and adopt by rule
31 criteria to assist local governments planning under RCW 36.70A.040 to
32 analyze the consistency of project actions. These criteria shall be
33 jointly developed with the department of ecology.

34 (b) Issuance of permits for water, sewerage, or storm water
35 facilities in accordance with this act may be permitted during the
36 time that the existing rules are in place and the updated rules are
37 being created where the existing rules would restrict what this act
38 authorizes to happen.

1 **Sec. 9.** RCW 36.93.100 and 1994 c 216 s 13 are each amended to
2 read as follows:

3 The board shall review and approve, disapprove, or modify any of
4 the actions set forth in RCW 36.93.090 when any of the following
5 shall occur within forty-five days of the filing of a notice of
6 intention:

7 (1) Three members of a five-member boundary review board or five
8 members of a boundary review board in a county with a population of
9 one million or more files a request for review: PROVIDED, That the
10 members of the boundary review board shall not be authorized to file
11 a request for review of the following actions:

12 (a) The incorporation of any special district or change in the
13 boundary of any city, town, or special purpose district;

14 (b) The extension of permanent water service outside of its
15 existing corporate boundaries by a city, town, or special purpose
16 district (~~((if (i) the extension is through the installation of water
17 mains of six inches or less in diameter or (ii) the county
18 legislative authority for the county in which the proposed extension
19 is to be built is required or chooses to plan under RCW 36.70A.040
20 and has by a majority vote waived the authority of the board to
21 initiate review of all other extensions))~~); or

22 (c) The extension of permanent sewer service outside of its
23 existing corporate boundaries by a city, town, or special purpose
24 district (~~((if (i) the extension is through the installation of sewer
25 mains of eight inches or less in diameter or (ii) the county
26 legislative authority for the county in which the proposed extension
27 is to be built is required or chooses to plan under RCW 36.70A.040
28 and has by a majority vote waived the authority of the board to
29 initiate review of all other extensions))~~);

30 (2) Any governmental unit affected(~~(, including the governmental
31 unit for which the boundary change or extension of permanent water or
32 sewer service is proposed,~~)) or the county within which the area of
33 the proposed action is located, files a request for review of the
34 specific action;

35 (3) A petition requesting review is filed and is signed by:

36 (a) Five percent of the registered voters residing within the
37 area which is being considered for the proposed action (as determined
38 by the boundary review board in its discretion subject to immediate
39 review by writ of certiorari to the superior court); or

1 (b) An owner or owners of property consisting of five percent of
2 the assessed valuation within such area;

3 (4) The majority of the members of boundary review boards concur
4 with a request for review when a petition requesting the review is
5 filed by five percent of the registered voters who deem themselves
6 affected by the action and reside within one-quarter mile of the
7 proposed action but not within the jurisdiction proposing the action.

8 If a period of forty-five days shall elapse without the board's
9 jurisdiction having been invoked as set forth in this section, the
10 proposed action shall be deemed approved.

11 If a review of a proposal is requested, the board shall make a
12 finding as prescribed in RCW 36.93.150 within one hundred twenty days
13 after the filing of such a request for review. If this period of one
14 hundred twenty days shall elapse without the board making a finding
15 as prescribed in RCW 36.93.150, the proposal shall be deemed approved
16 unless the board and the person who submitted the proposal agree to
17 an extension of the one hundred twenty day period.

18 **Sec. 10.** RCW 36.93.105 and 1999 c 153 s 46 are each amended to
19 read as follows:

20 The following actions shall not be subject to potential review by
21 a boundary review board:

22 (1) The extension of permanent water or sewer services outside of
23 its existing corporate boundaries by a city, town, or special purpose
24 district;

25 (2) Annexations of territory to a water-sewer district pursuant
26 to RCW 36.94.410 through 36.94.440;

27 ~~((2))~~ (3) Revisions of city or town boundaries pursuant to RCW
28 35.21.790 or 35A.21.210;

29 ~~((3))~~ (4) Adjustments to city or town boundaries pursuant to
30 RCW 35.13.340; and

31 ~~((4))~~ (5) Adjustments to city and town boundaries pursuant to
32 RCW 35.13.300 through 35.13.330.

33 NEW SECTION. **Sec. 11.** The following acts or parts of acts are
34 each repealed:

35 (1) RCW 35.67.022 (Extension outside city subject to review by
36 boundary review board) and 1989 c 84 s 32; and

1 (2) RCW 35.91.025 (Extension outside city subject to review by
2 boundary review board) and 1989 c 84 s 33.

--- **END** ---