IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

NO. 1043031

Court of Appeal Cause No. 86032-1

FALL CITY SUSTAINABLE GROWTH,

Appellant,

v.

KING COUNTY; MT. SI INVESTMENTS, LLC; CEDAR 17 INVESTMENTS, LLC; CHA CHA 15 INVESTMENTS, LLC; TAYLOR DEVELOPMENT, INC.,

Respondents.

AMENDED PETITION FOR REVIEW

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CASES

I. IDENTITY OF PETITIONER

Fall City Sustainable Growth ("Sustainable Growth"), appellant below, petitions for review of the Court of Appeals decision identified in Part II.

II. CITATION TO COURT OF APPEALS DECISION

Appellant seeks review of a published Court of Appeals decision, *Fall City Sustainable Growth, v. King County; Mt. Si Investments, LLC; Cedar 17 Investments, LLC; Cha Cha 15 Investments, LLC; Taylor Development, Inc*. (May 19, 2025) (attached hereto as App. A).

III. ISSUES PRESENTED FOR REVIEW

1. Whether the state's subdivision law and/or the county code preclude a hearing examiner from approving a preliminary plat application upon concluding the application fails to conform with the applicable comprehensive land use plan and, if so, whether the matter should be remanded to the examiner to deny or condition the proposed plats given her

finding that the plats as proposed do not conform to the comprehensive plan?

2. Whether the state's subdivision law and/or the county code provide a hearing examiner with discretion to condition or deny a plat if it fails to conform with the applicable land use comprehensive plan, and, if so, whether the matter should be remanded to the examiner to exercise discretion she did not recognize she had?

IV. STATEMENT OF THE CASE

This case is about a county's obligation to review a proposed division of land for conformance with the county's comprehensive land use plan. The rules counties and cities apply when considering subdivision proposals have gained importance as the increased need for housing options across the state is balanced with other values, such as the preservation of open spaces and rural character.

The King County hearing examiner determined as "a

matter of law" that three subdivisions proposed by respondent Taylor Development would not conform with the county's comprehensive plan. She based her conclusion on specific findings about the characteristics of the proposed subdivisions and on the insight gleaned from a similar, nearby subdivision Taylor Development had recently completed. But despite those findings, the examiner approved the proposed plats because she concluded she had neither the discretion nor mandate to condition or deny a plat the does not conform to the comprehensive plan.

The Court of Appeals upheld the approval of the plats despite the examiner's unchallenged conclusion that the plats would not conform with the comprehensive plan. Review by this Court is appropriate because the Court of Appeals decision conflicts with reported cases regarding the role of the comprehensive plan in the permitting process and reported cases that establish and apply basic rules of statutory construction, and

because of the importance of these issues for residential development throughout the state.

A. Taylor Development's Proposal and Procedural History.

1. Taylor Development proposes multiple subdivisions in the Rural Town of Fall City.

Taylor Development submitted three preliminary plat applications to King County. A preliminary plat[1] provides the basis of approval or disapproval for the subdivision of land. RCW 58.17.030(4).[2] Each of Taylor's preliminary plats is identified by name: "Mt. Si," "Cedar 23," and "Cha Cha." KC09824[3] (Mt. Si); KC05754 (Cedar 23); KC00005 (Cha Cha).

Originally, Taylor Development had planned to develop seven subdivisions in the town of Fall City. Those plats are

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1 We use the terms "plat," "preliminary plat," and "subdivision" interchangeably.

2 Regarding the legal effect and importance of the "preliminary" plat approval, *see, e.g., Knight v. Yelm,* 173 Wn.2d 325, 343 – 344, 267 P.3d 973 (2011).

3 "KC" identifies pages in the administrative record.

identified in the image below. The three plats at issue here are identified below as 2 (Mt. Si), 3 (Cha Cha), and 4 (Cedar23):

Id.[4]

2. The examiner concluded as a matter of law that the proposed subdivisions failed to conform with the Comprehensive Plan.

Per KCC 20.20.020(A)(3) & (D), a hearing examiner conducted a review hearing for each of Taylor's proposed plats. The examiner considered the evidence and concluded as a

4 The bottom half of the image has been cropped to fit the image on a single page.

"matter of law" that the three plat applications did not conform with the Comprehensive Plan's goal of protecting rural character. KC16231; KC17505; KC18119-20. The examiner's legal conclusion that the plats would not conform with the Comprehensive Plan was supported with detailed factual findings.[5] KC16231-33 (Cha Cha); KC17504-06 (Cedar 23); KC18118-21 (Mt. Si).

Unlike typical rural areas, the houses in these plats would be very close to one another, with tiny front, side and rear yards.[6] The examiner referenced a variety of urban-style impacts from Taylor's Arrington Court project (before and after images below) to support her conclusion that Mt. Si, Cedar 23, and Cha Cha would not conform with the Comprehensive Plan's goal to

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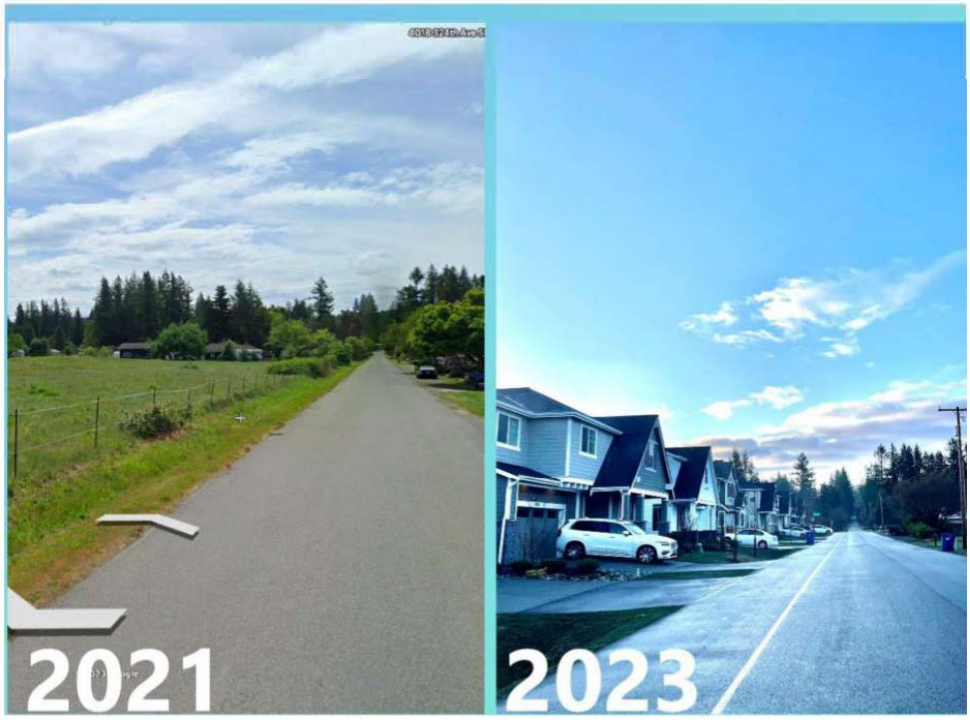
5 These unchallenged findings are verities on appeal. *Standing Rock Homeowners Ass'n v. Misich*, 106 Wn. App. 231, 238, 23 P.3d 520 (2001).

6 Lots in the Cha Cha plat would average 5,839 square feet, KC16043, approximately 25% of a typical Fall City lot. KC00737.

protect rural character (KC13194 – 96; KC07383 – 85; KC03016 – 19):



KC16207.

Despite her legal conclusions that the plats would not conform to the rural character policies of the Comprehensive Plan, the examiner concluded she was obligated to approve the plats anyway. Her reasoning was that State law and the King County code had provided only one tool to address conformance

with the Comprehensive Plan's rural character policies: the county's density standards. KC17928 (Mt. SI); KC17301 (Cedar 17); KC16321 (Cha Cha). In support of her reasoning that density was the sole arbiter of conformance with the Comprehensive Plan (*i.e.,* that she lacked discretion to condition or deny based on the nonconformance), the examiner cited no legal authority. *Id*.

3. Prior appeals of the examiner's decisions.

Sustainable Growth timely appealed the examiner's decisions to the King County Council. *See* KC13239. The Council consolidated the appeals and affirmed the examiner's decisions without additional findings or analysis, simply adopting the examiner's findings and conclusions verbatim.[7]

Sustainable Growth filed a petition for review of the Council's decision pursuant to the Land Use Petition Act (ch.

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7 Ord. 19673 (Mt. Si), 19674 (Cedar 23), and 19675 (Cha Cha).

36.70C RCW). The parties stipulated transferring the case to the Court of Appeals. *Order for Transfer of Case to Court of Appeals (Division I)* (Nov. 30, 2023). The Court of Appeals issued its decision on May 19, 2025 (the "Decision").

B. Protecting Rural Areas, like Fall City, is a Growth Management Priority of the State and King County.

The Legislature enacted the Growth Management Act (GMA) to address issues arising from unplanned growth and to balance development pressures with preservation of environmental quality, community character, and rural areas. RCW 36.70A.010. While the original act addressed in detail development in urban areas and the protection of resource lands and critical areas, rural areas received little attention. A 1994 Growth Management Hearings Board decision wryly observed: "Rural lands are the leftover meatloaf in the GMA refrigerator. The term 'rural' is not even defined in the Act." *City of Port Townsend v. Jefferson County*, 1994 WL 907895, at 10.

In 1997 and 2002, the legislature added detailed requirements for the protection of rural areas. Laws of 1997, ch. 429; Laws of 2002, ch. 212. The legislature found that some development was appropriate in rural areas, but that development had to be consistent with rural character:

> [T]e legislature finds that in defining its rural element under RCW 36.70A.070(5), a county should foster land use patterns and develop a local vision of rural character that will: Help preserve rural-based economies and traditional rural lifestyles; encourage the economic prosperity of rural residents; foster opportunities for small-scale, rural-based employment and self-employment; permit the operation of rural-based agricultural, commercial, recreational, and tourist businesses that are consistent with existing and planned land use patterns; be compatible with the use of the land by wildlife and for fish and wildlife habitat; foster the private stewardship of the land and preservation of open space; and enhance the rural sense of community and quality of life.

Laws of 2002, ch. 212, §1 (codified at RCW 36.70A.011).

The legislation added detailed requirements allowing some more intense development in specially designated, limited rural areas. Laws of 1997, ch. 429, §7 (codified at RCW 36.70C.070(5)). The legislation mandated that comprehensive plans include a rural element that "shall include measures that apply to rural development and protect the rural character of the area, as established by the county, . . ." RCW 36.70A.070(5)(c). It defined "rural development" to allow a variety of residential densities, but "at levels that are consistent with the preservation of rural character." RCW 36.70A.030 (35).

The GMA requires King County and the three surrounding counties to adopt a multi-county plan to address inter-jurisdictional issues in the central Puget Sound region. RCW 36.70A.210(7). The multicounty planning policies echo the Growth Management Act's requirement that "[r]ural development … consist of … residential patterns that preserve rural character." *Id.* at 24.

The King County Countywide Planning Policies address growth issues among King County and the incorporated cities within King County. The Countywide Planning Policies echo the goal of the multicounty planning policies. Growth in the rural area should "maintain rural character."[8] More specifically, "residential development in the Rural Area" should be "compatible with rural character **and** comply with [specified] density guidelines."[9]

Next in the GMA hierarchy, the King County Comprehensive Plan fulfills the mandate of the GMA and the regional policies to protect rural areas. An entire chapter of the Comprehensive Plan is dedicated to identifying and protecting rural areas. KC01052. The purpose of the first five sections of the Plan's "Rural Area" chapter is to satisfy the Growth Management Act's "mandatory rural element by designating

8 *Id.* at 33 (DP-47).

9 *Id.* (DP-48) (emphasis supplied).

Rural Area lands in order to limit development and prevent sprawl, by permitting **land uses that are supportive of and compatible with the rural character** established in the King County Countywide Planning Policies, and by providing for a variety of rural densities." KC01053 (emphasis supplied). The Plan explicitly states the County's intent to protect rural character:

> Rural King County is an essential part of the county's rich diversity of communities and lifestyle choices, encompassing landscapes of scenic and great natural beauty. This chapter sets forth the **county's intent and policies to ensure** the **conservation** and **enhancement** of **rural communities** and natural resource lands.

KC01052 (emphasis supplied).

The Plan includes several types of Rural Area designations, including the Rural Town designation. Fall City is designated as a "Rural Town," KC01084, one of only three

remaining Rural Towns in King County. *Id*. Rural Towns, like other parts of the Rural Area, are to embody and maintain rural character. *Id*.

The GMA's cascading hierarchy continues with the statute's mandate that counties and cities adopt "development regulations that are consistent with and implement the comprehensive plan." RCW 36.70A.040(3)(d). As discussed in detail below, King County's development code includes provisions that require plats to conform with the Comprehensive Plan.[10]

10 The attributes associated with rural character are defined in several sources. *See* RCW 36.70A.030(35); WAC 365-196-425(2); KC1056 – 58 (Comprehensive Plan).

V. ARGUMENT

A. The Court of Appeals Decision Conflicts with Supreme Court and Court of Appeals Decisions which Require Comprehensive Plan Conformance if Mandated by Code.

Comprehensive land use plans generally do not have regulatory effect. Development regulations, not plans, are the primary regulatory device. *See Citizens for Mount Vernon v. City of Mount Vernon*, 133 Wn.2d 861, 873, 947 P.2d 1208 (1997). But there are at least two exceptions to the general rule.

One exception was created by statute: RCW 36.70B.030(1) and RCW 36.70B.040(1) provide that a comprehensive plan may have regulatory effect when there is no applicable development regulation. The Decision acknowledges this 'no applicable code' exception. Decision at 18 – 19.

A second exception has long been recognized in case law: When a code mandates compliance with the comprehensive plan, the comprehensive plan has regulatory effect. *Cingular Wireless,*

LLC v. Thurston County, 131 Wn. App. 756, 129 P.3d 300 (2006), *Weyerhaeuser v. Pierce Cnty*, 124 Wn.2d 26, 43, 873 P.2d 498 (1994); *Woods v. Kittitas Cnty.*, 162 Wn.2d 597, 614, 174 P.3d 25 (2007); *WestMain Assocs. v. Bellevue*, 49 Wn. App. 513, 524–25, 742 P.2d 1266 (1987), *rev. den.*, 112 Wn.2d 1009 (1989). The Decision acknowledges this 'code mandate' exception, too. Decision at 23 (quoting *Cingular*).

The Decision is inconsistent with the code mandate exception and directly conflicts with *Cingular* and its antecedents. Those cases clearly establish that when a code explicitly mandates conformance with a comprehensive plan, subdivision approvals must adhere to its provisions. Here, the Decision violates this fundamental rule by interpreting multiple explicit code mandates in a manner that deprives them of their intended regulatory effect. Rather than applying *Cingular's* straightforward principle—that a clearly articulated code requirement for plan conformity must be enforced—the Decision

adopted strained and erroneous statutory interpretations, effectively nullifying the 'code mandate' exception that is entrenched in case law. This departure from controlling precedent justifies Supreme Court review.

The Decision suggests that the state's adoption of the Growth Management Act (GMA) and the related Local Project Review Act (ch. 36.70B RCW) changed the rules articulated in *Cingular* and its antecedents. The Decision includes a lengthy background section on the GMA and the Local Project Review Act (Decision at 6 – 11) and uses that in its later discussion to undermine the rule that a comprehensive plan has regulatory effect if a code gives it regulatory effect. But the court in *Cingular* was aware of the adoption of the GMA and nonetheless adhered to the pre-GMA rule that when a code requires compliance with a comprehensive plan, the plan has regulatory effect. The *Cingular* decision discusses this Court's then-recent

Viking[11] decision which, the *Cingular* court acknowledged, had characterized the GMA as establishing "merely a framework." *Cingular* at 773, n. 7. Quoting *Viking,* the *Cingular* court further acknowledged that "it is local development regulations, including zoning regulations enacted pursuant to a comprehensive plan, which act as a constraint on individual landowners." *Id.* Nonetheless, even after adoption of the GMA, the *Cingular* court held that where those GMA planning regulations require compliance with a comprehensive plan, projects must comply with them. *Id.* at 770.

The Decision cites *Woods v. Kittitas Cnty.*, 162 Wn.2d 597, 174 P.3d 25, (2007) as a post-GMA case that does not give comprehensive plans regulatory effect, Decision at 23, but *Woods* did not involve a county code that required

11 *Viking Properties, Inc. v. Holm*, 155 Wn.2d 112, 118 P.3d 322 (2005), *abrogated in part by Yim v. City of Seattle*, 194 Wn.2d 682, 451 P.3d 694 (2019).

comprehensive plan conformity. The 'code mandate' exception was not discussed.

We rely on three state and three local codes that require the examiner to give regulatory effect to the Comprehensive Plan. We demonstrate in the following sections the flaws in the Decision's analysis of each.

1. RCW 36.70.970(3)

The Planning Enabling Act (PEA) unambiguously sets forth the 'code mandate' exception. The PEA first provides a standard system for plat decisions: The planning agency makes a recommendation and the county legislative body makes a decision. RCW 36.70.650; –.680. Comprehensive plan conformity is not required in that system. But the PEA also allows counties to adopt an alternative system, whereby a hearing examiner is appointed and makes plat decisions. RCW 36.70.970. If this optional, alternative system is adopted, the legislation provides that the examiner's decision must conform

to the comprehensive plan. RCW 36.70.970(3). Thus, contrary to the general rule that a comprehensive plan has no regulatory effect, this state code provides that if a county chooses to adopt a hearing examiner system to make plat decisions, comprehensive plan conformity is required:

> Each final decision of a hearing examiner shall be in writing and shall include findings and conclusions, based on the record, to support the decision. Such findings and conclusions shall also set forth the manner in which the decision would carry out and conform to the county's comprehensive plan and the county's development regulations.

RCW 36.70.970(3).

The Decision refuses to give effect to this unambiguous code. In so doing, the Decision is inconsistent with *Cingular* and its antecedents which require comprehensive plan conformity if a code so provides.

The Decision reaches its contrary conclusion by stating

that RCW 36.70.970(3) must be read together with the Local Project Review Act (RCW 36.70B.030 and .040):

> When [RCW 36.70B.030(1) and RCW 36.70B.040(1) are] read together [with RCW 36.70.970(3)], the requirement that a hearing examiner find conformity with a comprehensive plan under RCW 36.70.970(3), means that the hearing examiner looks first to the adopted development regulations where they exist.

Decision at 19.

But the Decision does not "read them together" by giving meaning to each. Rather, it "reads them together" in a manner that gives no meaning at all to RCW 36.70.970(3). Reading statutes together aims to give some meaning to each. *State v. Chapman*, 140 Wn.2d 436, 448, 998 P.2d 282 (2000). The Decision renders RCW 36.70.970(3)) a nullity—in conflict with countless cases directing courts to avoid just that. *See, e.g., Whatcom Cnty. v. City of Bellingham*, 128 Wn.2d 537, 546, 909 P.2d 1303 (1996).

The Decision could have read the statutes together—and given meaning to each—by recognizing that the Local Project Review Act statutes address the 'no applicable code' exception while the PEA statute addresses the 'code mandate' exception. The Decision did not need to read RCW 36.70.970(3) out of existence in the name of "reading together" statutes that touch on the same subject.

We agree with the Decision that RCW 36.70B.030 and .040 require the examiner to "first" look at the regulations, but that does not decide the issue. *Cingular* and similar cases teach that upon first looking to the adopted regulations, if they require compliance with the comprehensive plan, then compliance with the plan is required. The Decision conflicts with *Cingular* and its antecedents.

Perhaps implicitly acknowledging weakness in its initial rationale, the Decision provides a backup: "And to the extent the procedural requirement in RCW 36.70.970(3) conflicts with the

procedure in RCW 36.70B.030 and .040, we conclude the newer and more specific statute, RCW 36.70B.030 and .040, controls over RCW 36.70.970(3)." Decision at 19. But the Decision does not identify a conflict and for good reason—there is none. As the Decision had just stated, RCW 36.70B.030 and .040 "first" direct the examiner to the codes, but "first" implies a "second" and the Decision never considers the second step. The second step, mandated by *Cingular* and its antecedents, requires conformance with the comprehensive plan, if a code so requires. The Decision omits consideration of the second step. By refusing to give effect to RCW 36.70.970(3), the Decision is inconsistent with the rule in *Cingular* and its antecedents, justifying review by this Court. RAP 13.4.

Moreover, the Decision incorrectly prioritizes RCW 36.70B.030 and .040 as "newer and more specific," Decision at 19, even though those statutes were adopted in the same session

law that amended RCW 36.70.970,[12] and neither is more specific than the other. *See, Chapman, supra,* 140 Wn. 2d at 452.[13]

Later, the Decision offers another reason for ignoring RCW 36.70.970(3), referencing a statute and a case that state the general rule (that a comprehensive plan is not regulatory). Decision at 23. In so doing, the Decision totally ignores (and is again inconsistent with) *Cingular* and its antecedents.

2. RCW 58.17.100 and RCW 58.17.110

RCW 58.17.100 explicitly requires a county planning commission or planning agency to review a subdivision application and make recommendations to "assure conformance of the proposed subdivision" to the comprehensive plan. That section's proviso makes clear that the county's legislative body may assign that duty to another agency or official. Here, King

12 *See* Laws of 1995, ch. 347, §§ 404, 405, and 425.

13 "Statutes read together should be harmonized to give force and effect to each. This rule applies with particular force to statutes passed in the same legislative session."

County has assigned those functions to the hearing examiner and, using the authority in RCW 36.70.970, has given the examiner the authority not just to make recommendations, but to make the final decision. *See* Decision at 16, n. 10 (citing KCC 20.20.020(3),[14] and KCC 20.22.040(Y)).

RCW 58.17.110(2) provides that a plat may not be approved without a finding that "the public use and interest will be served" by the approval. The King County Code expressly defines the comprehensive plan as "a means of promoting the general welfare." KCC 20.08.070.E. A finding that a plat serves the public use and interest cannot be made if the plat does not conform to the Comprehensive Plan. Thus, in *Buchseib/Danard, Inc. v. Skagit County,* 31 Wn. App. 489, 495, 643 P.2d 460 (1982), *aff'd,* 99 Wn.2d 577, 663 P.2d 487 (1983), the court affirmed a county's denial of a plat using its RCW 58.17.110

14 Presumably, the Court of Appeals intended to reference KCC 20.20.020(A)(3).

authority in part on grounds that the proposal was inconsistent with the comprehensive plan. Reading RCW 58.17.100 and RCW 58.17.110(2) together clearly provides the examiner with authority to condition or deny a plat to "assure conformance" with the comprehensive plan.[15]

The Decision deflects RCW 58.17.100's explicit comprehensive plan conformity provision by noting that RCW 58.17.100 addresses recommendations to be made by an examiner. Decision at 16. But that ignores both that King County has given final approval authority to the examiner,[16] and that the comprehensive plan conformity provision in RCW 58.17.100 is

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15 The Decision (at 17) cites and quotes *West Hill Citizens v. King County Council*, 29 Wn. App. 168, 627 P.2d 1002 (1981) for distinguishing RCW 58.17.100 plan conformity recommendations from the public interest finding mandated by RCW 58.17.110. But *West Hills* did not address the issue—present here—of whether an examiner's finding of non-conformance with a comprehensive plan would allow or require denial of a plat on grounds that it did not conform to the plan.

16 KCC 20.20.020.A.3; – KCC 20.20.020.D; and KCC 20.22.040.Y.

also given effect through the "public use and interest" mandatory finding in RCW 58.17.110(2).

The Decision renders RCW 58.17.100's "assure conformance" command a nullity. If the recommendation that a plat should be found non-conforming with the comprehensive plan cannot be used by the decisionmaker to condition or deny the plat under the public interest criterion, the recommendation serves no purpose.

By failing to give effect to the comprehensive plan "assure conformance" determination in RCW 58.17.100, the Decision not only reaches a result at odds with *Cingular*, but also is inconsistent with a plethora of cases requiring courts to construe statutes in a manner that avoids rendering provisions superfluous and cases requiring all sections of a law bearing on the same

subject to be read together.[17]

The Decision also is inconsistent with case law that requires considering the stated purpose of legislation when construing ambiguous provisions. "We have never blindly applied a statute without considering the context of the statute's language or the legislative purpose." *Whatcom Cnty. v. City of Bellingham*, 128 Wn.2d 537, 548, 909 P.2d 1303, 1309 (1996). *See also Weyerhaeuser v. Pierce Cnty*., 124 Wn.2d 26, 32, 873 P.2d 498, 501 (1994). The subdivision statute includes a statement of purpose:

> The purpose of this chapter is . . . to provide for the expeditious review and approval of proposed subdivisions which **conform to** zoning standards **and local plans and policies**; . . .

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17 *See, e.g., Honesty in Envtl. Analysis & Legislation (HEAL) v. Cent. Puget Sound Growth Mgmt. Hearings Bd., 96 Wn. App. 522, 527-8, 979 P.2d 864 (1999)* (avoid rendering superfluous); *Whatcom Cnty. v. City of Bellingham*, *supra* (read together).

RCW 58.17.010 (emphasis supplied).

To the extent that there is any ambiguity in the meaning of RCW 58.17.100 and -.110, the ambiguity should be resolved consistent with the statute's stated purpose and allow examiners to condition or deny plats to assure conformity with an adopted comprehensive plan. Yet the Decision failed to consider whether its reading of the statutes was consistent with this explicit legislative purpose, violating yet another standard rule of statutory construction.

3. KCC 19A.08.060

The King County Code explicitly and unambiguously authorizes denying or conditioning plats based on the county's comprehensive plan: "Applications for subdivisions . . . may be approved, approved with conditions or denied in accordance with the following adopted county and state rules, regulations, plans and policies, including, but not limited to . . . N. King County Comprehensive Plan." KCC 19A.08.060. The Decision (at 21)

reasons that this section authorizes but does not mandate conditioning or denial based on the Comprehensive Plan. But here the examiner failed to recognize that she had discretion to condition or deny based on the comprehensive plan. She concluded her options were limited to using the density limits in the zoning code. KC17928 (Mt. SI); KC17301 (Cedar 17); KC16321 (Cha Cha).

The Decision should have concluded that the examiner erred in failing to recognize that pursuant to *Cingular* and its antecedents that her hands were not tied and that she had the authority to condition or deny based on the Comprehensive Plan. By failing to do so, the Decision again conflicts with *Cingular* and its antecedents.

4. KCC 20.12.010 and KCC 20.22.030

KCC 20.12.010 states that the comprehensive plan "shall be used to guide . . . land development decisions." KCC 20.22.030 grants the examiner authority to "grant, remand, or

deny the application . . . and may include any conditions, modifications, and restrictions necessary to carry out applicable laws, regulations, **and adopted policies**." (Emphasis supplied.) The Decision concludes that the former provision merely requires that the comprehensive plan "guide" decisions and that the latter provides the examiner with discretion to deny and condition to assure conformity, but does not make conformity a requirement. Decision at 24. These rationales ignore that even if the examiner only had discretion, and not a duty, to assure conformance, the examiner did not recognize that she had discretion. After finding that the plats would not conform with the comprehensive plan, she declined to consider using her discretion to achieve conformance. She thought that she was limited to enforcing the zoning code's density provisions. KC03017 (FF 12) (Cha Cha); KC07383 (FF 12) (Cedar 23); and KC13194 (FF 11) (Mt. Si).

Upon finding that the examiner at least had discretion

(which she had not recognized), the matter should have been remanded to the examiner to exercise her discretion. "Although mandamus will not lie to control the exercise of discretion, it will lie to require that discretion be exercised." *Norco Const., Inc. v. King Cnty.,* 29 Wn. App. 179, 187, 627 P.2d 988, 993 (1981), *modified on other grounds*, 97 Wn.2d 680 (1982).[18] The Decision is inconsistent with *Weyerhaeuser v. Pierce Cnty*., *supra*, which recognized the need to remand in a similar situation:

> The hearing examiner's conclusion that the SWMP is only a guideline is thus contrary to law, and must be reversed. The Weyerhaeusers argue that application of the wrong legal standard is fatal, and that it is not possible to know how the hearing examiner would have decided the case had the hearing examiner treated the SWMP provisions as determinative rather than as guidelines. LRI maintains, to the contrary, that even if the SWMP is mandatory, rather than merely a

18 *Norco* is a pre-LUPA case, therefore, the remedy was couched in terms of mandamus. LUPA provides functionally identical relief. RCW 36.70C.140.

> guideline as the hearing examiner concluded, the hearing examiner properly found the project conforms to the SWMP.
>
> We agree with the Weyerhaeusers. There is a fundamental difference between a mere guideline and mandatory criteria, and we are not prepared to say that the difference had no effect on the hearing examiner's findings, conclusions, and decision.

124 Wn.2d at 45, 873 P.2d at 508.

B. Review Should be Granted Because the Issues Presented are of Substantial Public Interest.

The issues raised in this amended petition are of substantial public interest because they implicate housing developments statewide. The Legislature has passed several laws in recent years to address the state's housing shortage. *See, e.g.,* Laws of 2025, chs. 301 and 386; Laws of 2024, ch. 274; Laws of 2023, ch. 332; and Laws of 2021, ch. 254. More housing in critically needed. These recent laws promote new housing in urban areas consistent with the GMA goal of encouraging new

development in urban areas. RCW 36.70A.020(1) ("[e]ncourage development in urban areas"). Development in rural areas is allowed but not as in urban areas. In rural areas, caution and restraint are required to ensure that rural areas are not urbanized and rural character lost forever. Finding the balance between the competing needs for new housing and protecting rural character is difficult, but critical if the Evergreen State is to live up to its moniker—and comply with the GMA's mandate to allow development in rural areas only if done in a manner that protects rural character, RCW 36.70A.030 (35); RCW 36.70A.070(5)(c).

These issues are particularly important for the numerous jurisdictions with development regulations that require subdivisions to conform with the comprehensive plan. Without review by this Court, those jurisdictions (and residents in rural areas) will be left with uncertainty as to whether development regulations that require plats to conform with the comprehensive plan are, in fact, enforceable, as they were under *Cingular* and

its antecedents. Resolution by this Court will clarify whether a jurisdiction can require a plat to conform to a comprehensive plan when conformity is mandated by state law and/or city code.

VI. CONCLUSION

The Decision creates a direct and significant conflict with reported decisions, incorrectly interprets explicit statutory mandates, and undermines crucial public interests central to Washington's growth management laws. Clarifying these significant legal questions is essential to preserving the statutory integrity and statewide uniformity as agencies, citizens, development companies, and the courts attempt to integrate Washington's various land use laws. Petitioner requests that this Court accept review, reverse the Decision, and remand the case for the examiner to condition or deny the subdivision applications in accordance with comprehensive plan conformity requirements explicitly mandated by state law and local regulation.

This document contains 4,988 words, excluding the parts of the document exempted from the word count, and is, therefore, consistent with RAP 18.17.

Dated this 23rd day of June, 2025.

Respectfully submitted,

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APPENDIX A

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State of Washington

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

FALL CITY SUSTAINABLE GROWTH, Appellant, v. KING COUNTY; MT. SI INVESTMENTS, LLC; CEDAR 17 INVESTMENTS, LLC; CHA CHA 15 INVESTMENTS, LLC; TAYLOR DEVELOPMENT, INC., Respondents.	No. 86032-1-I DIVISION ONE PUBLISHED OPINION

MANN, J. — In this land use case, Fall City Sustainable Growth (FCSG) appeals the approval of three preliminary subdivision or plat applications[1] in the Rural Town of Fall City. FCSG argues that King County's hearing examiner was required to deny the plat applications after the hearing examiner determined that the applications were not consistent with the King County Comprehensive plan (K.C. Comp. Plan) by protecting rural character. FCSG contends that denial was mandatory, despite the hearing examiner finding that the plat applications were consistent with the applicable

[1] For the purpose of this opinion, subdivision and plat are used interchangeably.

development regulations, adequately provided for a range of services required by state law and county code, and served the public health, safety, and general welfare.

While the hearing examiner was within their authority to determine the plat applications did not protect what they interpreted as the rural character, the hearing examiner did not err in approving the plat applications. The hearing examiner correctly followed Washington's land use statutes and longstanding jurisprudence in concluding that the plat applications should be approved. We affirm.

I

Taylor Development (Taylor), through three separated corporate identities, submitted three applications for residential subdivisions or plats within the Rural Town of Fall City. The Cedar 23 plat application vested[2] March 19, 2021, and proposes subdividing 5.74 acres into 23 lots for single-family homes with an average lot size of 5,034 square feet. The Mt. Si plat application vested March 23, 2021, and proposes subdividing 4 acres into 16 lots for single-family homes with an average lot size of 4,751 square feet. And the Cha Cha plat application vested July 8, 2021, and proposes subdividing 3.63 acres into 15 lots for single-family homes with an average lot size of 5,839 square feet. The Fall City Rural Town is zoned R-4 which allows a maximum of four residential homes per acre. All three plat applications propose development within the maximum allowed density.

The King County Department of Local Services (DLS) first reviewed the applications. DLS received public comments on the applications which included

[2] KCC 20.20.070(A) provides that applications for Type 3 approvals, including subdivisions, vest on the date a complete application is submitted.

concerns about pedestrian safety and increased traffic, impact on area schools, lot sizes, loss of wildlife habitat, proposed large onsite septic, and the allowed density and inconsistency with existing rural character of Fall City. DLS issued a staff report for each application and recommended approval of each plat, subject to detailed conditions. DLS then transmitted its recommendations to the hearing examiner.

Under King County Code (Code), preliminary plat decisions are made by the hearing examiner following an open record hearing. KING COUNTY CODE (KCC) 20.20.020. The public hearing before the hearing examiner for Cedar 23 was held on February 28, 2023. After taking testimony, reviewing the application, and applicable statutory and code requirements, the hearing examiner issued their report and decision approving the plat application with conditions. In lengthy findings, the hearing examiner addressed topics including rural character, the environment, cultural resources, critical areas, stormwater/drainage, transportation, parking, fire protection, water supply, sewage disposal, recreations, schools and safe walking routes.

In the discussion of rural character, the hearing examiner discussed and distinguished a prior plat application approval in Fall City:

> 13. In the 2017 decision on the Fall City preliminary plat (now known as and referred to herein as Arrington Court), this Examiner concluded that the R-4 zoning as conditioned by KCC 21A.12.030.B.22 and B.23 is consistent with the 1999 Fall City Plan and the King County Comprehensive Plan and protects rural character.
>
> 14. The record developed in this matter does not allow the Examiner to reach the same conclusion as a matter of law.

The hearing examiner described several components they considered in reaching this determination, including the increased densities allowed by using large on-site septic systems (LOSS), and parking:

> B. The use of LOSS systems as opposed to individual on-site septic systems (OSS) allows an applicant to increase significantly the number of lots that can be created and to reduce significantly the lot sizes. In Cedar 23, 18 lots could be developed using OSS (assuming a 4-bedroom home on each lot) as compared to the 23 that can be developed using LOSS (assuming a 3-bedroom home on each lot).
>
> . . . .
>
> E. . . . Cedar 23, . . . will provide adequate parking for their residents, but little or no room for boats, trailers, RVs, and other recreational vehicles typical in rural areas.

The hearing examiner continued, however, and explained that, despite not being consistent with their interpretation of rural character, the application was consistent with the allowed density and density was the only tool provided to address rural character:

> 15. For these reasons, the Examiner is not persuaded that Cedar 23 is consistent with rural character. Exhibit P13 and testimony from numerous witnesses offered tools that would increase its compatibility, such as somewhat larger lots, somewhat smaller homes, variety in the design of homes, and varying setbacks. However, the King County Council has not given Permitting or the Examiner tools other than the maximum density to address compatibility with rural character.
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> 16. As concluded below, the Project is consistent with the maximum density of four dwelling unit/acre for the Rural Town of Fall City.

Relying on Citizens for Mount Vernon v. City of Mount Vernon, 133 Wn.2d 861, 873, 947 2nd 1208 (1997), and RCW 36.70B.030(1) and .040(1), the hearing examiner concluded that project decisions are determined by applicable development regulations:

> [D]uring Project review, applicable development regulations are determinative of the type of land use permitted at the site. RCW 36.70B.030(2)(a). It is true that, in the absence of applicable development regulations, the local government may consider the appropriate elements

> of the comprehensive plan adopted under the GMA to determine the type of land use, level of development and characteristics of the development, among other things. RCW 36.70B.030(1), 36.70B.040(1). However, this is not the case here. The King County Council had adopted specific density requirements for the Fall City Rural Town and has chosen not to adopt other regulations many of those submitting written or oral comments wish they had. Finally, even assuming there [was] an inconsistency between the zoning and the King County Comprehensive Plan, a specific zoning ordinance prevails over an inconsistent comprehensive plan.

The hearing examiner then concluded that the plat application would serve the public health, safety, and welfare, and the public use and interest:

> 9. The proposed preliminary plat, as conditioned below, would conform to applicable land use controls. In particular, the proposed type of development, and overall density are specifically permitted under the R-4 zoning regulations for the Rural Town of Fall City.
>
> 10. If approved subject to the conditions below, the proposed preliminary plat will make appropriate provisions for the topical items enumerated within RCW 58.17.110, and will serve the public health, safety and welfare, and the public use and interest.
>
> 11. The conditions for final plat approval set forth below are reasonable requirements and in the public interest.

The public hearings for Mt Si and Cha Cha were held on March 29, 2023, and May 4, 2023, respectively. The hearing examiner's findings and conclusions, including the discussion of rural character, the application of state law, and conclusions addressing the public health, safety and welfare, and public interest for the Mt Si and Cha Cha applications were virtually identical to the Cedar 23 findings and conclusions above. The hearing examiner concluded that the Mt Si and Cha Cha plat applications were consistent with R-4 zoning and thus approved them with conditions.

FCSG appealed the three proposed preliminary plats to the King County Council.[3] The Council sustained the decisions of the hearing examiner and adopted the preliminary plats.[4]

FCSG appealed the Council's decision to King County Superior Court under the Land Use Petition Act (LUPA), ch. 36.70C RCW. The parties stipulated to transfer the petitions to this court for review.

II

We begin with a brief overview of planning under the GMA, and King County's planning efforts leading to the K.C. Comp. Plan, Fall City Subarea Plan, and King County's development regulations.

A

Prior to 1990, "[l]and use planning in Washington [was] historically . . . a function left to local governments with the state playing a limited role." Ass'n of Rural Residents v. Kitsap County, 141 Wn.2d 185, 188, 4 P.3d 115 (2000). Planning was done largely under the framework of the Planning Enabling Act, ch. 36.70 RCW. But "[w]ith passage of the GMA, the system changed to a comprehensive planning framework under which local governments are required to plan according to general mandates established by the Legislature." Ass'n of Rural Residents, 141 Wn.2d at 188.[5]

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[3] FCSG also appealed a fourth preliminary plat known as Fall City II, but that appeal is not before the panel. The Code in effect at the time allowed appeal of preliminary plat decisions to the Council. KCC 20.20.020, Ord. 19291.

[4] King County Ord. 19673, 19674, and 19675.

[5] While most counties, and the cities within those counties, are subject to all of the GMA requirements, ten smaller counties have more limited GMA obligations. See Save Our Scenic Areas v. Skamania County, 183 Wn.2d 455, 459, 352 P.3d 177 (2015).

The GMA was enacted in 1990 and 1991 "in response to public concerns about rapid population growth and increasing development pressures in the state, especially in the Puget Sound region." King County. v. Cent. Puget Sound Growth Mgmt. Hr'gs Bd., 142 Wn.2d 543, 546, 14 P.3d 133 (2000). "Through the GMA, the legislature sought to minimize 'uncoordinated and unplanned growth,' which it found to 'pose a threat to the environment, sustainable economic development, and the health, safety, and high quality of life enjoyed by residents of this state.'" Whatcom County v. Hirst, 186 Wn.2d 648, 671-72, 381 P.3d 1 (2016).

The GMA contains 15 nonprioritized goals which create a "'framework' that guides local jurisdictions in the development of comprehensive plans and development regulations." Viking Props., Inc. v. Holm, 155 Wn.2d 112, 125, 118 P.3d 322 (2005), abrogated by Yim v. City of Seattle, 194 Wn.2d 682, 451 P.3d 694 (2019); RCW 36.70A.020, .3201. The GMA's goals include: encouraging development within urban areas, reducing sprawl, planning for and accommodating "housing affordable to all," promoting a variety of residential densities, retaining open space, protecting the environment, and protecting private property rights. RCW 36.70A.020. "Within this framework, the legislature has affirmed that there is a 'broad range of discretion that may be exercised by counties and cities consistent with the requirements . . . and goals of [the GMA].'" Viking Props., 155 Wn.2d at 125 (quoting RCW 36.70A.3201).

The GMA recognizes the importance of rural lands and rural character and requires local governments to include a rural element in comprehensive plans. RCW 36.70A.011, .070. The rural element must provide for a variety of uses and densities and must include several measures to address rural development such as assuring

visual compatibility to surrounding areas and reducing inappropriate conversion of undeveloped land:

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

RCW 36.70A.070(5)(b). More intensive rural development, including the infill, development, or redevelopment of existing commercial, industrial, and residential areas may be allowed in the rural element subject to limitations. RCW 36.70A.070(5)(d). "GMA does not dictate a specific manner of achieving a variety of rural densities. Local conditions may be considered and innovative zoning techniques employed to achieve a variety of rural densities." Thurston County v. W. Wash. Growth Mgmt. Hr'gs Bd., 164 Wn.2d 329, 359-60, 190 P.3d 38 (2008).

To implement the GMA, local governments must first develop planning policies. Larger counties, including Snohomish, King, and Pierce Counties, with contiguous urban areas must adopt multicounty planning policies (MPPs) to establish a region-wide framework that ensures consistency among comprehensive plans and county-wide planning policies. RCW 36.70A.210(7); WAC 365-196-305(8). The GMA next required counties, in cooperation with cities within the counties, to adopt countywide planning polices (CPPs). RCW 36.70A.210(2). As the Supreme Court explained:

> A CPP is a written policy statement created by county municipalities and used "solely for establishing a county-wide framework from which county and city comprehensive plans are developed." RCW 36.70A.210(1).

> CPPs ensure that city and county comprehensive plans are consistent with one another with regard to issues of regional significance, and thus CPPs must address policies for designation of UGAs, as well as policies for providing urban services, transportation, housing, and economic development. RCW 36.70A.210(3).

King County v. Cent. Puget Sound Growth Mgmt. Hr'gs Bd., 138 Wn.2d 161, 167, 979 P.2d 374 (1999).

The GMA next required most counties to adopt, and to periodically update, a comprehensive plan. RCW 36.70A.130. Comprehensive plans include polices covering a broad range of topics. Comprehensive plans must include a map that assigns a land use designation to all areas of the county. RCW 36.70A.070; WAC 365-196-400, -405. The comprehensive plan policies, among other purposes, guide decisions about the land use designation of particular areas. WAC 365-196-405(2)(i)(ii). For maps, the first GMA obligation was to designate natural resource lands (mineral, forest, and agriculture). RCW 36.70A.170. The next obligation was to designate lands as the urban growth area. RCW 36.70A.110. The remaining land in each county constituted rural areas.

Finally, the GMA required counties and cities to adopt development regulations to implement their comprehensive plans. RCW 36.70A.040(3)-.040(5) (requirements regarding development regulations; RCW 36.70A.130(1)(e) (amendments). Development regulations include zoning maps and detailed regulations. The zoning assigned to each particular area must be consistent with the more general land use designations established in the comprehensive plan. RCW 36.70A.040(3)(d). Development regulations are presumed valid upon adoption. RCW 36.70A.320(1).

Once adopted, development regulations largely control cite specific land use decisions. As our Supreme Court has summarized:

> Comprehensive plans serve as "guide[s]" or "blueprint[s] to be used in making land use decisions. Thus, a proposed land use decision must only generally conform, rather than strictly conform, to the comprehensive plan. A comprehensive plan does not directly regulate site-specific land use decisions. Instead, local development regulations, including zoning regulations, directly constrain individual land use decisions.

Woods v. Kittitas County, 162 Wn.2d 597, 612-14, 174 P.3d 25 (2007) (citing Citizens for Mount Vernon, 133 Wn.2d at 873; Viking Props., 155 Wn.2d at 126).

The legislature agrees. In 1995, the legislature adopted the "Local Project Review Act," ch. 36.70B RCW, with the intent "to establish a mechanism for implementing the provisions of [GMA] regarding compliance, conformity, and consistency of proposed projects with adopted comprehensive plans and development regulations." LAWS OF 1995, ch. 347, §§ 404, 405. The legislature explained that where there are adopted development regulations, project consistency with the GMA is determined by the development regulations where they exist, and in their absence, the comprehensive plan. Under RCW 36.70B.030(1):

> (1) Fundamental land use planning choices made in adopted comprehensive plans and development regulations shall serve as the foundation for project review. The review of a proposed project's consistency with applicable development regulations, or in the absence of applicable regulations the adopted comprehensive plan, under RCW 36.70B.040 shall incorporate the determinations under this section.

And under RCW 36.70B.040:

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

(a) The type of land use;
(b) The level of development, such as units per acre or other measures of density;
(c) Infrastructure, including public facilities and services needed to serve the development; and
(d) The characteristics of the development, such as development standards.

B

Consistent with the GMA hierarchy, the Puget Sound Regional Council (PSRC) was designated as the agency responsible for meeting the GMA's MPP requirements. The member entities, including Snohomish, King, and Pierce Counties, adopted their MPPs, known as Vision 2050, in 1992. The Vision 2050 MPPs are broad and cover regional growth management and other issues requiring regional coordination including transportation, open space, air and water quality, economic development, and regional facilities.[6] Rural protection is one function of the MPPs which recognize the variety of uses and residential patterns that preserve rural character.[7]

King County's CPPs were also first adopted in 1992. King County Ordinance 10450 (2012); City of Snoqualmie v. King County, No. 92-3-0004, 1993 WL 839711 (Wash. Cent. Puget Sound Growth Mgmt. Hr'gs Bd.), https://eluho2022.my.site.com/casemanager/s/eluho-document/a0T82000000KS1PEAW/19930301-city-of-snoqualmie-v-king-county-final-decision-and-order. The CPPs address a broad range of subjects, including rural areas, and implement the MPPs in Vision 2050.[8]

[6] Puget Sound Reg'l Council, VISION 2050: A Plan for the Central Puget Sound Region, at i (Oct. 2020) (Resolution PSRC-A-2020-02) (hereinafter Vision 2050), https://www.psrc.org/sites/default/files/2022-11/vision-2050-plan.pdf

[7] Vision 2050 at 24.

[8] 2021 King County Countywide Planning Polices at 6 (ratified Nov. 30, 2023) (https://kingcounty.gov/en/dept/executive/governance-leadership/performance-strategy-budget/regional-planning/cpps).

The K.C. Comp. Plan was first adopted in 1994 and has been updated several times. The version applicable in this case is the 2016 update. The K.C. Comp. Plan covers the full spectrum of planning goals and requirements covered by the GMA, MPPs, and CPPs. The comprehensive plan establishes the geographic boundaries of the Rural Area and includes policies describing the range of uses allowed there.

The K.C. Comp. Plan establishes the land use designation of Rural Town. The Rural Town designation recognizes existing development patterns and allows commercial uses to serve rural residents. The K.C. Comp. Plan also recognizes that higher density development may occur in Rural Towns than in other Rural Areas:

> [A]lthough Rural Towns also may in some circumstances develop at densities similar to those in the Urban Growth Area or in Cities in the Rural Area, they are considered part of the Rural Area for the purposes of the [GMA], do not provide significant growth capacity, and are not subject to the growth targets adopted for the Urban Growth Area.

K.C. Comp. Plan, at 3-33. The K.C. Comp. Plan designates three Rural Towns: Fall City, Snoqualmie Pass, and Vashon.

The K.C. Comp. Plan differentiates between Rural Towns and areas outside of Rural Towns. Policy R-302 provides for more flexible development standards inside of Rural Towns. Outside of Rural Towns, rural development is restricted to "low densities compatible with traditional rural character and uses, farming, forestry, mining, and rural service levels." Under Policy R-506, "Rural Towns may contain higher density housing than permitted in the surrounding Rural Area, and should provide affordable and resource-worker housing if utilities and other services permit. Development Density in Rural Towns may approach that achieved in Cities in the Rural Area." And Policy R-507 notes that Rural Towns serve as activity centers and, provided sufficient utilities are

available, may include "[r]esidential development, including single-family housing on small lots as well as multifamily housing and mixed-use developments."

The GMA authorizes subarea plans within the larger scope of comprehensive plans. RCW 36.70A.080(2). In the late 1990s, King County completed a subarea planning process for Fall City. The process resulted in adoption of the 1999 Fall City Subarea Plan (Subarea Plan). KCC 20.12.329. The Subarea Plan implements, is consistent with, and is an element of the K.C. Comp. Plan. KCC 20.08.060. The Rural Town boundaries for Fall City were revised by the subarea plan to eliminate the urban reserve area and significantly reduce the overall Rural Town boundaries. The Subarea Plan policies provide that residential development in Fall City requires adaptation of R-4 zoning:

> Residential development within the revised boundaries of the Rural Town of Fall City should be at densities ranging from one to four dwelling units per acre. All residential land should be zoned R-4 and the zoning code should be amended to eliminate the minimum density requirement and the maximum density option.

The King County Council adopted development regulations implementing the Subarea Plan in June 2000, two weeks after adopting the Subarea Plan. King County Ordinance 13881. The ordinance amended the County's development regulations and reduced the maximum density allowed in the R-4 zone within the Rural Town of Fall City. In other areas of the County, lands with R-4 zoning are allowed to be subdivided at a density of up to eight homes per acre. KCC 21A.12.030(A). For the Rural Town of Fall City, the County Code halves the maximum density in the R-4 zone at four homes per acre. KCC 21A.12.030(B)(22), -.030(B)(23).

III

FCSG argues that both state law and local code required that a plat application be denied if it is not consistent with all elements of a comprehensive plan. As a result, FCSG contends, because King County's hearing examiner could not conclude that the three plat applications were consistent with their interpretation of rural character, the only option was denial of all three applications.

In contrast, the County and Taylor argue that comprehensive plans do not directly control project specific land use decisions, and instead, such projects are reviewed for compliance with the applicable development regulations. They assert approval was appropriate because the hearing examiner concluded that the applications met the applicable development regulations and made appropriate provisions for the subjects enumerated within RCW 58.17.110: to serve the public health, safety, and welfare, and to serve the public use and interest. We agree with the County and Taylor.

A

Judicial review of administrative land use decisions is governed by LUPA. Klineburger v. King County Dep't of Dev. & Env't. Servs. Bldg., 189 Wn. App. 153, 163, 356 P.3d 223 (2015). "[A]n appellate court stands in the shoes of the superior court and reviews the administrative record." Klineburger, 189 Wn. App. at 163. LUPA sets forth six standards for relief from an administrative land use decision. Relevant here, relief will be granted if FCSG establishes:

> (b) The land use decision is an erroneous interpretation of the law, after allowing for such deference as is due the construction of a law by a local jurisdiction with expertise;
> (d) The land use decision is a clearly erroneous application of the law to the facts;

RCW 36.70C.130(1).

We review alleged errors of law de novo. Klineburger, 189 Wn. App. at 164. Standard (b) does not require this court "to give complete deference, but rather 'such deference as is due.'" Wash. State Dep't of Transp. v. City of Seattle, 192 Wn. App. 824, 368 P.3d 251 (2016) (quoting Ellensburg Cement Prods., Inc. v. Kittitas County, 179 Wn.2d 737, 753, 317 P.3d 1037 (2014)). Under standard (d), "[a]n application of law to the facts is 'clearly erroneous' when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." Whatcom County Fire Dist. No. 21 v. Whatcom County, 171 Wn.2d 421, 427, 256 P.3d 295 (2011).

Interpretation of statutes and ordinances is a question of law reviewed de novo. Whatcom County Fire Dist. No. 21, 171 Wn.2d at 427.

B

FCSG identifies several state laws and county code provisions that it contends mandate denial of the plat applications. We address each in turn.

1

FCSG first argues that the State subdivision statute, ch. 58.17 RCW, requires denial. Specifically, FCSG contends that RCW 58.17.100 requires the hearing examiner deny a plat application unless it determines the application is in conformance with the comprehensive plan. RCW 58.17.100 provides, in relevant part:

> [The hearing examiner][9] shall review all preliminary plats and make recommendations thereon to the city, town or county legislative body to assure conformance of the proposed subdivision to the general purposes of the comprehensive plan and to planning standards and specifications as adopted by the city, town or county. Reports of the [hearing examiner] shall be advisory only.

FCSG ignores that RCW 58.17.100 only addresses "recommendations" by the hearing examiner and "advisory" reports. Nothing in RCW 58.17.100 mandates a hearing examiner deny a plat application that it determines fails to conform to the general purpose of a comprehensive plan.

In contrast, the next provision of the statute, RCW 58.17.110, addresses the factors to be considered, authority to condition, and findings necessary, before a plat application may be approved. After requiring local government inquiry, RCW 58.17.110(2) requires local government make specific findings, including a finding that the public interest will be served:

> A proposed subdivision and dedication shall not be approved unless the city, town, or county legislative body[10] makes written findings that: (a) Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and (b) the public use and interest will be served by the platting of such subdivision and dedication. If it finds that the proposed subdivision and dedication make such appropriate provisions and that the public use and interest will be served, then the legislative body shall approve the proposed subdivision and dedication.

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[9] The statute refers to the planning commission or planning agency, but another statute provides counties with the option to substitute a hearing examiner for the planning commission. RCW 36.70.970. The parties do not dispute that the County has done so.

[10] The parties do not dispute that King County has delegated decision making authority over plat applications to the hearing examiner. KCC 20.20.020(3); KCC 20.22.040(Y).

Noticeably missing from RCW 58.17.110(2) is a requirement that the proposed plat application conform with the general purpose of the comprehensive plan.[11] As this court explained in 1981, the recommendations in RCW 58.17.100 do not carry over into the requirements for plat or subdivision approval in RCW 58.17.110(2):

> Both the Planning Enabling Act and the plats and subdivision statute, RCW 58.17, provide that the planning agency shall review all proposed subdivisions and make recommendations to assure conformance to the "general purposes of the comprehensive plan." See RCW 36.70.680; RCW 58.17.100. Such reports, however, are advisory only. . . . Of all the factors that RCW 58.17.110 specifies that the County legislative body must consider before approving a subdivision, no reference is made to compliance with the comprehensive plan. Instead, the key statutory test is "whether the public interest will be service by the subdivision.

W. Hill Citizens for Controlled Dev. Density v. King County Council, 29 Wn. App. 168, 171-72, 627 P.2d 1002 (1981).

Contrary to FCSG's argument, the hearing examiner fulfilled their delegated duties under RCW 58.17.100 and .110(1) and (2). While the hearing examiner could not conclude that the three plat applications were consistent with their interpretation of rural character, the hearing examiner recognized that the only tools the legislative authority chose to allow for meeting rural character was maximum densities under the development regulations. And thus, under RCW 36.70B.030(1), RCW 36.70B.040(1),

[11] FCSG argues that RCW 58.17.110(1) requires that the hearing examiner to find that "appropriate provisions for the general welfare," and that the "public interest will be served." It then cites to KCC 20.08.070, which defines, in part, the comprehensive plan as a "means of promoting the general welfare." While FCSG is correct that the comprehensive plan provides "a means" of promoting the general welfare, nothing in KCC 20.08.070 states that conformity or consistency with the comprehensive plan is the only means. Here, the hearing examiner found that plats, as conditioned, served the general welfare and satisfied the public interest based on compliance with the long list of specific topics identified in RCW 58.17.110, as well as compliance with the applicable development regulations.

and Citizens for Mount Vernon, the development regulations controlled. After a careful review, followed by detailed findings, the hearing examiner ultimately concluded that the proposed subdivisions "will make appropriate provisions for the topical items enumerated within RCW 58.17.110, and will serve the public health, safety, and welfare, and the public use and interest." Such findings and conclusions satisfy the requirements of the subdivision statute.

2

FCSG next contends that the State's enabling act for hearing examiners supports its argument that under RCW 58.17.100 hearing examiners must deny a plat application that is not consistent with the comprehensive plan. FCSG points to RCW 36.70.970(3) which requires that final decisions of hearing examiners be in writing and include findings and conclusions that "set forth the manner in which the decision would carry out and conform to the county's comprehensive plan and the county's development regulations."

RCW 36.70.970(3) was adopted in 1977 as part of the pre-GMA Planning Enabling Act of the State of Washington. LAWS OF 1977, 1st Ex. Sess., ch. 213, § 3. RCW 36.70.970(3) did not define what it means to "conform" to the county's comprehensive plan. As discussed above, in the 1995 Local Project Review Act, ch. 36.70B RCW, the legislature explained what "consistency" or "conformity" with a post-GMA comprehensive plan meant. The legislature stated that RCW 36.70B.030(1) and RCW 36.70B.040(1) were intended to "to establish a mechanism for implementing the provisions of [GMA] regarding compliance, conformity, and consistency of proposed projects with adopted comprehensive plans and development regulations." LAWS OF

1995, ch. 347, §§ 404, 405 (emphasis added). The legislature explained that where there are adopted development regulations, project conformity with the GMA is determined by the development regulations where they exist, and the comprehensive plan only in the absence of applicable development regulations. RCW 36.70B.030(1); .040(1).

We discern the legislature's intent by applying recognized principles of statutory construction. Wash. State Ass'n of Counties v. State, 199 Wn.2d 1, 12, 502 P.3d 825 (2022). We must give effect to each statute in a way that does not render any language superfluous or meaningless. Wash. State Ass'n of Counties, 199 Wn.2d at 12-13. And, "a general statutory provision must yield to a more specific statutory provision." Wash. State Ass'n of Counties, 199 Wn.2d at 13 (quoting Ass'n of Wash. Spirits & Wine Distribs. v. Wash. State Liquor Control Bd., 182 Wn.2d 342, 356, 340 P.3d 849 (2015)). The specific statute does not invalidate the general statute but will be considered a qualification of or an exception to the general statute. Wash. State Ass'n of Counties, 199 Wn.2d at 13-14.

Here, both statutes provide the procedure a hearing examiner must follow during project review, including plat approval. When read together, the requirement that a hearing examiner find conformity with a comprehensive plan under RCW 36.70.970(3), means that the hearing examiner looks first to the adopted development regulations where they exist.

And to the extent the procedural requirement in RCW 36.70.970(3) conflicts with the procedure in RCW 36.70B.030 and .040, we conclude the newer and more specific statute, RCW 36.70B.030 and .040, controls over RCW 36.70.970(3). This reading

allows RCW 36.70B.970(3) flexibility to provide procedure in the various circumstances under which a hearing examiner may be authorized to act, including circumstances where development regulations are absent and where local regulations require consistency with both a comprehensive plan and regulations. To read RCW 36.70B.970(3) as requiring consistency with a comprehensive plan under all circumstances would render superfluous or meaningless the portions of RCW 36.70B.030 and .040 which state that projects are reviewed for consistency with development regulations or, in the absence of such regulations, the comprehensive plan.

3

FCSG next argues that Code requirements mirror the State's requirement that plat applications be consistent with the comprehensive plan. FCSG first cites to a Code provision addressing the administration of land segregations—KCC 19A.08.060. This provision provides, in relevant part:

> [A]pplications for subdivisions, short subdivisions and binding site plans may be approved, approved with conditions or denied in accordance with the following adopted county and state rules, regulations, plans and policies including, but not limited to:
>
> A. Chapter 43.21C RCW (SEPA);
> B. Chapter 58.17 RCW (Subdivisions);
> C. Chapters 36.70A and 36.70B RCW (Growth Management and Project Review);
> D. K.C.C. Title 9 (Surface Water Management);
> E. K.C.C. Title 13 (Sewer and Water);
> F. K.C.C. Title 14 (Roads and Bridges);
> G. K.C.C. Title 17 (Fire Code);
> H. K.C.C. chapter 20.44 (SEPA);
> I. K.C.C. Title 21A (Zoning);
> J. K.C.C. Title 23 (Code Enforcement);
> K. Administrative rules adopted under K.C.C. chapter 2.98;

> L. King County board of health rules and regulations;
> M. King County approved utility comprehensive plans;
> N. King County Comprehensive Plan;
> O. Countywide Planning Policies; and
> P. This title.

KCC 19A.080.060. While we agree with FCSG that the K.C. Comp. Plan is one item in the list, it ignores that this Code provision simply identifies rules, regulations, plans and policies that a plat "may be approved, approved with conditions, or denied" under. Nothing in KCC 19A.080.060 mandates denial of a plat if it does not conform with every element or policy of the comprehensive plan.

FCSG next cites a Code provision addressing the function and duties of the hearing examiner—KCC 20.22.180. This provision provides:

> Examiner duties - preliminary plat. For a proposed preliminary plat, the examiner decision shall include findings as to whether:
>
> A. Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools, and school grounds, and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school; and
>
> B. The public use and interest will be served by platting the subdivision and dedication.

KCC 20.22.180. But again, nothing in this code provision requires conformity with every element or policy of the K.C. Comp. Plan. Instead it mirrors the list of topics that the hearing examiner must review under RCW 58.17.110(1). The hearing examiner conducted this review for each plat application and concluded that the public use and interest would be served.

C

In its reply brief, FCSG recognizes the holding in Citizens for Mount Vernon, 133 Wn.2d at 873, that a comprehensive plan "is a guide and not a document designed for making specific land use decisions, conflicts surrounding the appropriate use are resolved in favor of more specific regulations." But FCSG argues that unlike the situation in Citizens for Mount Vernon, multiple State laws and county code provisions required the hearing examiner to deny the plat applications because they did not conform to the comprehensive plan. FCSG relies primarily on Cingular Wireless, LLC v. Thurston County, 131 Wn. App. 756, 761, 129 P.3d 300 (2006).

Cingular involved a proposal to install a wireless communications facility (WCF) in a rural residential neighborhood. The Thurston County Code allowed WCFs as a special use, but subject to compliance with both "general" and "specific" standards. Cingular, 131 Wn. App. at 762-63. The general standards included that the proposed WCF "shall comply with the Thurston County Comprehensive Plan" and other federal, state, regional and county laws. The specific standards addressed topics such as height, setbacks, colocation with other providers, siting/screening/camouflaging, parking, and noise. Cingular, 131 Wn. App. at 763-64. While the hearing examiner found the WCF could meet the specific standards, they concluded that it conflicted with the comprehensive plan policy to "locate private utility facilities near compatible land uses" and that it would not comply with the purpose and use of the zoning district. Cingular, 131 Wn. App. at 765-66. The Board of County Commissioners and superior court agreed with the hearing examiner's denial of the special use permit. Cingular, 131 Wn. App. at 765-66.

Division Two of this court affirmed, explaining:

> To the extent a comprehensive plan prohibits a use that the zoning code permits, the use is permitted. But where, as here, the zoning code itself expressly requires that a proposed use comply with a comprehensive plan, the proposed use must satisfy both the zoning code and the comprehensive plan.

Cingular, 131 Wn. App. at 770.

Largely repeating its earlier arguments, FCSG argues that there are seven provisions of code or statute that require compliance with the comprehensive plan. FCSG's arguments fail; unlike the Thurston County code, none of the provisions cited by FCSG "expressly requires that a proposed use comply with a comprehensive plan." Cingular, 131 Wn. App. at 770.

First, RCW 58.17.100 addresses "recommendations" by the hearing examiner and "advisory" reports. Nothing in RCW 58.17.100 mandates a hearing examiner deny a plat application that it determines fails to conform to the general purpose of a comprehensive plan.

Second, RCW 36.70.970(3) requires a hearing examiner's decision to set forth how the proposal "conforms" to the comprehensive plan. When read with RCW 36.70B.030(1) and .040(1), conformity is determined by compliance with the applicable development regulations where they exist. RCW 36.70.970(3) does not "expressly require" compliance with the comprehensive plan. See also RCW 36.70.340 ("In no case shall the comprehensive plan, . . . be considered to be other than in such form as to serve as a guide to the later development and adoption of official controls"); Woods, 162 Wn.2d at 612-14 ("a proposed land use decision must only generally conform, rather than strictly conform, to the comprehensive plan").

Third, KCC 20.12.010 states in relevant part "The Comprehensive Plan shall be the principal planning document for the orderly physical development of the county and shall be used to guide subarea plans, . . . development regulations and land development decisions." On its face, KCC 20.12.010 requires only that the comprehensive plan guide land development decisions such as plat decisions. It does not expressly require plat decisions comply with the comprehensive plan.

Fourth, KCC 20.22.030 grants the hearing examiner discretion to "grant, remand, or deny the application . . . and may include any conditions, modifications, and restrictions necessary to carry out applicable laws, regulations, and adopted policies." KCC 20.22.030 is discretionary, it does not expressly require a plat application comply with the comprehensive plan.

Fifth, KCC 20.22.180 requires the hearing examiner to find that a plat application makes appropriate provisions for the public health, safety, and general welfare, and that the public use and interest will be served by approving the plat. Nothing in KCC 20.22.180 expressly requires compliance with the comprehensive plan.

Sixth, KCC 19A.080.060 grants the hearing examiner discretion to approve, approve with conditions, or deny a plat application based on a list of 16 laws and policies, including the comprehensive plan. Nothing in KCC 19A.080.060 expressly requires denial of a plat application if it does not comply with every element or policy of the comprehensive plan.

Seventh, KCC 20.08.070, defines the comprehensive plan to mean:

> the principles, goals, objectives, policies and criteria approved by the council to meet the requirements of the Washington State Growth Management Act, and,

A. As a beginning step in planning for the development of the county;
B. As the means for coordinating county programs and services;
C. As policy direction for official regulations and controls; and
D. As a means for establishing an urban/rural boundary;
E. As a means of promoting the general welfare.

While this code provision recognizes the comprehensive plan as a "means of promoting the general welfare," nothing in this provision expressly requires that plat applications comply with the comprehensive plan.

In summary, and in contrast with Cingular Wireless, FCSG fails to demonstrated that there is an express requirement that plat applications must comply with the comprehensive plan in addition to development regulations.

We conclude that while the hearing examiner was within their authority to determine the plat applications did not protect what they interpreted as the rural character, the hearing examiner did not err in approving the plat applications. The hearing examiner correctly followed Washington's land use statutes and longstanding jurisprudence in concluding that the plat applications should be approved.

We affirm.

Mann, J.

WE CONCUR:

Díaz, J.

, ACJ

APPENDIX B

RCW 36.70.650 Board final authority. The report and recommendation by the planning agency, whether on a proposed control initiated by it, whether on a matter referred back to it by the board for further report, or whether on a matter initiated by the board, shall be advisory only and the final determination shall rest with the board. [1963 c 4 s 36.70.650. Prior: 1959 c 201 s 65.]

RCW 36.70.660 Procedures for adoption of controls limited to planning matters. The provisions of this chapter with references to the procedures to be followed in the adoption of official controls shall apply only to establishing official controls pertaining to subjects set forth in RCW 36.70.560. [1963 c 4 s 36.70.660. Prior: 1959 c 201 s 66.]

RCW 36.70.670 Enforcement—Official controls. The board may determine and establish administrative rules and procedures for the application and enforcement of official controls, and may assign or delegate such administrative functions, powers and duties to such department or official as may be appropriate. [1963 c 4 s 36.70.670. Prior: 1959 c 201 s 67.]

RCW 36.70.680 Subdividing and platting. The planning agency shall review all proposed land plats and subdivisions and make recommendations to the board thereon with reference to approving, or recommending any modifications necessary to assure conformance to the general purposes of the comprehensive plan and to standards and specifications established by state law or local controls. [1963 c 4 s 36.70.680. Prior: 1959 c 201 s 68.]

RCW 36.70.970 Hearing examiner system—Adoption authorized—Alternative—Functions—Procedures. (1) As an alternative to those provisions of this chapter relating to powers or duties of the planning commission to hear and issue recommendations on applications for plat approval and applications for amendments to the zoning ordinance, the county legislative authority may adopt a hearing examiner system under which a hearing examiner or hearing examiners may hear and issue decisions on proposals for plat approval and for amendments to the zoning ordinance when the amendment which is applied for is not of general applicability. In addition, the legislative authority may vest in a hearing examiner the power to hear and decide those issues it believes should be reviewed and decided by a hearing examiner, including but not limited to:

(a) Applications for conditional uses, variances, shoreline permits, or any other class of applications for or pertaining to development of land or land use;

(b) Appeals of administrative decisions or determinations; and

(c) Appeals of administrative decisions or determinations pursuant to chapter 43.21C RCW.

The legislative authority shall prescribe procedures to be followed by a hearing examiner.

Any county which vests in a hearing examiner the authority to hear and decide conditional uses and variances shall not be required to have a zoning adjuster or board of adjustment.

(2) Each county legislative authority electing to use a hearing examiner pursuant to this section shall by ordinance specify the legal effect of the decisions made by the examiner. Such legal effect may vary for the different classes of applications decided by the examiner but shall include one of the following:

(a) The decision may be given the effect of a recommendation to the legislative authority;

(b) The decision may be given the effect of an administrative decision appealable within a specified time limit to the legislative authority; or

(c) Except in the case of a rezone, the decision may be given the effect of a final decision of the legislative authority.

(3) Each final decision of a hearing examiner shall be in writing and shall include findings and conclusions, based on the record, to support the decision. Such findings and conclusions shall also set forth the manner in which the decision would carry out and conform to the county's comprehensive plan and the county's development regulations. Each final decision of a hearing examiner, unless a longer period is mutually agreed to in writing by the applicant and the hearing examiner, shall be rendered within ten working days following conclusion of all testimony and hearings. [1995 c 347 s 425; 1994 c 257 s 9; 1977 ex.s. c 213 s 3.]

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

Severability—1994 c 257: See note following RCW 36.70A.270.

Severability—1977 ex.s. c 213: See note following RCW 35.63.130.

RCW 36.70A.010 Legislative findings. The legislature finds that uncoordinated and unplanned growth, together with a lack of common goals expressing the public's interest in the conservation and the wise use of our lands, pose a threat to the environment, sustainable economic development, and the health, safety, and high quality of life enjoyed by residents of this state. It is in the public interest that citizens, communities, local governments, and the private sector cooperate and coordinate with one another in comprehensive land use planning. Further, the legislature finds that it is in the public interest that economic development programs be shared with communities experiencing insufficient economic growth. [1990 1st ex.s. c 17 s 1.]

RCW 36.70A.011 Findings—Rural lands. The legislature finds that this chapter is intended to recognize the importance of rural lands and rural character to Washington's economy, its people, and its environment, while respecting regional differences. Rural lands and rural-based economies enhance the economic desirability of the state, help to preserve traditional economic activities, and contribute to the state's overall quality of life.

The legislature finds that to retain and enhance the job base in rural areas, rural counties must have flexibility to create opportunities for business development. Further, the legislature finds that rural counties must have the flexibility to retain existing businesses and allow them to expand. The legislature recognizes that not all business developments in rural counties require an urban level of services; and that many businesses in rural areas fit within the definition of rural character identified by the local planning unit.

Finally, the legislature finds that in defining its rural element under RCW 36.70A.070(5), a county should foster land use patterns and develop a local vision of rural character that will: Help preserve rural-based economies and traditional rural lifestyles; encourage the economic prosperity of rural residents; foster opportunities for small-scale, rural-based employment and self-employment; permit the operation of rural-based agricultural, commercial, recreational, and tourist businesses that are consistent with existing and planned land use patterns; be compatible with the use of the land by wildlife and for fish and wildlife habitat; foster the private stewardship of the land and preservation of open space; and enhance the rural sense of community and quality of life. [2002 c 212 s 1.]

RCW 36.70A.020 Planning goals. The following goals are adopted to guide the development and adoption of comprehensive plans and development regulations of those counties and cities that are required or choose to plan under RCW 36.70A.040 and, where specified, also guide the development of regional policies, plans, and strategies adopted under RCW 36.70A.210 and chapter 47.80 RCW. The following goals are not listed in order of priority and shall be used exclusively for the purpose of guiding the development of comprehensive plans, development regulations, and, where specified, regional plans, policies, and strategies:

(1) Urban growth. Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.

(2) Reduce sprawl. Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.

(3) Transportation. Encourage efficient multimodal transportation systems that will reduce greenhouse gas emissions and per capita vehicle miles traveled, and are based on regional priorities and coordinated with county and city comprehensive plans.

(4) Housing. Plan for and accommodate housing affordable to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.

(5) Economic development. Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.

(6) Property rights. Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions.

(7) Permits. Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.

(8) Natural resource industries. Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forestlands and productive agricultural lands, and discourage incompatible uses.

(9) Open space and recreation. Retain open space and green space, enhance recreational opportunities, enhance fish and wildlife habitat, increase access to natural resource lands and water, and develop parks and recreation facilities.

(10) Environment. Protect and enhance the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.

(11) Citizen participation and coordination. Encourage the involvement of citizens in the planning process, including the participation of vulnerable populations and overburdened communities, and ensure coordination between communities and jurisdictions to reconcile conflicts.

(12) Public facilities and services. Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.

(13) Historic preservation. Identify and encourage the preservation of lands, sites, and structures, that have historical or archaeological significance.

(14) Climate change and resiliency. Ensure that comprehensive plans, development regulations, and regional policies, plans, and strategies under RCW 36.70A.210 and chapter 47.80 RCW adapt to and mitigate the effects of a changing climate; support reductions in greenhouse gas emissions and per capita vehicle miles traveled; prepare for climate impact scenarios; foster resiliency to climate impacts and natural hazards; protect and enhance environmental, economic, and human health and safety; and advance environmental justice.

(15) Shorelines of the state. For shorelines of the state, the goals and policies of the shoreline management act as set forth in RCW 90.58.020 shall be considered an element of the county's or city's comprehensive plan. [2023 c 228 s 1; 2021 c 254 s 1; 2002 c 154 s 1; 1990 1st ex.s. c 17 s 2.]

For a 14th goal: See RCW 36.70A.480.

RCW 36.70A.030 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Active transportation" means forms of pedestrian mobility including walking or running, the use of a mobility assistive device such as a wheelchair, bicycling and cycling irrespective of the number of wheels, and the use of small personal devices such as foot scooters or skateboards. Active transportation includes both traditional and electric assist bicycles and other devices. Planning for active transportation must consider and address accommodation pursuant to the Americans with disabilities act and the distinct needs of each form of active transportation.

(2) "Active transportation facilities" means facilities provided for the safety and mobility of active transportation users including, but not limited to, trails, as defined in RCW 47.30.005, sidewalks, bike lanes, shared-use paths, and other facilities in the public right-of-way.

(3) "Administrative design review" means a development permit process whereby an application is reviewed, approved, or denied by the planning director or the planning director's designee based solely on objective design and development standards without a public predecision hearing, unless such review is otherwise required by state or federal law, or the structure is a designated landmark or historic district established under a local preservation ordinance. A city may utilize public meetings, hearings, or voluntary review boards to consider, recommend, or approve requests for variances from locally established design review standards.

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

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

(a) For rental housing, 60 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development; or

(b) For owner-occupied housing, 80 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

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

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

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

(9) "Cottage housing" means residential units on a lot with a common open space that either: (a) Is owned in common; or (b) has

units owned as condominium units with property owned in common and a minimum of 20 percent of the lot size as open space.

(10) "Courtyard apartments" means attached dwelling units arranged on two or three sides of a yard or court.

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

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

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

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

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

(16) "Environmental justice" means the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to development, implementation, and enforcement of environmental laws, regulations, and policies. Environmental justice includes addressing disproportionate environmental and health impacts in all laws, rules, and policies with environmental impacts by prioritizing vulnerable populations and overburdened communities and the equitable distribution of resources and benefits.

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

(18) "Forestland" means land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under *RCW 84.33.100 through 84.33.140, and that has long-term commercial significance. In determining whether forestland is primarily devoted to growing trees

for long-term commercial timber production on land that can be economically and practically managed for such production, the following factors shall be considered: (a) The proximity of the land to urban, suburban, and rural settlements; (b) surrounding parcel size and the compatibility and intensity of adjacent and nearby land uses; (c) long-term local economic conditions that affect the ability to manage for timber production; and (d) the availability of public facilities and services conducive to conversion of forestland to other uses.

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

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

(21) "Green infrastructure" means a wide array of natural assets and built structures within an urban growth area boundary, including parks and other areas with protected tree canopy, and management practices at multiple scales that manage wet weather and that maintain and restore natural hydrology by storing, infiltrating, evapotranspiring, and harvesting and using stormwater.

(22) "Green space" means an area of land, vegetated by natural features such as grass, trees, or shrubs, within an urban context and less than one acre in size that creates public value through one or more of the following attributes:

(a) Is accessible to the public;

(b) Promotes physical and mental health of residents;

(c) Provides relief from the urban heat island effects;

(d) Promotes recreational and aesthetic values;

(e) Protects streams or water supply; or

(f) Preserves visual quality along highway, road, or street corridors.

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

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

(25) "Major transit stop" means:

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

(b) Commuter rail stops;

(c) Stops on rail or fixed guideway systems; or

(d) Stops on bus rapid transit routes, including those stops that are under construction.

(26) "Middle housing" means buildings that are compatible in scale, form, and character with single-family houses and contain two or more attached, stacked, or clustered homes including duplexes, triplexes, fourplexes, fiveplexes, sixplexes, townhouses, stacked flats, courtyard apartments, and cottage housing.

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

(28) "Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below 120 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(29) "Overburdened community" means a geographic area where vulnerable populations face combined, multiple environmental harms and health impacts, and includes, but is not limited to, highly impacted communities as defined in RCW 19.405.020.

(30) "Per capita vehicle miles traveled" means the number of miles traveled using cars and light trucks in a calendar year divided by the number of residents in Washington. The calculation of this value excludes vehicle miles driven conveying freight.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(39) "Single-family zones" means those zones where single-family detached housing is the predominant land use.

(40) "Stacked flat" means dwelling units in a residential building of no more than three stories on a residential zoned lot in which each floor may be separately rented or owned.

(41) "Townhouses" means buildings that contain three or more attached single-family dwelling units that extend from foundation to roof and that have a yard or public way on not less than two sides.

(42) "Transportation system" means all infrastructure and services for all forms of transportation within a geographical area, irrespective of the responsible jurisdiction or transportation provider.

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

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

services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

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

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

(47)(a) "Vulnerable populations" means population groups that are more likely to be at higher risk for poor health outcomes in response to environmental harms, due to: (i) Adverse socioeconomic factors, such as unemployment, high housing and transportation costs relative to income, limited access to nutritious food and adequate health care, linguistic isolation, and other factors that negatively affect health outcomes and increase vulnerability to the effects of environmental harms; and (ii) sensitivity factors, such as low birth weight and higher rates of hospitalization.

(b) "Vulnerable populations" includes, but is not limited to:

(i) Racial or ethnic minorities;

(ii) Low-income populations; and

(iii) Populations disproportionately impacted by environmental harms.

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

(49) "Wildland urban interface" means the geographical area where structures and other human development meets or intermingles with wildland vegetative fuels. [2024 c 152 s 1. Prior: 2023 c 332 s 2; 2023 c 228 s 14; 2021 c 254 s 6; 2020 c 173 s 4; prior: 2019 c 348 s 2; 2017 3rd sp.s. c 18 s 2; 2012 c 21 s 1; prior: 2009 c 565 s 22; 2005 c 423 s 2; 1997 c 429 s 3; 1995 c 382 s 9; prior: 1994 c 307 s 2; 1994 c 257 s 5; 1990 1st ex.s. c 17 s 3.]

Reviser's note: *(1) RCW 84.33.100 through 84.33.118 were repealed or decodified by 2001 c 249 ss 15 and 16. RCW 84.33.120 was repealed by 2001 c 249 s 16 and by 2003 c 170 s 7.

**(2) RCW 36.70A.1701 expired June 30, 2006.

Finding—2023 c 332: See note following RCW 36.70A.635.

Finding—2017 3rd sp.s. c 18: "The legislature recognizes that it enacted the rail preservation program because railroads provide benefits to state and local jurisdictions that are valuable to

economic development, highway safety, and the environment. The Washington state freight mobility plan includes the goal of supporting rural economies farm-to-market, manufacturing, and resource industry sectors. The plan makes clear that ensuring the availability of rail capacity is vital to meeting the future needs of the Puget Sound region. Rail-served industrial sites are a necessary part of a thriving freight mobility system, and are a key means of assuring that food and goods from rural areas are able to make it to people living in urban areas and international markets. Planned and effective access to railroad services is a pivotal aspect of transportation planning. The legislature affirms that it is in the public interest to allow economic development infrastructure to occur near rail lines as a means to alleviate strains on government infrastructure elsewhere. Therefore, the legislature finds that there is a need for counties and cities to improve their planning under the growth management act to provide much needed infrastructure for freight rail dependent uses adjacent to railroad lines." [2017 3rd sp.s. c 18 s 1.]

Intent—2005 c 423: "The legislature recognizes the need for playing fields and supporting facilities for sports played on grass as well as the need to preserve agricultural land of long-term commercial significance. With thoughtful and deliberate planning, and adherence to the goals and requirements of the growth management act, both needs can be met.

The legislature acknowledges the state's interest in preserving the agricultural industry and family farms, and recognizes that the state's rich and productive lands enable agricultural production. Because of its unique qualities and limited quantities, designated agricultural land of long-term commercial significance is best suited for agricultural and farm uses, not recreational uses.

The legislature acknowledges also that certain local governments have either failed or neglected to properly plan for population growth and the sufficient number of playing fields and supporting facilities needed to accommodate this growth. The legislature recognizes that citizens responded to this lack of planning, fields, and supporting facilities by constructing nonconforming fields and facilities on agricultural lands of long-term commercial significance. It is the intent of the legislature to permit the continued existence and use of these fields and facilities in very limited circumstances if specific criteria are satisfied within a limited time frame. It is also the intent of the legislature to grant this authorization without diminishing the designation and preservation requirements of the growth management act pertaining to Washington's invaluable farmland." [2005 c 423 s 1.]

Effective date--2005 c 423: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 12, 2005]." [2005 c 423 s 7.]

Prospective application—1997 c 429 ss 1-21: See note following RCW 36.70A.3201.

Severability—1997 c 429: See note following RCW 36.70A.3201.

Finding—Intent—1994 c 307: "The legislature finds that it is in the public interest to identify and provide long-term conservation of those productive natural resource lands that are critical to and can be managed economically and practically for long-term commercial production of food, fiber, and minerals. Successful achievement of the natural resource industries' goal set forth in RCW 36.70A.020 requires the conservation of a land base sufficient in size and quality to maintain and enhance those industries and the development and use of land use techniques that discourage uses incompatible to the management of designated lands. The 1994 amendment to RCW 36.70A.030(8) (section 2(8), chapter 307, Laws of 1994) is intended to clarify legislative intent regarding the designation of forestlands and is not intended to require every county that has already complied with the interim forestland designation requirement of RCW 36.70A.170 to review its actions until the adoption of its comprehensive plans and development regulations as provided in RCW 36.70A.060(3)." [1994 c 307 s 1.]

Effective date—1994 c 257 s 5: "Section 5 of this act shall take effect July 1, 1994." [1994 c 257 s 25.]

Severability—1994 c 257: See note following RCW 36.70A.270.

RCW 36.70A.040 Who must plan—Summary of requirements—Resolution for partial planning—Development regulations must implement comprehensive plans—Tribal participation. (1) Each county that has both a population of fifty thousand or more and, until May 16, 1995, has had its population increase by more than ten percent in the previous ten years or, on or after May 16, 1995, has had its population increase by more than seventeen percent in the previous ten years, and the cities located within such county, and any other county regardless of its population that has had its population increase by more than twenty percent in the previous ten years, and the cities located within such county, shall conform with all of the requirements of this chapter. However, the county legislative authority of such a county with a population of less than fifty thousand population may adopt a resolution removing the county, and the cities located within the county, from the requirements of adopting comprehensive land use plans and development regulations under this chapter if this resolution is adopted and filed with the department by December 31, 1990, for counties initially meeting this set of criteria, or within sixty days of the date the office of financial management certifies that a county meets this set of criteria under subsection (5) of this section. For the purposes of this subsection, a county not currently planning under this chapter is not required to include in its population count those persons confined in a correctional facility under the jurisdiction of the department of corrections that is located in the county.

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

(2)(a) The county legislative authority of any county that does not meet either of the sets of criteria established under subsection (1) of this section may adopt a resolution indicating its intention to have subsection (1) of this section apply to the county. Each city, located in a county that chooses to plan under this subsection, shall conform with all of the requirements of this chapter. Once such a resolution has been adopted, the county and the cities located within the county remain subject to all of the requirements of this chapter, unless the county subsequently adopts a withdrawal resolution for partial planning pursuant to (b)(i) of this subsection.

(b)(i) Until December 31, 2015, the legislative authority of a county may adopt a resolution removing the county and the cities located within the county from the requirements to plan under this section if:

(A) The county has a population, as estimated by the office of financial management, of twenty thousand or fewer inhabitants at any time between April 1, 2010, and April 1, 2015;

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

(C) At least sixty days prior to adopting a resolution for partial planning, the county provides written notification to the legislative body of each city within the county of its intent to consider adopting the resolution; and

(D) The legislative bodies of at least sixty percent of those cities having an aggregate population of at least seventy-five percent of the incorporated county population have not: Adopted resolutions

opposing the action by the county; and provided written notification of the resolutions to the county.

(ii) Upon adoption of a resolution for partial planning under (b)(i) of this subsection:

(A) The county and the cities within the county are, except as provided otherwise, no longer obligated to plan under this section; and

(B) The county may not, for a minimum of ten years from the date of adoption of the resolution, adopt another resolution indicating its intention to have subsection (1) of this section apply to the county.

(c) The adoption of a resolution for partial planning under (b)(i) of this subsection does not nullify or otherwise modify the requirements for counties and cities established in RCW 36.70A.060, 36.70A.070(5) and associated development regulations, 36.70A.170, and 36.70A.172.

(3) Any county or city that is initially required to conform with all of the requirements of this chapter under subsection (1) of this section shall take actions under this chapter as follows: (a) The county legislative authority shall adopt a countywide planning policy under RCW 36.70A.210; (b) the county and each city located within the county shall designate critical areas, agricultural lands, forestlands, and mineral resource lands, and adopt development regulations conserving these designated agricultural lands, forestlands, and mineral resource lands and protecting these designated critical areas, under RCW 36.70A.170 and 36.70A.060; (c) the county shall designate and take other actions related to urban growth areas under RCW 36.70A.110; and (d) if the county has a population of fifty thousand or more, the county and each city located within the county shall adopt a comprehensive plan under this chapter and development regulations that are consistent with and implement the comprehensive plan on or before July 1, 1994, and if the county has a population of less than fifty thousand, the county and each city located within the county shall adopt a comprehensive plan under this chapter and development regulations that are consistent with and implement the comprehensive plan by January 1, 1995, but if the governor makes written findings that a county with a population of less than fifty thousand or a city located within such a county is not making reasonable progress toward adopting a comprehensive plan and development regulations the governor may reduce this deadline for such actions to be taken by no more than one hundred eighty days. Any county or city subject to this subsection may obtain an additional six months before it is required to have adopted its development regulations by submitting a letter notifying the department of its need prior to the deadline for adopting both a comprehensive plan and development regulations.

(4) Any county or city that is required to conform with all the requirements of this chapter, as a result of the county legislative authority adopting its resolution of intention under subsection (2) of this section, shall take actions under this chapter as follows: (a) The county legislative authority shall adopt a countywide planning policy under RCW 36.70A.210; (b) the county and each city that is located within the county shall adopt development regulations conserving agricultural lands, forestlands, and mineral resource lands it designated under RCW 36.70A.060 within one year of the date the county legislative authority adopts its resolution of intention; (c) the county shall designate and take other actions related to urban growth areas under RCW 36.70A.110; and (d) the county and each city

that is located within the county shall adopt a comprehensive plan and development regulations that are consistent with and implement the comprehensive plan not later than four years from the date the county legislative authority adopts its resolution of intention, but a county or city may obtain an additional six months before it is required to have adopted its development regulations by submitting a letter notifying the department of its need prior to the deadline for adopting both a comprehensive plan and development regulations.

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

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

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

(8) A federally recognized Indian tribe may voluntarily choose to participate in the county or regional planning process and coordinate with the county and cities that are either required to comply with the provisions of this chapter pursuant to subsection (1) of this section or voluntarily choose to comply with the provisions of this chapter pursuant to subsection (2) of this section. Collaboration and participation is a nonexclusive exercise of coordination and cooperation in the planning process and failure to exercise discretionary collaboration and participation shall not limit a party's standing for quasi-judicial or judicial review or appeal under this chapter.

(a) Upon receipt of notice in the form of a tribal resolution from a federally recognized Indian tribe whose reservation or ceded lands lie within the county, which indicates the tribe has a planning process or intends to initiate a parallel planning process, the county, cities, and other local governments conducting the planning under this chapter shall enter into good faith negotiations to develop a mutually agreeable memorandum of agreement with such tribes in regard to collaboration and participation in the planning process. If

a mutually agreeable memorandum of agreement cannot be reached between the local government and such tribes, the local government shall enter mediation with such tribes for a period not to exceed 30 days, which shall be arranged by the department using a suitable expert to be paid by the department. If a mutually agreeable memorandum of agreement is not reached at the conclusion of the mediation period, the period shall be extended for one additional period not to exceed 30 days, upon written notice to the department by one or more parties. If a mutually agreeable memorandum of agreement cannot be reached at the end of the mediation period or the extended mediation period, the parties shall have no further obligation to develop a memorandum of agreement. Inability to reach a mutually agreeable memorandum of agreement shall not preclude a tribe from providing notice as described in this subsection (8)(a) in subsequent planning processes.

(b) Nothing in this subsection, any other provision in this chapter, or a tribe's decision to become a participating tribe for planning purposes, shall affect, alter, or limit in any way a tribe's authority, jurisdiction, or any treaty or other rights it may have by virtue of its status as a sovereign Indian tribe.

(c) Nothing in this subsection or any other provision in this chapter shall affect, alter, or limit in any way a local government legislative body's authority to adopt and amend comprehensive land use plans and development regulations in accordance with this chapter. [2022 c 252 s 1; 2014 c 147 s 1; 2000 c 36 s 1; 1998 c 171 s 1; 1995 c 400 s 1; 1993 sp.s. c 6 s 1; 1990 1st ex.s. c 17 s 4.]

Effective date—1995 c 400: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 16, 1995]." [1995 c 400 s 6.]

Effective date—1993 sp.s. c 6: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect June 1, 1993." [1993 sp.s. c 6 s 7.]

RCW 36.70A.070 Comprehensive plans—Mandatory elements. The comprehensive plan of a county or city that is required or chooses to plan under RCW 36.70A.040 shall consist of a map or maps, and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The plan shall be an internally consistent document and all elements shall be consistent with the future land use map. A comprehensive plan shall be adopted and amended with public participation as provided in RCW 36.70A.140. Each comprehensive plan shall include a plan, scheme, or design for each of the following:

(1) A land use element designating the proposed general distribution and general location and extent of the uses of land, where appropriate, for agriculture, timber production, housing, commerce, industry, recreation, open spaces and green spaces, urban and community forests within the urban growth area, general aviation airports, public utilities, public facilities, and other land uses. The land use element shall include population densities, building intensities, and estimates of future population growth. The land use element shall provide for protection of the quality and quantity of groundwater used for public water supplies. The land use element must give special consideration to achieving environmental justice in its goals and policies, including efforts to avoid creating or worsening environmental health disparities. Wherever possible, the land use element should consider utilizing urban planning approaches that promote physical activity and reduce per capita vehicle miles traveled within the jurisdiction, but without increasing greenhouse gas emissions elsewhere in the state. Where applicable, the land use element shall review drainage, flooding, and stormwater runoff in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound. The land use element must reduce and mitigate the risk to lives and property posed by wildfires by using land use planning tools, which may include, but are not limited to, adoption of portions or all of the wildland urban interface code developed by the international code council or developing building and maintenance standards consistent with the firewise USA program or similar program designed to reduce wildfire risk, reducing wildfire risks to residential development in high risk areas and the wildland urban interface area, separating human development from wildfire prone landscapes, and protecting existing residential development and infrastructure through community wildfire preparedness and fire adaptation measures.

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

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

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

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

(b) Includes a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including single-family residences, and within

an urban growth area boundary, moderate density housing options including, but not limited to, duplexes, triplexes, and townhomes;

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

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

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

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

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

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

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

(i) Zoning that may have a discriminatory effect;

(ii) Disinvestment; and

(iii) Infrastructure availability;

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

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

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

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

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

(3) A capital facilities plan element consisting of: (a) An inventory of existing capital facilities owned by public entities,

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

The county or city shall identify all public entities that own capital facilities and endeavor in good faith to work with other public entities, such as special purpose districts, to gather and include within its capital facilities element the information required by this subsection. If, after a good faith effort, the county or city is unable to gather the information required by this subsection from the other public entities, the failure to include such information in its capital facilities element cannot be grounds for a finding of noncompliance or invalidity under chapter 228, Laws of 2023. A good faith effort must, at a minimum, include consulting the public entity's capital facility or system plans and emailing and calling the staff of the public entity.

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

(b) The county or city shall identify all public entities that own utility systems and endeavor in good faith to work with other public entities, such as special purpose districts, to gather and include within its utilities element the information required in (a) of this subsection. However, if, after a good faith effort, the county or city is unable to gather the information required in (a) of this subsection from the other public entities, the failure to include such information in the utilities element shall not be grounds for a finding of noncompliance or invalidity under chapter 228, Laws of 2023. A good faith effort must, at a minimum, include consulting the public entity's capital facility or system plans, and emailing and calling the staff of the public entity.

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

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

(b) Rural development. The rural element shall permit rural development, forestry, and agriculture in rural areas. The rural element shall provide for a variety of rural densities, uses, essential public facilities, and rural governmental services needed to serve the permitted densities and uses. To achieve a variety of rural densities and uses, counties may provide for clustering, density transfer, design guidelines, conservation easements, and other

innovative techniques that will accommodate appropriate rural economic advancement, densities, and uses that are not characterized by urban growth and that are consistent with rural character.

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

(i) Containing or otherwise controlling rural development;

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

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

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

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

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

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

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

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

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

(I) Any included retail or food service space must not exceed the footprint of previously occupied space or 5,000 square feet, whichever is greater, for the same or similar use, unless the retail space is for an essential rural retail service and the designated limited area is located at least 10 miles from an existing urban growth area, then the retail space must not exceed the footprint of the previously occupied space or 10,000 square feet, whichever is greater; and

(II) Any included retail or food service space must not exceed 2,500 square feet for a new use, unless the new retail space is for an essential rural retail service and the designated limited area is located at least 10 miles from an existing urban growth area, then the new retail space must not exceed 10,000 square feet;

For the purposes of this subsection (5)(d), "essential rural retail services" means services including grocery, pharmacy, hardware, automotive parts, and similar uses that sell or provide products necessary for health and safety, such as food, medication, sanitation supplies, and products to maintain habitability and mobility;

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

(iii) The intensification of development on lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses that are not principally designed to serve the existing and projected rural population and nonresidential uses, but do provide job opportunities for rural residents. Rural counties may allow the expansion of small-scale businesses as long as those small-scale businesses conform with the rural character of the area as defined by the local government according to RCW 36.70A.030(35). Rural counties may also allow new small-scale businesses to utilize a site previously occupied by an existing business as long as the new small-scale business conforms to the rural character of the area as defined by the local government according to RCW 36.70A.030(35). Public services and public facilities shall be limited to those necessary to serve the isolated nonresidential use and shall be provided in a manner that does not permit low-density sprawl;

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

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

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

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

(C) On the date the office of financial management certifies the county's population as provided in RCW 36.70A.040(5), in a county that

is planning under all of the provisions of this chapter pursuant to RCW 36.70A.040(5).

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

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

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

(i) Land use assumptions used in estimating travel;

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

(iii) Facilities and services needs, including:

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

(B) Multimodal level of service standards for all locally owned arterials, locally and regionally operated transit routes that serve urban growth areas, state-owned or operated transit routes that serve urban areas if the department of transportation has prepared such standards, and active transportation facilities to serve as a gauge to judge performance of the system and success in helping to achieve the goals of this chapter consistent with environmental justice. These standards should be regionally coordinated;

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

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

(E) Forecasts of multimodal transportation demand and needs within cities and urban growth areas, and forecasts of multimodal transportation demand and needs outside of cities and urban growth areas, for at least ten years based on the adopted land use plan to inform the development of a transportation element that balances transportation system safety and convenience to accommodate all users of the transportation system to safely, reliably, and efficiently provide access and mobility to people and goods. Priority must be

given to inclusion of transportation facilities and services providing the greatest multimodal safety benefit to each category of roadway users for the context and speed of the facility;

(F) Identification of state and local system needs to equitably meet current and future demands. Identified needs on state-owned transportation facilities must be consistent with the statewide multimodal transportation plan required under chapter 47.06 RCW. Local system needs should reflect the regional transportation system and local goals, and strive to equitably implement the multimodal network;

(G) A transition plan for transportation as required in Title II of the Americans with disabilities act of 1990 (ADA). As a necessary step to a program access plan to provide accessibility under the ADA, state and local government, public entities, and public agencies are required to perform self-evaluations of their current facilities, relative to accessibility requirements of the ADA. The agencies are then required to develop a program access plan, which can be called a transition plan, to address any deficiencies. The plan is intended to achieve the following:

(I) Identify physical obstacles that limit the accessibility of facilities to individuals with disabilities;

(II) Describe the methods to be used to make the facilities accessible;

(III) Provide a schedule for making the access modifications; and

(IV) Identify the public officials responsible for implementation of the transition plan;

(iv) Finance, including:

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

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

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

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

(vi) Demand-management strategies;

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

(b) After adoption of the comprehensive plan by jurisdictions required to plan or who choose to plan under RCW 36.70A.040, local jurisdictions must adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a locally owned or locally or regionally operated transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made

concurrent with the development. These strategies may include active transportation facility improvements, increased or enhanced public transportation service, ride-sharing programs, demand management, and other transportation systems management strategies. For the purposes of this subsection (6), "concurrent with the development" means that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years. If the collection of impact fees is delayed under RCW 82.02.050(3), the six-year period required by this subsection (6)(b) must begin after full payment of all impact fees is due to the county or city. A development proposal may not be denied for causing the level of service on a locally owned or locally or regionally operated transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan where such impacts could be adequately mitigated through active transportation facility improvements, increased or enhanced public transportation service, ride-sharing programs, demand management, or other transportation systems management strategies funded by the development.

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

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

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

(9)(a) A climate change and resiliency element that is designed to result in reductions in overall greenhouse gas emissions and that must enhance resiliency to and avoid the adverse impacts of climate change, which must include efforts to reduce localized greenhouse gas emissions and avoid creating or worsening localized climate impacts to vulnerable populations and overburdened communities.

(b) The climate change and resiliency element shall include the following subelements:

(i) A greenhouse gas emissions reduction subelement;

(ii) A resiliency subelement.

(c) The greenhouse gas emissions reduction subelement of the climate change and resiliency element is mandatory for the jurisdictions specified in RCW 36.70A.095 and is encouraged for all other jurisdictions, including those planning under RCW 36.70A.040 and those planning under chapter 36.70 RCW. The resiliency subelement of the climate change and resiliency element is mandatory for all jurisdictions planning under RCW 36.70A.040 and is encouraged for those jurisdictions planning under chapter 36.70 RCW.

(d)(i) The greenhouse gas emissions reduction subelement of the comprehensive plan, and its related development regulations, must

identify the actions the jurisdiction will take during the planning cycle consistent with the guidelines published by the department pursuant to RCW 70A.45.120 that will:

(A) Result in reductions in overall greenhouse gas emissions generated by transportation and land use within the jurisdiction but without increasing greenhouse gas emissions elsewhere in the state;

(B) Result in reductions in per capita vehicle miles traveled within the jurisdiction but without increasing greenhouse gas emissions elsewhere in the state; and

(C) Prioritize reductions that benefit overburdened communities in order to maximize the cobenefits of reduced air pollution and environmental justice.

(ii) Actions not specifically identified in the guidelines developed by the department pursuant to RCW 70A.45.120 may be considered consistent with these guidelines only if:

(A) They are projected to achieve greenhouse gas emissions reductions or per capita vehicle miles traveled reductions equivalent to what would be required of the jurisdiction under the guidelines adopted by the department; and

(B) They are supported by scientifically credible projections and scenarios that indicate their adoption is likely to result in reductions of greenhouse gas emissions or per capita vehicle miles traveled.

(iii) A jurisdiction may not restrict population growth or limit population allocation in order to achieve the requirements set forth in this subsection (9)(d).

(e)(i) The resiliency subelement must equitably enhance resiliency to, and avoid or substantially reduce the adverse impacts of, climate change in human communities and ecological systems through goals, policies, and programs consistent with the best available science and scientifically credible climate projections and impact scenarios that moderate or avoid harm, enhance the resiliency of natural and human systems, and enhance beneficial opportunities. The resiliency subelement must prioritize actions that benefit overburdened communities that will disproportionately suffer from compounding environmental impacts and will be most impacted by natural hazards due to climate change. Specific goals, policies, and programs of the resiliency subelement must include, but are not limited to, those designed to:

(A) Identify, protect, and enhance natural areas to foster resiliency to climate impacts, as well as areas of vital habitat for safe passage and species migration;

(B) Identify, protect, and enhance community resiliency to climate change impacts, including social, economic, and built environment factors, that support adaptation to climate impacts consistent with environmental justice; and

(C) Address natural hazards created or aggravated by climate change, including sea level rise, landslides, flooding, drought, heat, smoke, wildfire, and other effects of changes to temperature and precipitation patterns.

(ii) A natural hazard mitigation plan or similar plan that is guided by RCW 36.70A.020(14), that prioritizes actions that benefit overburdened communities, and that complies with the applicable requirements of this chapter, including the requirements set forth in this subsection (9)(e), may be adopted by reference to satisfy these requirements, except that to the extent any of the substantive requirements of this subsection (9)(e) are not addressed, or are

inadequately addressed, in the referenced natural hazard mitigation plan, a county or city must supplement the natural hazard mitigation plan accordingly so that the adopted resiliency subelement complies fully with the substantive requirements of this subsection (9)(e).

(A) If a county or city intends to adopt by reference a federal emergency management agency natural hazard mitigation plan in order to meet all or part of the substantive requirements set forth in this subsection (9)(e), and the most recently adopted federal emergency management agency natural hazard mitigation plan does not comply with the requirements of this subsection (9)(e), the department may grant the county or city an extension of time in which to submit a natural hazard mitigation plan.

(B) Eligibility for an extension under this subsection prior to July 1, 2027, is limited to a city or county required to review and, if needed, revise its comprehensive plan on or before June 30, 2025, as provided in RCW 36.70A.130, or for a city or county with an existing, unexpired federal emergency management agency natural hazard mitigation plan scheduled to expire before December 31, 2024.

(C) Extension requests after July 1, 2027, may be granted if requirements for the resiliency subelement are amended or added by the legislature or if the department finds other circumstances that may result in a potential finding of noncompliance with a jurisdiction's existing and approved federal emergency management agency natural hazard mitigation plan.

(D) A city or county that wishes to request an extension of time must submit a request in writing to the department no later than the date on which the city or county is required to review and, if needed, revise its comprehensive plan as provided in RCW 36.70A.130.

(E) Upon the submission of such a request to the department, the city or county may have an additional 48 months from the date provided in RCW 36.70A.130 in which to either adopt by reference an updated federal emergency management agency natural hazard mitigation plan or adopt its own natural hazard mitigation plan, and to then submit that plan to the department.

(F) The adoption of ordinances, amendments to comprehensive plans, amendments to development regulations, and other nonproject actions taken by a county or city pursuant to (d) of this subsection in order to implement measures specified by the department pursuant to RCW 70A.45.120 are not subject to administrative or judicial appeal under chapter 43.21C RCW.

(10) It is the intent that new or amended elements required after January 1, 2002, be adopted concurrent with the scheduled update provided in RCW 36.70A.130. Requirements to incorporate any such new or amended elements shall be null and void until funds sufficient to cover applicable local government costs are appropriated and distributed by the state at least two years before local government must update comprehensive plans as required in RCW 36.70A.130. [2024 c 135 s 1; 2023 c 228 s 3. Prior: 2022 c 246 s 2; 2022 c 220 s 1; 2021 c 254 s 2; prior: 2017 3rd sp.s. c 18 s 4; 2017 3rd sp.s. c 16 s 4; 2017 c 331 s 2; 2015 c 241 s 2; 2010 1st sp.s. c 26 s 6; 2005 c 360 s 2; (2005 c 477 s 1 expired August 31, 2005); 2004 c 196 s 1; 2003 c 152 s 1; prior: 2002 c 212 s 2; 2002 c 154 s 2; 1998 c 171 s 2; 1997 c 429 s 7; 1996 c 239 s 1; prior: 1995 c 400 s 3; 1995 c 377 s 1; 1990 1st ex.s. c 17 s 7.]

Finding—2017 3rd sp.s. c 18: See note following RCW 36.70A.030.

Short title—2017 c 331: "This act may be known and cited as the economic revitalization act." [2017 c 331 s 1.]

Effective date—2015 c 241: See note following RCW 82.02.050.

Expiration date—2005 c 477 s 1: "Section 1 of this act expires August 31, 2005." [2005 c 477 s 3.]

Effective date—2005 c 477: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 13, 2005]." [2005 c 477 s 2.]

Findings—Intent—2005 c 360: "The legislature finds that regular physical activity is essential to maintaining good health and reducing the rates of chronic disease. The legislature further finds that providing opportunities for walking, biking, horseback riding, and other regular forms of exercise is best accomplished through collaboration between the private sector and local, state, and institutional policymakers. This collaboration can build communities where people find it easy and safe to be physically active. It is the intent of the legislature to promote policy and planning efforts that increase access to inexpensive or free opportunities for regular exercise in all communities around the state." [2005 c 360 s 1.]

Prospective application—1997 c 429 ss 1-21: See note following RCW 36.70A.3201.

Severability—1997 c 429: See note following RCW 36.70A.3201.

Construction—Application—1995 c 400: "A comprehensive plan adopted or amended before May 16, 1995, shall be considered to be in compliance with RCW 36.70A.070 or 36.70A.110, as in effect before their amendment by this act, if the comprehensive plan is in compliance with RCW 36.70A.070 and 36.70A.110 as amended by this act. This section shall not be construed to alter the relationship between a countywide planning policy and comprehensive plans as specified under RCW 36.70A.210.

As to any appeal relating to compliance with RCW 36.70A.070 or 36.70A.110 pending before a growth management hearings board on May 16, 1995, the board may take up to an additional ninety days to resolve such appeal. By mutual agreement of all parties to the appeal, this additional ninety-day period may be extended." [1995 c 400 s 4.]

Effective date—1995 c 400: See note following RCW 36.70A.040.

RCW 36.70A.210 Countywide planning policies. (1) The legislature recognizes that counties are regional governments within their boundaries, and cities are primary providers of urban governmental services within urban growth areas. For the purposes of this section, a "countywide planning policy" is a written policy statement or statements used solely for establishing a countywide framework from which county and city comprehensive plans are developed and adopted pursuant to this chapter. This framework shall ensure that city and county comprehensive plans are consistent as required in RCW 36.70A.100. Nothing in this section shall be construed to alter the land-use powers of cities.

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

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

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

(c) If a county fails for any reason to convene a meeting with representatives of cities as required in (a) of this subsection, the governor may immediately impose any appropriate sanction or sanctions on the county from those specified under RCW 36.70A.340.

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

(e) No later than July 1, 1992, the legislative authority of each county that was required or chose to plan under RCW 36.70A.040 as of June 1, 1991, or no later than fourteen months after the date the county adopted its resolution of intention or was certified by the office of financial management the county legislative authority of any other county that is required or chooses to plan under RCW 36.70A.040, shall adopt a countywide planning policy according to the process

provided under this section and that is consistent with the agreement pursuant to (b) of this subsection, and after holding a public hearing or hearings on the proposed countywide planning policy.

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

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

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

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

(d) Policies for countywide transportation facilities and strategies;

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

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

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

(h) An analysis of the fiscal impact; and

(i) Policies that address the protection of tribal cultural resources in collaboration with federally recognized Indian tribes that are invited pursuant to subsection (4) of this section, provided that a tribe, or more than one tribe, chooses to participate in the process.

(4) Federal agencies and federally recognized Indian tribes whose reservation or ceded lands lie within the county shall be invited to participate in and cooperate with the countywide planning policy adoption process. Adopted countywide planning policies shall be adhered to by state agencies.

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

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

(7) Multicounty planning policies shall be adopted by two or more counties, each with a population of four hundred fifty thousand or more, with contiguous urban areas and may be adopted by other counties, according to the process established under this section or other processes agreed to among the counties and cities within the affected counties throughout the multicounty region. [2022 c 252 s 6; 2009 c 121 s 2; 1998 c 171 s 4; 1994 c 249 s 28; 1993 sp.s. c 6 s 4; 1991 sp.s. c 32 s 2.]

Severability—Application—1994 c 249: See notes following RCW 34.05.310.

Effective date—1993 sp.s. c 6: See note following RCW 36.70A.040.

RCW 36.70B.030 Project review—Required elements—Limitations. (1) Fundamental land use planning choices made in adopted comprehensive plans and development regulations shall serve as the foundation for project review. The review of a proposed project's consistency with applicable development regulations, or in the absence of applicable regulations the adopted comprehensive plan, under RCW 36.70B.040 shall incorporate the determinations under this section.

(2) During project review, a local government or any subsequent reviewing body shall determine whether the items listed in this subsection are defined in the development regulations applicable to the proposed project or, in the absence of applicable regulations the adopted comprehensive plan. At a minimum, such applicable regulations or plans shall be determinative of the:

(a) Type of land use permitted at the site, including uses that may be allowed under certain circumstances, such as planned unit developments and conditional and special uses, if the criteria for their approval have been satisfied;

(b) Density of residential development in urban growth areas; and

(c) Availability and adequacy of public facilities identified in the comprehensive plan, if the plan or development regulations provide for funding of these facilities as required by chapter 36.70A RCW.

(3) During project review, the local government or any subsequent reviewing body shall not reexamine alternatives to or hear appeals on the items identified in subsection (2) of this section, except for issues of code interpretation. As part of its project review process, a local government shall provide a procedure for obtaining a code interpretation as provided in RCW 36.70B.110.

(4) Pursuant to RCW 43.21C.240, a local government may determine that the requirements for environmental analysis and mitigation measures in development regulations and other applicable laws provide adequate mitigation for some or all of the project's specific adverse environmental impacts to which the requirements apply.

(5) Nothing in this section limits the authority of a permitting agency to approve, condition, or deny a project as provided in its development regulations adopted under chapter 36.70A RCW and in its policies adopted under RCW 43.21C.060. Project review shall be used to identify specific project design and conditions relating to the character of development, such as the details of site plans, curb cuts, drainage swales, transportation demand management, the payment of impact fees, or other measures to mitigate a proposal's probable adverse environmental impacts, if applicable.

(6) Subsections (1) through (4) of this section apply only to local governments planning under RCW 36.70A.040. [1995 c 347 s 404.]

Intent—Findings—1995 c 347 ss 404 and 405: "In enacting RCW 36.70B.030 and 36.70B.040, the legislature intends to establish a mechanism for implementing the provisions of chapter 36.70A RCW regarding compliance, conformity, and consistency of proposed projects with adopted comprehensive plans and development regulations. In order to achieve this purpose the legislature finds that:

(1) Given the extensive investment that public agencies and a broad spectrum of the public are making and will continue to make in comprehensive plans and development regulations for their communities, it is essential that project review start from the fundamental land use planning choices made in these plans and regulations. If the applicable regulations or plans identify the type of land use, specify

residential density in urban growth areas, and identify and provide for funding of public facilities needed to serve the proposed development and site, these decisions at a minimum provide the foundation for further project review unless there is a question of code interpretation. The project review process, including the environmental review process under chapter 43.21C RCW and the consideration of consistency, should start from this point and should not reanalyze these land use planning decisions in making a permit decision.

(2) Comprehensive plans and development regulations adopted by local governments under chapter 36.70A RCW and environmental laws and rules adopted by the state and federal government have addressed a wide range of environmental subjects and impacts. These provisions typically require environmental studies and contain specific standards to address various impacts associated with a proposed development, such as building size and location, drainage, transportation requirements, and protection of critical areas. When a permitting agency applies these existing requirements to a proposed project, some or all of a project's potential environmental impacts will be avoided or otherwise mitigated. Through the integrated project review process described in subsection (1) of this section, the local government will determine whether existing requirements, including the applicable regulations or plans, adequately analyze and address a project's environmental impacts. RCW 43.21C.240 provides that project review should not require additional studies or mitigation under chapter 43.21C RCW where existing regulations have adequately addressed a proposed project's probable specific adverse environmental impacts.

(3) Given the hundreds of jurisdictions and agencies in the state and the numerous communities and applicants affected by development regulations and comprehensive plans adopted under chapter 36.70A RCW, it is essential to establish a uniform framework for considering the consistency of a proposed project with the applicable regulations or plan. Consistency should be determined in the project review process by considering four factors found in applicable regulations or plans: The type of land use allowed; the level of development allowed, such as units per acre or other measures of density; infrastructure, such as the adequacy of public facilities and services to serve the proposed project; and the character of the proposed development, such as compliance with specific development standards. This uniform approach corresponds to existing project review practices and will not place a burden on applicants or local government. The legislature intends that this approach should be largely a matter of checking compliance with existing requirements for most projects, which are simple or routine, while more complex projects may require more analysis. RCW 43.21C.240 and 36.70B.030 establish this uniform framework and also direct state agencies to consult with local government and the public to develop a better format than the current environmental checklist to meet this objective.

(4) When an applicant applies for a project permit, consistency between the proposed project and applicable regulations or plan should be determined through a project review process that integrates land use and environmental impact analysis, so that governmental and public review of the proposed project as required by this chapter, by development regulations under chapter 36.70A RCW, and by the environmental process under chapter 43.21C RCW run concurrently and not separately.

(5) RCW 36.70B.030 and 36.70B.040 address three related needs with respect to how the project review process should address consistency between a proposed project and the applicable regulations or plan:

(a) A uniform framework for the meaning of consistency;

(b) An emphasis on relying on existing requirements and adopted standards, with the use of supplemental authority as specified by chapter 43.21C RCW to the extent that existing requirements do not adequately address a project's specific probable adverse environmental impacts; and

(c) The identification of three basic land use planning choices made in applicable regulations or plans that, at a minimum, serve as a foundation for project review and that should not be reanalyzed during project permitting." [1995 c 347 s 403.]

RCW 36.70B.040 Determination of consistency. (1) A proposed project's consistency with a local government's development regulations adopted under chapter 36.70A RCW, or, in the absence of applicable development regulations, the appropriate elements of the comprehensive plan adopted under chapter 36.70A RCW shall be decided by the local government during project review by consideration of:

(a) The type of land use;

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

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

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

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

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

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

(5) The department of commerce is authorized to develop and adopt by rule criteria to assist local governments planning under RCW 36.70A.040 to analyze the consistency of project actions. These criteria shall be jointly developed with the department of ecology. [2023 c 470 s 2020; 1997 c 429 s 46; 1995 c 347 s 405.]

Explanatory statement—2023 c 470: See note following RCW 10.99.030.

Severability—1997 c 429: See note following RCW 36.70A.3201.

Intent—Findings—1995 c 347 ss 404 and 405: See note following RCW 36.70B.030.

RCW 36.70C.070 Land use petition—Required elements. A land use petition must set forth:

(1) The name and mailing address of the petitioner;

(2) The name and mailing address of the petitioner's attorney, if any;

(3) The name and mailing address of the local jurisdiction whose land use decision is at issue;

(4) Identification of the decision-making body or officer, together with a duplicate copy of the decision, or, if not a written decision, a summary or brief description of it;

(5) Identification of each person to be made a party under RCW 36.70C.040(2) (b) through (d);

(6) Facts demonstrating that the petitioner has standing to seek judicial review under RCW 36.70C.060;

(7) A separate and concise statement of each error alleged to have been committed;

(8) A concise statement of facts upon which the petitioner relies to sustain the statement of error; and

(9) A request for relief, specifying the type and extent of relief requested. [1995 c 347 s 708.]

RCW 36.70C.140 Decision of the court. The court may affirm or reverse the land use decision under review or remand it for modification or further proceedings. If the decision is remanded for modification or further proceedings, the court may make such an order as it finds necessary to preserve the interests of the parties and the public, pending further proceedings or action by the local jurisdiction. [1995 c 347 s 715.]

RCW 58.17.010 Purpose. The legislature finds that the process by which land is divided is a matter of state concern and should be administered in a uniform manner by cities, towns, and counties throughout the state. The purpose of this chapter is to regulate the subdivision of land and to promote the public health, safety and general welfare in accordance with standards established by the state to prevent the overcrowding of land; to lessen congestion in the streets and highways; to promote effective use of land; to promote safe and convenient travel by the public on streets and highways; to provide for adequate light and air; to facilitate adequate provision for water, sewerage, parks and recreation areas, sites for schools and schoolgrounds and other public requirements; to provide for proper ingress and egress; to provide for the expeditious review and approval of proposed subdivisions which conform to zoning standards and local plans and policies; to adequately provide for the housing and commercial needs of the citizens of the state; and to require uniform monumenting of land subdivisions and conveyancing by accurate legal description. [1981 c 293 s 1; 1969 ex.s. c 271 s 1.]

Reviser's note: Throughout this chapter, the phrase "this act" has been changed to "this chapter." "This act" [1969 ex.s. c 271] also consists of amendments to RCW 58.08.040 and 58.24.040 and the repeal of RCW 58.16.010 through 58.16.110.

Severability—1981 c 293: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 293 s 16.]

RCW 58.17.030 Subdivisions to comply with chapter, local regulations. Every subdivision shall comply with the provisions of this chapter. Every short subdivision as defined in this chapter shall comply with the provisions of any local regulation adopted pursuant to RCW 58.17.060. [1974 ex.s. c 134 s 1; 1969 ex.s. c 271 s 3.]

RCW 58.17.100 Review of preliminary plats by planning commission or agency—Recommendation—Change by legislative body—Procedure—Approval. If a city, town or county has established a planning commission or planning agency in accordance with state law or local charter, such commission or agency shall review all preliminary plats and make recommendations thereon to the city, town or county legislative body to assure conformance of the proposed subdivision to the general purposes of the comprehensive plan and to planning standards and specifications as adopted by the city, town or county. Reports of the planning commission or agency shall be advisory only: PROVIDED, That the legislative body of the city, town or county may, by ordinance, assign to such commission or agency, or any department official or group of officials, such administrative functions, powers and duties as may be appropriate, including the holding of hearings, and recommendations for approval or disapproval of preliminary plats of proposed subdivisions.

Such recommendation shall be submitted to the legislative body not later than fourteen days following action by the hearing body. Upon receipt of the recommendation on any preliminary plat the legislative body shall at its next public meeting set the date for the public meeting where it shall consider the recommendations of the hearing body and may adopt or reject the recommendations of such hearing body based on the record established at the public hearing. If, after considering the matter at a public meeting, the legislative body deems a change in the planning commission's or planning agency's recommendation approving or disapproving any preliminary plat is necessary, the legislative body shall adopt its own recommendations and approve or disapprove the preliminary plat.

Every decision or recommendation made under this section shall be in writing and shall include findings of fact and conclusions to support the decision or recommendation.

A record of all public meetings and public hearings shall be kept by the appropriate city, town or county authority and shall be open to public inspection.

Sole authority to adopt or amend platting ordinances shall reside in the legislative bodies. The legislative authorities of cities, towns, and counties may by ordinance delegate final plat approval to an established planning commission or agency, or to such other administrative personnel in accordance with state law or local charter. [2017 c 161 s 1; 1995 c 347 s 428; 1981 c 293 s 6; 1969 ex.s. c 271 s 10.]

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

Severability—1981 c 293: See note following RCW 58.17.010.

RCW 58.17.110 Approval or disapproval of subdivision and dedication—Factors to be considered—Conditions for approval—Finding—Release from damages. (1) The city, town, or county legislative body shall inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication. It shall determine: (a) If appropriate provisions are made for, but not limited to, the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds, and shall consider all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and (b) whether the public interest will be served by the subdivision and dedication.

(2) A proposed subdivision and dedication shall not be approved unless the city, town, or county legislative body makes written findings that: (a) Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and (b) the public use and interest will be served by the platting of such subdivision and dedication. If it finds that the proposed subdivision and dedication make such appropriate provisions and that the public use and interest will be served, then the legislative body shall approve the proposed subdivision and dedication. Dedication of land to any public body, provision of public improvements to serve the subdivision, and/or impact fees imposed under RCW 82.02.050 through 82.02.090 may be required as a condition of subdivision approval. Dedications shall be clearly shown on the final plat. No dedication, provision of public improvements, or impact fees imposed under RCW 82.02.050 through 82.02.090 shall be allowed that constitutes an unconstitutional taking of private property. The legislative body shall not as a condition to the approval of any subdivision require a release from damages to be procured from other property owners.

(3) If the preliminary plat includes a dedication of a public park with an area of less than two acres and the donor has designated that the park be named in honor of a deceased individual of good character, the city, town, or county legislative body must adopt the designated name.

(4) If water supply is to be provided by a groundwater withdrawal exempt from permitting under RCW 90.44.050, the applicant's compliance with RCW 90.44.050 and with applicable rules adopted pursuant to chapters 90.22 and 90.54 RCW is sufficient in determining appropriate provisions for water supply for a subdivision, dedication, or short subdivision under this chapter. [2018 c 1 s 104; 1995 c 32 s 3; 1990 1st ex.s. c 17 s 52; 1989 c 330 s 3; 1974 ex.s. c 134 s 5; 1969 ex.s. c 271 s 11.]

Intent—2018 c 1: See note following RCW 90.94.010.

Effective date—2018 c 1: See RCW 90.94.900.

Severability—Part, section headings not law—1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

APPENDIX C

~~center~~)) office of archaeology and historic preservation and by them to the department.

(2) Amateur societies may engage in such activities by submitting and having approved by the responsible agency or political subdivision a written proposal detailing the scope and duration of the activity. Before approval, a proposal from an amateur society shall be submitted to the ((~~Washington archaeological research center~~)) office of archaeology and historic preservation for review and recommendation. The approving agency or political subdivision shall impose conditions on the scope and duration of the proposed activity necessary to protect the archaeological resources and ensure compliance with applicable federal, state, and local laws. The findings and results of activities authorized under this section shall be made known to the approving agency or political subdivision approving the activities and to the office of archaeology and historic preservation.

Passed the House February 1, 2002.
Passed the Senate March 2, 2002.
Approved by the Governor March 28, 2002.
Filed in Office of Secretary of State March 28, 2002.

CHAPTER 212

[Substitute House Bill 1395]
RURAL COUNTIES—BUSINESS DEVELOPMENT

AN ACT Relating to job retention in rural counties; amending RCW 36.70A.070; and adding a new section to chapter 36.70A RCW.

Be it enacted by the Legislature of the State of Washington:

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

The legislature finds that this chapter is intended to recognize the importance of rural lands and rural character to Washington's economy, its people, and its environment, while respecting regional differences. Rural lands and rural-based economies enhance the economic desirability of the state, help to preserve traditional economic activities, and contribute to the state's overall quality of life.

The legislature finds that to retain and enhance the job base in rural areas, rural counties must have flexibility to create opportunities for business development. Further, the legislature finds that rural counties must have the flexibility to retain existing businesses and allow them to expand. The legislature recognizes that not all business developments in rural counties require an urban level of services; and that many businesses in rural areas fit within the definition of rural character identified by the local planning unit.

Finally, the legislature finds that in defining its rural element under RCW 36.70A.070(5), a county should foster land use patterns and develop a local vision of rural character that will: Help preserve rural-based economies and traditional rural lifestyles; encourage the economic prosperity of rural residents; foster

opportunities for small-scale, rural-based employment and self-employment; permit the operation of rural-based agricultural, commercial, recreational, and tourist businesses that are consistent with existing and planned land use patterns; be compatible with the use of the land by wildlife and for fish and wildlife habitat; foster the private stewardship of the land and preservation of open space; and enhance the rural sense of community and quality of life.

Sec. 2. RCW 36.70A.070 and 1998 c 171 s 2 are each amended to read as follows:

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

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

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

(2) A housing element ensuring the vitality and character of established residential neighborhoods that: (a) Includes an inventory and analysis of existing and projected housing needs; (b) includes a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including single-family residences; (c) identifies sufficient land for housing, including, but not limited to, government-assisted housing, housing for low-income families, manufactured housing, multifamily housing, and group homes and foster care facilities; and (d) makes adequate provisions for existing and projected needs of all economic segments of the community.

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

funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent.

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

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

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

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

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

(i) Containing or otherwise controlling rural development;

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

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

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

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

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

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

mixed-use area shall be subject to the requirements of (d)(iv) of this subsection, but shall not be subject to the requirements of (c)(ii) and (iii) of this subsection. An industrial area is not required to be principally designed to serve the existing and projected rural population;

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

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

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

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

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

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

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

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

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

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

(i) Land use assumptions used in estimating travel;

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

(iii) Facilities and services needs, including:

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

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

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

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

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

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

(iv) Finance, including:

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

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

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

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

(vi) Demand-management strategies.

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

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

Passed the House February 6, 2002.
Passed the Senate March 8, 2002.
Approved by the Governor March 28, 2002.
Filed in Office of Secretary of State March 28, 2002.

51.44.033. Civil penalties may be recovered in a civil action in the name of the department brought in the superior court of the county where the violation is alleged to have occurred, or the department may utilize the procedures for collection of civil penalties as set forth in RCW 51.48.120 through 51.48.150.

NEW SECTION. **Sec. 5.** A new section is added to chapter 51.04 RCW to read as follows:

(1) In the event of a state of emergency as defined in RCW 43.06.010(12), the director is authorized to expend up to two percent per year of the net premiums earned in the accident fund in the prior fiscal year for the purpose of a safety grant program so long as the assets of the accident fund and pension reserve fund were at least 10 percent in excess of their funded liabilities in the fiscal quarter immediately preceding the state of emergency proclamation.

(2) The safety grant program shall provide one-time grants to employers to purchase equipment, gear, or make capital improvements so long as the purchase is not covered by another grant, government program, or insurance contract. The department may require matching funds from employers. Employers must apply for grants using an application developed by the department.

(3) Employers shall apply the safety grants to purchases of equipment, gear, or capital costs to meet any new safety and health requirements related to the emergency that are required before they are permitted to continue or resume business operations.

(4) An appropriation is not required for expenditures under this section.

(5) Only employers who pay premiums to the state fund as defined in RCW 51.08.175, are not self-insured as defined in RCW 51.08.173, and have 25 or fewer full-time equivalent employees are eligible for funding under this section.

(6) All funds expended from the accident fund for grants under this section must be reimbursed to the accident fund from the state general fund in the omnibus appropriations act adopted for the biennium following the expenditures.

(7) Rules that are adopted to implement this section must be done in consultation with stakeholders. Rules must include but are not limited to:

(a) Guidance for grant awards based on the type, scope, and time frame of a specific declared emergency; and

(b) Criteria for prioritizing grants for eligible recipients.

NEW SECTION. **Sec. 6.** The department of labor and industries may adopt rules as necessary to implement this act.

NEW SECTION. **Sec. 7.** Section 3 of this act takes effect July 1, 2022.

Passed by the House April 13, 2021.
Passed by the Senate April 6, 2021.
Approved by the Governor May 11, 2021.
Filed in Office of Secretary of State May 12, 2021.

CHAPTER 254

[Engrossed Second Substitute House Bill 1220]

EMERGENCY SHELTERS AND HOUSING—LOCAL PLANNING AND DEVELOPMENT

AN ACT Relating to supporting emergency shelters and housing through local planning and development regulations; amending RCW 36.70A.020, 36.70A.390, and 36.70A.030; reenacting and

amending RCW 36.70A.070; adding a new section to chapter 35A.21 RCW; adding a new section to chapter 35.21 RCW; and adding a new section to chapter 36.70A RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 36.70A.020 and 2002 c 154 s 1 are each amended to read as follows:

The following goals are adopted to guide the development and adoption of comprehensive plans and development regulations of those counties and cities that are required or choose to plan under RCW 36.70A.040. The following goals are not listed in order of priority and shall be used exclusively for the purpose of guiding the development of comprehensive plans and development regulations:

(1) Urban growth. Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.

(2) Reduce sprawl. Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.

(3) Transportation. Encourage efficient multimodal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans.

(4) Housing. ((~~Encourage the availability of affordable~~)) Plan for and accommodate housing affordable to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.

(5) Economic development. Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.

(6) Property rights. Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions.

(7) Permits. Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.

(8) Natural resource industries. Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forestlands and productive agricultural lands, and discourage incompatible uses.

(9) Open space and recreation. Retain open space, enhance recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and water, and develop parks and recreation facilities.

(10) Environment. Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.

(11) Citizen participation and coordination. Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.

(12) Public facilities and services. Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use

without decreasing current service levels below locally established minimum standards.

(13) Historic preservation. Identify and encourage the preservation of lands, sites, and structures, that have historical or archaeological significance.

Sec. 2. RCW 36.70A.070 and 2017 3rd sp.s. c 18 s 4 and 2017 3rd sp.s. c 16 s 4 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Zoning that may have a discriminatory effect;

(ii) Disinvestment; and

(iii) Infrastructure availability;

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

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

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

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

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

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

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

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

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

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

(i) Containing or otherwise controlling rural development;

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

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

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

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

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

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

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

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

(C) Any development or redevelopment in terms of building size, scale, use, or intensity shall be consistent with the character of the existing areas. Development and redevelopment may include changes in use from vacant land

or a previously existing use so long as the new use conforms to the requirements of this subsection (5);

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

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

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

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

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

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

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

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

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

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

(i) Land use assumptions used in estimating travel;

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

(iii) Facilities and services needs, including:

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

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

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

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

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

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

(iv) Finance, including:

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

(B) A multiyear financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which shall serve as the basis for

the six-year street, road, or transit program required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems. The multiyear financing plan should be coordinated with the ten-year investment program developed by the office of financial management as required by RCW 47.05.030;

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

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

(vi) Demand-management strategies;

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

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

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

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

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

(9) It is the intent that new or amended elements required after January 1, 2002, be adopted concurrent with the scheduled update provided in RCW 36.70A.130. Requirements to incorporate any such new or amended elements

shall be null and void until funds sufficient to cover applicable local government costs are appropriated and distributed by the state at least two years before local government must update comprehensive plans as required in RCW 36.70A.130.

NEW SECTION. **Sec. 3.** A new section is added to chapter 35A.21 RCW to read as follows:

A code city shall not prohibit transitional housing or permanent supportive housing in any zones in which residential dwelling units or hotels are allowed. Effective September 30, 2021, a code city shall not prohibit indoor emergency shelters and indoor emergency housing in any zones in which hotels are allowed, except in such cities that have adopted an ordinance authorizing indoor emergency shelters and indoor emergency housing in a majority of zones within a one-mile proximity to transit. Reasonable occupancy, spacing, and intensity of use requirements may be imposed by ordinance on permanent supportive housing, transitional housing, indoor emergency housing, and indoor emergency shelters to protect public health and safety. Any such requirements on occupancy, spacing, and intensity of use may not prevent the siting of a sufficient number of permanent supportive housing, transitional housing, indoor emergency housing, or indoor emergency shelters necessary to accommodate each code city's projected need for such housing and shelter under RCW 36.70A.070(2)(a)(ii).

NEW SECTION. **Sec. 4.** A new section is added to chapter 35.21 RCW to read as follows:

A city shall not prohibit transitional housing or permanent supportive housing in any zones in which residential dwelling units or hotels are allowed. Effective September 30, 2021, a city shall not prohibit indoor emergency shelters and indoor emergency housing in any zones in which hotels are allowed, except in such cities that have adopted an ordinance authorizing indoor emergency shelters and indoor emergency housing in a majority of zones within a one-mile proximity to transit. Reasonable occupancy, spacing, and intensity of use requirements may be imposed by ordinance on permanent supportive housing, transitional housing, indoor emergency housing, and indoor emergency shelters to protect public health and safety. Any such requirements on occupancy, spacing, and intensity of use may not prevent the siting of a sufficient number of permanent supportive housing, transitional housing, indoor emergency housing, or indoor emergency shelters necessary to accommodate each city's projected need for such housing and shelter under RCW 36.70A.070(2)(a)(ii).

Sec. 5. RCW 36.70A.390 and 1992 c 207 s 6 are each amended to read as follows:

A county or city governing body that adopts a moratorium, interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing on the proposed moratorium, interim zoning map, interim zoning ordinance, or interim official control, shall hold a public hearing on the adopted moratorium, interim zoning map, interim zoning ordinance, or interim official control within at least sixty days of its adoption, whether or not the governing body received a recommendation on the matter from the planning commission or department. If the governing body does not adopt findings of fact justifying its action before this hearing, then the governing body shall do so immediately after

this public hearing. A moratorium, interim zoning map, interim zoning ordinance, or interim official control adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium, interim zoning map, interim zoning ordinance, or interim official control may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal.

This section does not apply to the designation of critical areas, agricultural lands, forestlands, and mineral resource lands, under RCW 36.70A.170, and the conservation of these lands and protection of these areas under RCW 36.70A.060, prior to such actions being taken in a comprehensive plan adopted under RCW 36.70A.070 and implementing development regulations adopted under RCW 36.70A.120, if a public hearing is held on such proposed actions. This section does not apply to ordinances or development regulations adopted by a city that prohibit building permit applications for or the construction of transitional housing or permanent supportive housing in any zones in which residential dwelling units or hotels are allowed or prohibit building permit applications for or the construction of indoor emergency shelters and indoor emergency housing in any zones in which hotels are allowed.

Sec. 6. RCW 36.70A.030 and 2020 c 173 s 4 are each amended to read as follows:

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

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

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

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

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

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

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

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

(6) "Critical areas" include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable

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

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

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

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

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

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

(((~~(10)~~))) (12) "Forestland" means land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, and that has long-term commercial significance. In determining whether forestland is primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, the following factors shall be considered: (a) The proximity of the land to urban, suburban, and rural settlements; (b) surrounding parcel size and the compatibility and intensity of adjacent and nearby land uses; (c) long-term local economic conditions that affect the ability to manage for timber production; and (d) the availability of public facilities and services conducive to conversion of forestland to other uses.

(((~~(11)~~))) (13) "Freight rail dependent uses" means buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of goods where the use is dependent on and makes use of an adjacent short line railroad. Such facilities are both urban and rural development for purposes of this chapter. "Freight rail dependent uses" does not include buildings and other

infrastructure that are used in the fabrication, processing, storage, and transport of coal, liquefied natural gas, or "crude oil" as defined in RCW 90.56.010.

(((~~(12)~~))) (14) "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

(((~~(13)~~))) (15) "Long-term commercial significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

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

(((~~(15)~~))) (17) "Minerals" include gravel, sand, and valuable metallic substances.

(((~~(16)~~))) (18) "Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below 120 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

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

(((~~(17)~~))) (20) "Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

(((~~(18)~~))) (21) "Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

(((~~(19)~~))) (22) "Recreational land" means land so designated under RCW 36.70A.1701 and that, immediately prior to this designation, was designated as agricultural land of long-term commercial significance under RCW 36.70A.170. Recreational land must have playing fields and supporting facilities existing before July 1, 2004, for sports played on grass playing fields.

(((~~(20)~~))) (23) "Rural character" refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan:

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

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

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

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

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

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

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

(((~~(21)~~))) (24) "Rural development" refers to development outside the urban growth area and outside agricultural, forest, and mineral resource lands designated pursuant to RCW 36.70A.170. Rural development can consist of a variety of uses and residential densities, including clustered residential development, at levels that are consistent with the preservation of rural character and the requirements of the rural element. Rural development does not refer to agriculture or forestry activities that may be conducted in rural areas.

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

(((~~(23)~~))) (26) "Short line railroad" means those railroad lines designated class II or class III by the United States surface transportation board.

(((~~(24)~~))) (27) "Urban governmental services" or "urban services" include those public services and public facilities at an intensity historically and typically provided in cities, specifically including storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with rural areas.

(((~~(25)~~))) (28) "Urban growth" refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources, rural uses, rural development, and natural resource lands designated pursuant to RCW 36.70A.170. A pattern of more intensive rural development, as provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on

it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

(((~~(26)~~))) (29) "Urban growth areas" means those areas designated by a county pursuant to RCW 36.70A.110.

(((~~(27)~~))) (30) "Very low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below fifty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

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

NEW SECTION.** ***Sec. 7. A new section is added to chapter 36.70A RCW to read as follows:

In addition to ordinances, development regulations, and other official controls adopted or amended, a city or county should consider policies to encourage the construction of accessory dwelling units as a way to meet affordable housing goals. These policies could include, but are not limited to:

(1) The city or county may not require the owner of a lot on which there is an accessory dwelling unit to reside in or occupy the accessory dwelling unit or another housing unit on the same lot;

(2) The city or county may require the owner not to use the accessory dwelling unit for short-term rentals;

(3) The city or county may not count residents of accessory dwelling units against existing limits on the number of unrelated residents on a lot;

(4) The city or county may not establish a minimum gross floor area for accessory dwelling units that exceeds the state building code;

(5) The city or county must make the same allowances for accessory dwelling units' roof decks, balconies, and porches to encroach on setbacks as are allowed for the principal unit;

(6) The city or county must apply abutting lot setbacks to accessory dwelling units on lots abutting zones with lower setback requirements;

(7) The city or county must establish an amnesty program to help owners of unpermitted accessory dwelling units to obtain a permit;

(8) The city or county must permit accessory dwelling units in structures detached from the principal unit, must allow an accessory dwelling unit on any lot that meets the minimum lot size required for the principal unit, and must allow attached accessory dwelling units on any lot with a principal unit that is nonconforming solely because the lot is smaller than the minimum size,

as long as the accessory dwelling unit would not increase nonconformity of the residential use with respect to building height, bulk, or lot coverage;

(9) The city or county may not establish a maximum gross floor area requirement for accessory dwelling units that are less than 1,000 square feet or 60 percent of the principal unit, whichever is greater, or that exceeds 1,200 square feet;

(10) A city or county must allow accessory dwelling units to be converted from existing structures, including but not limited to detached garages, even if they violate current code requirements for setbacks or lot coverage;

(11) A city or county may not require public street improvements as a condition of permitting accessory dwelling units; and

(12) A city or county may require a new or separate utility connection between an accessory dwelling unit and a utility only when necessary to be consistent with water availability requirements, water system plans, small water system management plans, or established policies adopted by the water or sewer utility provider. If such a connection is necessary, the connection fees and capacity charges must:

(a) Be proportionate to the burden of the proposed accessory dwelling unit upon the water or sewer system; and

(b) Not exceed the reasonable cost of providing the service.

**Sec. 7 was vetoed. See message at end of chapter.*

Passed by the House April 14, 2021.

Passed by the Senate April 10, 2021.

Approved by the Governor May 12, 2021, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 12, 2021.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 7, Engrossed Second Substitute House Bill No. 1220 entitled:

"AN ACT Relating to supporting emergency shelters and housing through local planning and development regulations."

Section 7 of this bill can be read to encourage the siting and development of accessory dwelling units in areas of the state outside of urban growth areas. This was a technical oversight that occurred during the legislative process. As passed, the bill inadvertently omitted a key reference limiting these policies to urban growth areas, which was not the intention of the bill's sponsor.

For these reasons I have vetoed Section 7 of Engrossed Second Substitute House Bill No. 1220.

With the exception of Section 7, Engrossed Second Substitute House Bill No. 1220 is approved."

CHAPTER 255

[House Bill 1316]

HOSPITAL SAFETY NET ASSESSMENT PROGRAM—EXTENSION

AN ACT Relating to the hospital safety net assessment; amending RCW 74.60.005, 74.60.020, 74.60.090, and 74.60.901; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 74.60.005 and 2019 c 318 s 1 are each amended to read as follows:

CHAPTER 332

[Engrossed Second Substitute House Bill 1110]

GROWTH MANAGEMENT ACT—MINIMUM DEVELOPMENT DENSITIES IN RESIDENTIAL ZONES

AN ACT Relating to creating more homes for Washington by increasing middle housing in areas traditionally dedicated to single-family detached housing; amending RCW 36.70A.030, 36.70A.280, 43.21C.495, and 43.21C.450; adding new sections to chapter 36.70A RCW; adding a new section to chapter 64.34 RCW; adding a new section to chapter 64.32 RCW; adding a new section to chapter 64.38 RCW; adding a new section to chapter 64.90 RCW; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that Washington is facing an unprecedented housing crisis for its current population and a lack of housing choices, and is not likely to meet the affordability goals for future populations. In order to meet the goal of 1,000,000 new homes by 2044, and enhanced quality of life and environmental protection, innovative housing policies will need to be adopted.

Increasing housing options that are more affordable to various income levels is critical to achieving the state's housing goals, including those codified by the legislature under chapter 254, Laws of 2021.

There is continued need for the development of housing at all income levels, including middle housing that will provide a wider variety of housing options and configurations to allow Washingtonians to live near where they work.

Homes developed at higher densities are more affordable by design for Washington residents both in their construction and reduced household energy and transportation costs.

While creating more housing options, it is essential for cities to identify areas at higher risk of displacement and establish antidisplacement policies as required in Engrossed Second Substitute House Bill No. 1220 (chapter 254, Laws of 2021).

The state has made historic investments in subsidized affordable housing through the housing trust fund, yet even with these historic investments, the magnitude of the housing shortage requires both public and private investment.

In addition to addressing the housing shortage, allowing more housing options in areas already served by urban infrastructure will reduce the pressure to develop natural and working lands, support key strategies for climate change, food security, and Puget Sound recovery, and save taxpayers and ratepayers money.

Sec. 2. RCW 36.70A.030 and 2021 c 254 s 6 are each amended to read as follows:

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

(1) "Administrative design review" means a development permit process whereby an application is reviewed, approved, or denied by the planning director or the planning director's designee based solely on objective design and development standards without a public predecision hearing, unless such review is otherwise required by state or federal law, or the structure is a designated landmark or historic district established under a local preservation ordinance. A city may utilize public meetings, hearings, or voluntary review boards to

consider, recommend, or approve requests for variances from locally established design review standards.

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

(((~~(2)~~))) (3) "Affordable housing" means, unless the context clearly indicates otherwise, residential housing whose monthly costs, including utilities other than telephone, do not exceed thirty percent of the monthly income of a household whose income is:

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

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

(((~~(3)~~))) (4) "Agricultural land" means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production.

(((~~(4)~~))) (5) "City" means any city or town, including a code city.

(((~~(5)~~))) (6) "Comprehensive land use plan," "comprehensive plan," or "plan" means a generalized coordinated land use policy statement of the governing body of a county or city that is adopted pursuant to this chapter.

(((~~(6)~~))) (7) "Cottage housing" means residential units on a lot with a common open space that either: (a) Is owned in common; or (b) has units owned as condominium units with property owned in common and a minimum of 20 percent of the lot size as open space.

(8) "Courtyard apartments" means up to four attached dwelling units arranged on two or three sides of a yard or court.

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

(((~~(7)~~))) (10) "Department" means the department of commerce.

(((~~(8)~~))) (11) "Development regulations" or "regulation" means the controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto. A development regulation does not include a decision to approve a project permit application, as defined in RCW 36.70B.020, even though the

decision may be expressed in a resolution or ordinance of the legislative body of the county or city.

(((~~(9)~~))) (12) "Emergency housing" means temporary indoor accommodations for individuals or families who are homeless or at imminent risk of becoming homeless that is intended to address the basic health, food, clothing, and personal hygiene needs of individuals or families. Emergency housing may or may not require occupants to enter into a lease or an occupancy agreement.

(((~~(10)~~))) (13) "Emergency shelter" means a facility that provides a temporary shelter for individuals or families who are currently homeless. Emergency shelter may not require occupants to enter into a lease or an occupancy agreement. Emergency shelter facilities may include day and warming centers that do not provide overnight accommodations.

(((~~(11)~~))) (14) "Extremely low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below thirty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(((~~(12)~~))) (15) "Forestland" means land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, and that has long-term commercial significance. In determining whether forestland is primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, the following factors shall be considered: (a) The proximity of the land to urban, suburban, and rural settlements; (b) surrounding parcel size and the compatibility and intensity of adjacent and nearby land uses; (c) long-term local economic conditions that affect the ability to manage for timber production; and (d) the availability of public facilities and services conducive to conversion of forestland to other uses.

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

(((~~(14)~~))) (17) "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

(((~~(15)~~))) (18) "Long-term commercial significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

(((~~(16)~~))) (19) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below eighty percent of the median household income adjusted for household size, for the

county where the household is located, as reported by the United States department of housing and urban development.

(((~~(17)~~))) (20) "Major transit stop" means:

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

(b) Commuter rail stops;

(c) Stops on rail or fixed guideway systems; or

(d) Stops on bus rapid transit routes.

(21) "Middle housing" means buildings that are compatible in scale, form, and character with single-family houses and contain two or more attached, stacked, or clustered homes including duplexes, triplexes, fourplexes, fiveplexes, sixplexes, townhouses, stacked flats, courtyard apartments, and cottage housing.

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

(((~~(18)~~))) (23) "Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below 120 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(((~~(19)~~))) (24) "Permanent supportive housing" is subsidized, leased housing with no limit on length of stay that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent supportive housing is paired with on-site or off-site voluntary services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident's health status, and connect the resident of the housing with community-based health care, treatment, or employment services. Permanent supportive housing is subject to all of the rights and responsibilities defined in chapter 59.18 RCW.

(((~~(20)~~))) (25) "Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

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

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

(((~~(23)~~))) (28) "Rural character" refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan:

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

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

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

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

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

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

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

(((~~(24)~~))) (29) "Rural development" refers to development outside the urban growth area and outside agricultural, forest, and mineral resource lands designated pursuant to RCW 36.70A.170. Rural development can consist of a variety of uses and residential densities, including clustered residential development, at levels that are consistent with the preservation of rural character and the requirements of the rural element. Rural development does not refer to agriculture or forestry activities that may be conducted in rural areas.

(((~~(25)~~))) (30) "Rural governmental services" or "rural services" include those public services and public facilities historically and typically delivered at an intensity usually found in rural areas, and may include domestic water systems(((~~,~~))) and fire and police protection services(((~~, transportation and public transit services, and other public utilities~~))) associated with rural development and normally not associated with urban areas. Rural services do not include storm or sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

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

(((~~(27)~~))) (32) "Single-family zones" means those zones where single-family detached housing is the predominant land use.

(33) "Stacked flat" means dwelling units in a residential building of no more than three stories on a residential zoned lot in which each floor may be separately rented or owned.

(34) "Townhouses" means buildings that contain three or more attached single-family dwelling units that extend from foundation to roof and that have a yard or public way on not less than two sides.

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

(((~~(28)~~))) (36) "Urban growth" refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources, rural uses, rural development, and natural resource lands designated pursuant to RCW 36.70A.170. A pattern of more intensive rural development, as provided

in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

(((~~(29)~~))) (37) "Urban growth areas" means those areas designated by a county pursuant to RCW 36.70A.110.

(((~~(30)~~))) (38) "Very low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below fifty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(((~~(31)~~))) (39) "Wetland" or "wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands.

NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70A RCW to read as follows:

(1) Except as provided in subsection (4) of this section, any city that is required or chooses to plan under RCW 36.70A.040 must provide by ordinance and incorporate into its development regulations, zoning regulations, and other official controls, authorization for the following:

(a) For cities with a population of at least 25,000 but less than 75,000 based on office of financial management population estimates:

(i) The development of at least two units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies;

(ii) The development of at least four units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies, within one-quarter mile walking distance of a major transit stop; and

(iii) The development of at least four units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies, if at least one unit is affordable housing.

(b) For cities with a population of at least 75,000 based on office of financial management population estimates:

(i) The development of at least four units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies;

(ii) The development of at least six units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or

intensities applies, within one-quarter mile walking distance of a major transit stop; and

(iii) The development of at least six units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies, if at least two units are affordable housing.

(c) For cities with a population of less than 25,000, that are within a contiguous urban growth area with the largest city in a county with a population of more than 275,000, based on office of financial management population estimates the development of at least two units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies.

(2)(a) To qualify for the additional units allowed under subsection (1) of this section, the applicant must commit to renting or selling the required number of units as affordable housing. The units must be maintained as affordable for a term of at least 50 years, and the property must satisfy that commitment and all required affordability and income eligibility conditions adopted by the local government under this chapter. A city must require the applicant to record a covenant or deed restriction that ensures the continuing rental of units subject to these affordability requirements consistent with the conditions in chapter 84.14 RCW for a period of no less than 50 years. The covenant or deed restriction must also address criteria and policies to maintain public benefit if the property is converted to a use other than which continues to provide for permanently affordable housing.

(b) The units dedicated as affordable must be provided in a range of sizes comparable to other units in the development. To the extent practicable, the number of bedrooms in affordable units must be in the same proportion as the number of bedrooms in units within the entire development. The affordable units must generally be distributed throughout the development and have substantially the same functionality as the other units in the development.

(c) If a city has enacted a program under RCW 36.70A.540, the terms of that program govern to the extent they vary from the requirements of this subsection.

(3) If a city has enacted a program under RCW 36.70A.540, subsection (1) of this section does not preclude the city from requiring any development, including development described in subsection (1) of this section, to provide affordable housing, either on-site or through an in-lieu payment, nor limit the city's ability to expand such a program or modify its requirements.

(4)(a) As an alternative to the density requirements in subsection (1) of this section, a city may implement the density requirements in subsection (1) of this section for at least 75 percent of lots in the city that are primarily dedicated to single-family detached housing units.

(b) The 25 percent of lots for which the requirements of subsection (1) of this section are not implemented must include but are not limited to:

(i) Any areas within the city for which the department has certified an extension of the implementation timelines under section 5 of this act due to the risk of displacement;

(ii) Any areas within the city for which the department has certified an extension of the implementation timelines under section 7 of this act due to a lack of infrastructure capacity;

(iii) Any lots designated with critical areas or their buffers that are exempt from the density requirements as provided in subsection (8) of this section;

(iv) Any portion of a city within a one-mile radius of a commercial airport with at least 9,000,000 annual enplanements that is exempt from the parking requirements under subsection (7)(b) of this section; and

(v) Any areas subject to sea level rise, increased flooding, susceptible to wildfires, or geological hazards over the next 100 years.

(c) Unless identified as at higher risk of displacement under RCW 36.70A.070(2)(g), the 25 percent of lots for which the requirements of subsection (1) of this section are not implemented may not include:

(i) Any areas for which the exclusion would further racially disparate impacts or result in zoning with a discriminatory effect;

(ii) Any areas within one-half mile walking distance of a major transit stop; or

(iii) Any areas historically covered by a covenant or deed restriction excluding racial minorities from owning property or living in the area, as known to the city at the time of each comprehensive plan update.

(5) A city must allow at least six of the nine types of middle housing to achieve the unit density required in subsection (1) of this section. A city may allow accessory dwelling units to achieve the unit density required in subsection (1) of this section. Cities are not required to allow accessory dwelling units or middle housing types beyond the density requirements in subsection (1) of this section. A city must also allow zero lot line short subdivision where the number of lots created is equal to the unit density required in subsection (1) of this section.

(6) Any city subject to the requirements of this section:

(a) If applying design review for middle housing, only administrative design review shall be required;

(b) Except as provided in (a) of this subsection, shall not require through development regulations any standards for middle housing that are more restrictive than those required for detached single-family residences, but may apply any objective development regulations that are required for detached single-family residences, including, but not limited to, set-back, lot coverage, stormwater, clearing, and tree canopy and retention requirements to ensure compliance with existing ordinances intended to protect critical areas and public health and safety;

(c) Shall apply to middle housing the same development permit and environmental review processes that apply to detached single-family residences, unless otherwise required by state law including, but not limited to, shoreline regulations under chapter 90.58 RCW, building codes under chapter 19.27 RCW, energy codes under chapter 19.27A RCW, or electrical codes under chapter 19.28 RCW;

(d) Shall not require off-street parking as a condition of permitting development of middle housing within one-half mile walking distance of a major transit stop;

(e) Shall not require more than one off-street parking space per unit as a condition of permitting development of middle housing on lots smaller than 6,000 square feet before any zero lot line subdivisions or lot splits;

(f) Shall not require more than two off-street parking spaces per unit as a condition of permitting development of middle housing on lots greater than 6,000 square feet before any zero lot line subdivisions or lot splits; and

(g) Are not required to achieve the per unit density under this act on lots after subdivision below 1,000 square feet unless the city chooses to enact smaller allowable lot sizes.

(7) The provisions of subsection (6)(d) through (f) of this section do not apply:

(a) If a local government submits to the department an empirical study prepared by a credentialed transportation or land use planning expert that clearly demonstrates, and the department finds and certifies, that the application of the parking limitations of subsection (6)(d) through (f) of this section for middle housing will be significantly less safe for vehicle drivers or passengers, pedestrians, or bicyclists than if the jurisdiction's parking requirements were applied to the same location for the same number of detached houses. The department must develop guidance to assist cities on items to include in the study; or

(b) To portions of cities within a one-mile radius of a commercial airport in Washington with at least 9,000,000 annual enplanements.

(8) The provisions of this section do not apply to:

(a) Lots designated with critical areas designated under RCW 36.70A.170 or their buffers as required by RCW 36.70A.170;

(b) A watershed serving a reservoir for potable water if that watershed is or was listed, as of the effective date of this section, as impaired or threatened under section 303(d) of the federal clean water act (33 U.S.C. Sec. 1313(d)); or

(c) Lots that have been designated urban separators by countywide planning policies as of the effective date of this section.

(9) Nothing in this section prohibits a city from permitting detached single-family residences.

(10) Nothing in this section requires a city to issue a building permit if other federal, state, and local requirements for a building permit are not met.

(11) A city must comply with the requirements of this section on the latter of:

(a) Six months after its next periodic comprehensive plan update required under RCW 36.70A.130 if the city meets the population threshold based on the 2020 office of financial management population data; or

(b) 12 months after their next implementation progress report required under RCW 36.70A.130 after a determination by the office of financial management that the city has reached a population threshold established under this section.

(12) A city complying with this section and not granted a timeline extension under section 7 of this act does not have to update its capital facilities plan element required by RCW 36.70A.070(3) to accommodate the increased housing required by this act until the first periodic comprehensive plan update required for the city under RCW 36.70A.130(5) that occurs on or after June 30, 2034.

NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70A RCW to read as follows:

(1)(a) The department is directed to provide technical assistance to cities as they implement the requirements under section 3 of this act.

(b) The department shall prioritize such technical assistance to cities demonstrating the greatest need.

(2)(a) The department shall publish model middle housing ordinances no later than six months following the effective date of this section.

(b) In any city subject to section 3 of this act that has not passed ordinances, regulations, or other official controls within the time frames provided under section 3(11) of this act, the model ordinance supersedes, preempts, and invalidates local development regulations until the city takes all actions necessary to implement section 3 of this act.

(3)(a) The department is directed to establish a process by which cities implementing the requirements of section 3 of this act may seek approval of alternative local action necessary to meet the requirements of this act.

(b) The department may approve actions under this section for cities that have, by January 1, 2023, adopted a comprehensive plan that is substantially similar to the requirements of this act and have adopted, or within one year of the effective date of this section adopts, permanent development regulations that are substantially similar to the requirements of this act. In determining whether a city's adopted comprehensive plan and permanent development regulations are substantially similar, the department must find as substantially similar plans and regulations that:

(i) Result in an overall increase in housing units allowed in single-family zones that is at least 75 percent of the increase in housing units allowed in single-family zones if the specific provisions of this act were adopted;

(ii) Allow for middle housing throughout the city, rather than just in targeted locations; and

(iii) Allow for additional density near major transit stops, and for projects that incorporate dedicated affordable housing.

(c) The department may also approve actions under this section for cities that have, by January 1, 2023, adopted a comprehensive plan or development regulations that have significantly reduced or eliminated residentially zoned areas that are predominantly single family. The department must find that a city's actions are substantially similar to the requirements of this act if they have adopted, or within one year of the effective date of this section adopts, permanent development regulations that:

(i) Result in an overall increase in housing units allowed in single-family zones that is at least 75 percent of the increase in housing units allowed in single-family zones if the specific provisions of this act were adopted;

(ii) Allow for middle housing throughout the city, rather than just in targeted locations; and

(iii) Allow for additional density near major transit stops, and for projects that incorporate dedicated affordable housing.

(d) The department may determine that a comprehensive plan and development regulations that do not meet these criteria are otherwise substantially similar to the requirements of this act if the city can clearly demonstrate that the regulations adopted will allow for a greater increase in middle housing production within single family zones than would be allowed through implementation of section 3 of this act.

(e) Any local actions approved by the department pursuant to (a) of this subsection to implement the requirements under section 3 of this act are exempt from appeals under this chapter and chapter 43.21C RCW.

(f) The department's final decision to approve or reject actions by cities implementing section 3 of this act may be appealed to the growth management hearings board by filing a petition as provided in RCW 36.70A.290.

(4) The department may issue guidance for local jurisdictions to ensure that the levels of middle housing zoning under this act can be integrated with the methods used by cities to calculate zoning densities and intensities in local zoning and development regulations.

NEW SECTION. **Sec. 5.** A new section is added to chapter 36.70A RCW to read as follows:

Any city choosing the alternative density requirements in section 3(4) of this act may apply to the department for, and the department may certify, an extension for areas at risk of displacement as determined by the antidisplacement analysis that a jurisdiction is required to complete under RCW 36.70A.070(2). The city must create a plan for implementing antidisplacement policies by their next implementation progress report required by RCW 36.70A.130(9). The department may certify one further extension based on evidence of significant ongoing displacement risk in the impacted area.

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

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

(a) That, except as provided otherwise by this subsection, a state agency, county, or city planning under this chapter is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption of shoreline master programs or amendments thereto, or chapter 43.21C RCW as it relates to plans, development regulations, or amendments, adopted under RCW 36.70A.040 or chapter 90.58 RCW. Nothing in this subsection authorizes the board to hear petitions alleging noncompliance with RCW 36.70A.5801;

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

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

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

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

(f) That the department's final decision to approve or reject actions by a city implementing section 3 of this act is clearly erroneous.

(2) A petition may be filed only by: (a) The state, or a county or city that plans under this chapter; (b) a person who has participated orally or in writing before the county or city regarding the matter on which a review is being requested; (c) a person who is certified by the governor within sixty days of

filing the request with the board; or (d) a person qualified pursuant to RCW 34.05.530.

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

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

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

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

If adjusted by the board, a county growth management planning population projection shall only be used for the planning purposes set forth in this chapter and shall be known as the "board adjusted population projection." None of these changes shall affect the official state and county population forecasts prepared by the office of financial management, which shall continue to be used for state budget and planning purposes.

NEW SECTION. **Sec. 7.** A new section is added to chapter 36.70A RCW to read as follows:

(1) Any city choosing the alternative density requirements in section 3(4) of this act may apply to the department for, and the department may certify, an extension of the implementation timelines established under section 3(11) of this act.

(2) An extension certified under this section may be applied only to specific areas where a city can demonstrate that water, sewer, stormwater, transportation infrastructure, including facilities and transit services, or fire protection services lack capacity to accommodate the density required in section 3 of this act, and the city has:

(a) Included one or more improvements, as needed, within its capital facilities plan to adequately increase capacity; or

(b) Identified which special district is responsible for providing the necessary infrastructure if the infrastructure is provided by a special purpose district.

(3) If an extension of the implementation timelines is requested due to lack of water supply from the city or the purveyors who serve water within the city, the department's evaluation of the extension must be based on the applicable water system plans in effect and approved by the department of health. Water system plan updates initiated after the effective date of this section must include consideration of water supply requirements for middle housing types.

(4) An extension granted under this section remains in effect until the earliest of:

(a) The infrastructure is improved to accommodate the capacity;

(b) The city's deadline to complete its next periodic comprehensive plan update under RCW 36.70A.130; or

(c) The city's deadline to complete its implementation progress report to the department as required under RCW 36.70A.130(9).

(5) A city that has received an extension under this section may reapply for any needed extension with its next periodic comprehensive plan update under RCW 36.70A.130 or its implementation progress report to the department under RCW 36.70A.130(9). The application for an additional extension must include a list of infrastructure improvements necessary to meet the capacity required in section 3 of this act. Such additional extension must only be to address infrastructure deficiency that a city is not reasonably able to address within the first extension.

(6) The department may establish by rule any standards or procedures necessary to implement this section.

(7) The department must provide the legislature with a list of projects identified in a city's capital facilities plan that were the basis for the extension under this section, including planning level estimates. Additionally, the city must contact special purpose districts to identify additional projects associated with extensions under this section.

(8) A city granted an extension for a specific area must allow development as provided under section 3 of this act if the developer commits to providing the necessary water, sewer, or stormwater infrastructure.

(9) If an area zoned predominantly for residential use is currently served only by private wells, group B water systems or group A water systems with less than 50 connections, or a city or water providers within the city do not have an adequate water supply or available connections to serve the zoning increase required under section 3 of this act, the city may limit the areas subject to the requirements under section 3 of this act to match current water availability. Nothing in this act affects or modifies the responsibilities of cities to plan for or provide urban governmental services as defined in RCW 36.70A.030 or affordable housing as required by RCW 36.70A.070.

(10) No city shall approve a building permit for housing under section 3 of this act without compliance with the adequate water supply requirements of RCW 19.27.097.

(11) If an area zoned predominantly for residential use is currently served only by on-site sewage systems, development may be limited to two units per lot, until either the landowner or local government provides sewer service or demonstrates a sewer system will serve the development at the time of construction. Nothing in this act affects or modifies the responsibilities of cities to plan for or provide urban governmental services as defined in RCW 36.70A.030.

Sec. 8. RCW 43.21C.495 and 2022 c 246 s 3 are each amended to read as follows:

(1) Adoption of ordinances, development regulations and amendments to such regulations, and other nonproject actions taken by a city to implement: The actions specified in section 2, chapter 246, Laws of 2022 unless the adoption of such ordinances, development regulations and amendments to such regulations, or other nonproject actions has a probable significant adverse impact on fish habitat; and the increased residential building capacity actions identified in RCW 36.70A.600(1), with the exception of the action specified in RCW

36.70A.600(1)(f), are not subject to administrative or judicial appeals under this chapter.

(2) Amendments to development regulations and other nonproject actions taken by a city to implement the requirements under section 3 of this act pursuant to section 4(3)(b) of this act are not subject to administrative or judicial appeals under this chapter.

Sec. 9. RCW 43.21C.450 and 2012 1st sp.s. c 1 s 307 are each amended to read as follows:

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

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

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

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

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

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

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

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

(a) Building codes required by chapter 19.27 RCW;

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

(c) Electrical codes required by chapter 19.28 RCW.

(5) Amendments to development regulations to remove requirements for parking from development proposed to fill in an urban growth area designated according to RCW 36.70A.110.

NEW SECTION. **Sec. 10.** A new section is added to chapter 64.34 RCW to read as follows:

A declaration created after the effective date of this section and applicable to an area within a city subject to the middle housing requirements in section 3 of this act may not actively or effectively prohibit the construction, development, or use of additional housing units as required in section 3 of this act.

NEW SECTION. **Sec. 11.** A new section is added to chapter 64.32 RCW to read as follows:

A declaration created after the effective date of this section and applicable to an association of apartment owners located within an area of a city subject to the middle housing requirements in section 3 of this act may not actively or effectively prohibit the construction, development, or use of additional housing units as required in section 3 of this act.

NEW SECTION. **Sec. 12.** A new section is added to chapter 64.38 RCW to read as follows:

Governing documents of associations within cities subject to the middle housing requirements in section 3 of this act that are created after the effective date of this section may not actively or effectively prohibit the construction, development, or use of additional housing units as required in section 3 of this act.

NEW SECTION. **Sec. 13.** A new section is added to chapter 64.90 RCW to read as follows:

Declarations and governing documents of a common interest community within cities subject to the middle housing requirements in section 3 of this act that are created after the effective date of this section may not actively or effectively prohibit the construction, development, or use of additional housing units as required in section 3 of this act.

NEW SECTION. **Sec. 14.** The department of commerce may establish by rule any standards or procedures necessary to implement sections 2 through 7 of this act.

NEW SECTION. **Sec. 15.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void.

Passed by the House April 18, 2023.
Passed by the Senate April 11, 2023.
Approved by the Governor May 8, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 333

[Engrossed Substitute House Bill 1293]

GROWTH MANAGEMENT ACT—DESIGN REVIEW

AN ACT Relating to streamlining development regulations; amending RCW 36.70B.160; and adding a new section to chapter 36.70A RCW.

Be it enacted by the Legislature of the State of Washington:

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

(1) For purposes of this section, "design review" means a formally adopted local government process by which projects are reviewed for compliance with design standards for the type of use adopted through local ordinance.

(2) Except as provided in subsection (3) of this section, counties and cities planning under RCW 36.70A.040 may apply in any design review process only clear and objective development regulations governing the exterior design of new development. For purposes of this section, a clear and objective development regulation:

(a) Initial applications for the preference as approved by the department of revenue under RCW 84.36.815;

(b) Owner occupancy notices and notices of property transfers reported to the department of revenue under ((~~section 2 of this act~~)) RCW 84.36.049;

(c) Annual financial statements for a nonprofit entity or qualified cooperative association claiming this tax preference, as defined in ((~~section 2 of this act~~)) RCW 84.36.049, and provided by nonprofit entities or qualified cooperative associations claiming this preference; and

(d) Any other data necessary for the evaluation under subsection (4) of this section.

NEW SECTION. **Sec. 3.** This act applies to taxes levied for collection in 2025 and thereafter.

Passed by the Senate February 13, 2024.
Passed by the House February 29, 2024.
Approved by the Governor March 26, 2024.
Filed in Office of Secretary of State March 27, 2024.

CHAPTER 274

[Substitute Senate Bill 6015]

MINIMUM PARKING REQUIREMENTS—RESIDENTIAL DEVELOPMENT

AN ACT Relating to parking configurations for residential uses; and adding a new section to chapter 36.70A RCW.

Be it enacted by the Legislature of the State of Washington:

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

(1) Cities and counties planning under this chapter shall enforce land use regulations for residential development as provided in this section:

(a) Garages and carports may not be required as a way to meet minimum parking requirements for residential development;

(b) Parking spaces that count towards minimum parking requirements may be enclosed or unenclosed;

(c) Parking spaces in tandem must count towards meeting minimum parking requirements at a rate of one space for every 20 linear feet with any necessary provisions for turning radius. For purposes of this subsection, "tandem" is defined as having two or more vehicles, one in front of or behind the others with a single means of ingress and egress;

(d) Existence of legally nonconforming gravel surfacing in existing designated parking areas may not be a reason for prohibiting utilization of existing space in the parking area to meet local parking standards, up to a maximum of six parking spaces;

(e) Parking spaces may not be required to exceed eight feet by 20 feet, except for required parking for people with disabilities;

(f) Any county planning under this chapter, and any cities within those counties with a population greater than 6,000, may not require off-street parking as a condition of permitting a residential project if compliance with tree retention would otherwise make a proposed residential development or redevelopment infeasible; and

(g) Parking spaces that consist of grass block pavers may count toward minimum parking requirements.

(2) Existing parking spaces that do not conform to the requirements of this section by the effective date of this act are not required to be modified or resized, except for compliance with the Americans with disabilities act. Existing paved parking lots are not required to change the size of existing parking spaces during resurfacing if doing so will be more costly or require significant reconfiguration of the parking space locations.

(3) The provisions in subsection (1) of this section do not apply to portions of cities within a one-mile radius of a commercial airport in Washington with at least 9,000,000 annual enplanements.

Passed by the Senate March 4, 2024.
Passed by the House February 29, 2024.
Approved by the Governor March 26, 2024.
Filed in Office of Secretary of State March 27, 2024.

CHAPTER 275

[Senate Bill 6017]

BORDER AREA FUEL TAX—JURISDICTIONS NOT CONNECTED TO CONTINENTAL UNITED STATES

AN ACT Relating to expanding the use of the border area fuel tax; amending RCW 82.47.030; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature recognizes that the border area fuel tax is not the state gas tax, but rather a local option, voter-approved transportation tax collected locally to be used for local transportation purposes. The legislature finds that because this local option tax is not collected by the state of Washington, it is not subject to the 18th amendment to the Washington state Constitution and is therefore not required to be used exclusively for highway purposes. The legislature further finds that during the global COVID-19 pandemic, border areas were disproportionately hurt economically due to border closures and experienced significant reductions in tax revenues. The legislature further recognizes that current law significantly restricts the use of the border area fuel tax to street maintenance and construction. For example, the Point Roberts area has over $1,000,000 of border area fuel tax revenue that remains unused due to the restrictive nature of the current law. Therefore, the legislature intends with this act to expand the use of the border area fuel tax to include transportation improvements more broadly to provide border areas the flexibility to use this local funding source to best meet the jurisdiction's local transportation needs.

Sec. 2. RCW 82.47.030 and 1991 c 173 s 3 are each amended to read as follows:

The entire proceeds of the tax imposed under this chapter, less refunds authorized by the resolution imposing such tax and less amounts deducted by the border area jurisdiction for administration and collection expenses, shall be used solely for the purposes of border area jurisdiction street maintenance and construction. However, a border area jurisdiction not directly connected to the

(2) A person operating a bicycle upon a roadway or highway other than a limited access highway, which roadway or highway carries traffic in one direction only and has two or more marked traffic lanes, may ride as near to the left side of the left through lane as is safe.

(3) A person operating a bicycle upon a roadway may use the shoulder of the roadway or any specially designated bicycle lane.

(4) When the operator of a bicycle is using the travel lane of a roadway with only one lane for traffic moving in the direction of travel and it is wide enough for a bicyclist and a vehicle to travel safely side-by-side within it, the bicycle operator shall operate far enough to the right to facilitate the movement of an overtaking vehicle unless other conditions make it unsafe to do so or unless the bicyclist is preparing to make a turning movement or while making a turning movement.

(5) Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

(6) This section does not apply on a shared street as defined in section 1 of this act.

Passed by the Senate April 17, 2025.
Passed by the House April 11, 2025.
Approved by the Governor May 17, 2025.
Filed in Office of Secretary of State May 19, 2025.

CHAPTER 301

[Engrossed Second Substitute House Bill 1096]
RESIDENTIAL LOT SPLITTING

AN ACT Relating to increasing housing options through lot splitting; amending RCW 36.70A.635; adding a new section to chapter 58.17 RCW; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that allowing an existing residential lot to be split to create a new residential lot through a simple, administrative process can offer many advantages to both the existing homeowner and to prospective homebuyers. The legislature further finds that administrative lot splitting can provide current owners the opportunity to maintain homeownership in changing life circumstances while facilitating development of middle housing to provide homebuyers, including first-time homebuyers, with more affordable ownership opportunities. The legislature also finds that lot splitting can be combined with the review of a residential building permit application to create a single integrated process benefiting both homeowners and cities. Therefore, it is the intent of the legislature to ease restrictions on, and expand opportunities for, lot splitting in cities.

NEW SECTION. **Sec. 2.** A new section is added to chapter 58.17 RCW to read as follows:

(1) Cities shall include in their development regulations a process through which an applicant can seek review and approval of an administrative lot split, which may be combined with concurrent review of a residential building permit to create new middle housing, as defined in RCW 36.70A.030, or single-family

housing. The application process for a residential lot to be split may require only an administrative decision, through which the application is reviewed, approved, or denied by the planning director or other designee based on applicable clear and objective development standards, with neither a predecision public hearing, nor any design review other than administrative design review. A new buildable residential lot and residential building permit or permits must be administratively approved and are not subject to administrative appeal if they comply with applicable development standards and the following conditions are met:

(a) No more than one newly created lot is created through the administrative lot split;

(b) Both the parent lot and the newly created lot meet the minimum lot size allowed under applicable development regulations;

(c) The parent lot was not created through the splitting of a residential lot authorized by this section;

(d) The parent lot is located in a residential zone and not in an exclusively nonresidential zone including, but not limited to, zones that are exclusively commercial, retail, agricultural, or industrial;

(e) If the lot split would require demolition or alteration of any existing housing that would displace a renter, the applicant must recommend a displacement mitigation strategy that may include, but is not limited to, relocation assistance;

(f) The applicable sewer and water purveyors have issued certificates of availability to serve the newly created lot and dwelling units;

(g) Access and utility rights are granted or conveyed as necessary on or before recording of the lot split survey to provide access for the maximum number of dwelling units that could be developed on the newly created lot, provided such access rights may be reduced consistent with a city's adopted codes, regulations, or design standards as applicable through review of a subsequent application for a building permit, short subdivision, unit lot subdivision, subdivision application, or short subdivision if less than the maximum number of dwelling units are built on the newly created lot;

(h) The planning director or other designee determines that the application follows all applicable development regulations; and

(i) The lot split survey has been approved by the planning director or other designee and includes a condition on the face of the survey that further lot splits of the parent lot and newly created lot are not authorized by this section.

(2) A proposed lot split may be conditioned upon dedication of right-of-way on the parent lot to the extent such dedication is required under applicable codes, regulations, and design standards for the development, short plat, or subdivision of the parent lot absent an administrative lot split.

(3) Development of dwelling units on the newly created lot may be conditioned upon construction of frontage improvements to a right-of-way adjacent to either the parent lot or the newly created lot to the extent required under applicable codes, regulations, and design standards.

(4) Any construction on the newly created lot is subject to all existing state and local laws including those specified in this section. Nothing in this section modifies the requirements for approval of residential building permits in chapter 19.27 RCW.

(5) A city subject to the requirements of this section may not impose a limit on the total number of dwelling units allowed on the parent lot or newly created lot that is less than the number of dwelling units allowed by the underlying zoning of the parent lot prior to the administrative lot split.

(6) Notwithstanding the provisions of this section, lots that are not buildable according to locally adopted development regulations including, but not limited to, critical areas, shorelines, stormwater, setbacks, impervious surface areas, and building coverage standards, are not eligible for a lot split under this section.

(7) If a lot split results in a lot of a size that would allow for further land division, the lot is not eligible for a lot split but may be divided under other applicable land subdivision processes.

(8) The newly created lot must meet any locally adopted minimum density requirements.

(9) Cities are immune from any liability, loss, or other damage suffered by another that is related to the city's approval of a lot split under this act, including if the lot split creates a lot that is later determined to not be buildable.

(10) Parent lots and newly created lots approved under this section must have a lot split survey recorded with the county auditor with a notation that future lot splits are not allowed on the lot.

(11) An application process or a residential lot to be split under this section is subject to the maximum time period for local government actions as set forth in RCW 36.70B.080, unless extended pursuant to project-specific mutual agreement as permitted by RCW 36.70B.080.

(12) Ordinances adopted to comply with this section are not subject to administrative or judicial appeal under chapter 43.21C RCW.

(13) The department of commerce must develop guidance for cities in implementing the lot splitting requirements.

(14) A city required to comply with the requirements of this section that has its next comprehensive plan update due in 2027, pursuant to RCW 36.70A.130, must adopt or amend by ordinance, and incorporate into its development regulations, zoning regulations, and other official controls, the requirements of this section in its next comprehensive plan update. All other cities required to comply with this section must implement the requirements within two years of the effective date of this section.

(15) For the purposes of this section, the following definitions apply unless the context clearly requires otherwise:

(a) "Lot split" means the administrative process of dividing an existing lot into two lots for the purpose of sale, lease, or transfer of ownership pursuant to this section.

(b) "Lot split survey" means the final survey prepared for filing for record with the county auditor and containing all elements and requirements for a lot split under this section and any local regulations.

(c) "Newly created lot" means a lot that was created by a lot split under this section.

(d) "Parent lot" means a lot that is subjected to a lot split under this section.

(16) The provisions of this section do not apply to areas designated as sole-source aquifers by the United States environmental protection agency on islands in the Puget Sound.

Sec. 3. RCW 36.70A.635 and 2024 c 152 s 2 are each amended to read as follows:

(1) Except as provided in subsection (4) of this section, any city that is required or chooses to plan under RCW 36.70A.040 must provide by ordinance and incorporate into its development regulations, zoning regulations, and other official controls, authorization for the following:

(a) For cities with a population of at least 25,000 but less than 75,000 based on office of financial management population estimates:

(i) The development of at least two units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies;

(ii) The development of at least four units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies, within one-quarter mile walking distance of a major transit stop; and

(iii) The development of at least four units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies, if at least one unit is affordable housing.

(b) For cities with a population of at least 75,000 based on office of financial management population estimates:

(i) The development of at least four units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies;

(ii) The development of at least six units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies, within one-quarter mile walking distance of a major transit stop; and

(iii) The development of at least six units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies, if at least two units are affordable housing.

(c) For cities with a population of less than 25,000, that are within a contiguous urban growth area with the largest city in a county with a population of more than 275,000, based on office of financial management population estimates the development of at least two units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies.

(2)(a) To qualify for the additional units allowed under subsection (1) of this section, the applicant must commit to renting or selling the required number of units as affordable housing. The units must be maintained as affordable for a term of at least 50 years, and the property must satisfy that commitment and all required affordability and income eligibility conditions adopted by the local government under this chapter. A city must require the applicant to record a covenant or deed restriction that ensures the continuing rental of units subject to these affordability requirements consistent with the conditions in chapter 84.14 RCW for a period of no less than 50 years. The covenant or deed restriction must also address criteria and policies to maintain public benefit if the property is converted to a use other than which continues to provide for permanently affordable housing.

(b) The units dedicated as affordable must be provided in a range of sizes comparable to other units in the development. To the extent practicable, the number of bedrooms in affordable units must be in the same proportion as the number of bedrooms in units within the entire development. The affordable units must generally be distributed throughout the development and have substantially the same functionality as the other units in the development.

(c) If a city has enacted a program under RCW 36.70A.540, the terms of that program govern to the extent they vary from the requirements of this subsection.

(3) If a city has enacted a program under RCW 36.70A.540, subsection (1) of this section does not preclude the city from requiring any development, including development described in subsection (1) of this section, to provide affordable housing, either on-site or through an in-lieu payment, nor limit the city's ability to expand such a program or modify its requirements.

(4)(a) As an alternative to the density requirements in subsection (1) of this section, a city may implement the density requirements in subsection (1) of this section for at least 75 percent of lots in the city that are primarily dedicated to single-family detached housing units.

(b) The 25 percent of lots for which the requirements of subsection (1) of this section are not implemented must include but are not limited to:

(i) Any areas within the city for which the department has certified an extension of the implementation timelines under RCW 36.70A.637 due to the risk of displacement;

(ii) Any areas within the city for which the department has certified an extension of the implementation timelines under RCW 36.70A.638 due to a lack of infrastructure capacity;

(iii) Any lots, parcels, and tracts designated with critical areas or their buffers that are exempt from the density requirements as provided in subsection (8) of this section;

(iv) Any portion of a city within a one-mile radius of a commercial airport with at least 9,000,000 annual enplanements that is exempt from the parking requirements under subsection (7)(b) of this section; and

(v) Any areas subject to sea level rise, increased flooding, susceptible to wildfires, or geological hazards over the next 100 years.

(c) Unless identified as at higher risk of displacement under RCW 36.70A.070(2)(g), the 25 percent of lots for which the requirements of subsection (1) of this section are not implemented may not include:

(i) Any areas for which the exclusion would further racially disparate impacts or result in zoning with a discriminatory effect;

(ii) Any areas within one-half mile walking distance of a major transit stop; or

(iii) Any areas historically covered by a covenant or deed restriction excluding racial minorities from owning property or living in the area, as known to the city at the time of each comprehensive plan update.

(5) A city subject to the requirements of subsection (1)(a) or (b) of this section must allow at least six of the nine types of middle housing to achieve the unit density required in subsection (1) of this section. A city may allow accessory dwelling units to achieve the unit density required in subsection (1) of this section. Cities are not required to allow accessory dwelling units or middle

housing types beyond the density requirements in subsection (1) of this section. A city must also allow zero lot line short subdivision where the number of lots created is equal to the unit density required in subsection (1) of this section.

(6) Any city subject to the requirements of this section:

(a) If applying design review for middle housing, only administrative design review shall be required;

(b) Except as provided in (a) of this subsection, shall not require through development regulations any standards for middle housing that are more restrictive than those required for detached single-family residences, but may apply any objective development regulations that are required for detached single-family residences, including, but not limited to, set-back, lot coverage, stormwater, clearing, and tree canopy and retention requirements;

(c) Shall apply to middle housing the same development permit and environmental review processes that apply to detached single-family residences, unless otherwise required by state law including, but not limited to, shoreline regulations under chapter 90.58 RCW, building codes under chapter 19.27 RCW, energy codes under chapter 19.27A RCW, or electrical codes under chapter 19.28 RCW;

(d) Shall not require off-street parking as a condition of permitting development of middle housing within one-half mile walking distance of a major transit stop;

(e) Shall not require more than one off-street parking space per unit as a condition of permitting development of middle housing on lots no greater than 6,000 square feet before any zero lot line subdivisions or lot splits;

(f) Shall not require more than two off-street parking spaces per unit as a condition of permitting development of middle housing on lots greater than 6,000 square feet before any zero lot line subdivisions or lot splits; and

(g) Are not required to achieve the per unit density under chapter 332, Laws of 2023 on lots after subdivision below 1,000 square feet unless the city chooses to enact smaller allowable lot sizes.

(7) The provisions of subsection (6)(d) through (f) of this section do not apply:

(a) If a local government submits to the department an empirical study prepared by a credentialed transportation or land use planning expert that clearly demonstrates, and the department finds and certifies, that the application of the parking limitations of subsection (6)(d) through (f) of this section for middle housing will be significantly less safe for vehicle drivers or passengers, pedestrians, or bicyclists than if the jurisdiction's parking requirements were applied to the same location for the same number of detached houses. The department must develop guidance to assist cities on items to include in the study; or

(b) To portions of cities within a one-mile radius of a commercial airport in Washington with at least 9,000,000 annual enplanements.

(8) The provisions of this section do not apply to:

(a) Portions of a lot, parcel, or tract designated with critical areas designated under RCW 36.70A.170 or their buffers as required by RCW 36.70A.170, except for critical aquifer recharge areas where a single-family detached house is an allowed use provided that any requirements to maintain aquifer recharge are met;

(b) Areas designated as sole-source aquifers by the United States environmental protection agency on islands in the Puget Sound;

(c) A watershed serving a reservoir for potable water if that watershed is or was listed, as of July 23, 2023, as impaired or threatened under section 303(d) of the federal clean water act (33 U.S.C. Sec. 1313(d));

(d) Lots that have been designated urban separators by countywide planning policies as of July 23, 2023; or

(e) A lot that was created through the splitting of a single residential lot pursuant to section 2 of this act.

(9) Nothing in this section prohibits a city from permitting detached single-family residences.

(10) Nothing in this section requires a city to issue a building permit if other federal, state, and local requirements for a building permit are not met.

(11) A city must comply with the requirements of this section on the latter of:

(a) Six months after its next periodic comprehensive plan update required under RCW 36.70A.130 if the city meets the population threshold based on the 2020 office of financial management population data; or

(b) 12 months after their next implementation progress report required under RCW 36.70A.130 after a determination by the office of financial management that the city has reached a population threshold established under this section.

(12) A city complying with this section and not granted a timeline extension under RCW 36.70A.638 does not have to update its capital facilities plan element required by RCW 36.70A.070(3) to accommodate the increased housing required by chapter 332, Laws of 2023 until the first periodic comprehensive plan update required for the city under RCW 36.70A.130(5) that occurs on or after June 30, 2034.

(13) Until June 30, 2026, for cities subject to a growth target adopted under RCW 36.70A.210 that limit the maximum residential capacity of the jurisdiction, any additional residential capacity required by this section for lots, parcels, and tracts with critical areas or critical area buffers outside of critical areas or their buffers may not be considered an inconsistency with the countywide planning policies, multicounty planning policies, or growth targets adopted under RCW 36.70A.210.

NEW SECTION. **Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2025, in the omnibus appropriations act, this act is null and void.

Passed by the House April 27, 2025.

Passed by the Senate April 14, 2025.

Approved by the Governor May 17, 2025.

Filed in Office of Secretary of State May 19, 2025.

Sec. 23. RCW 46.17.210 and 2013 c 329 s 6 are each amended to read as follows:

In addition to all fees and taxes required to be paid upon application for a vehicle registration under chapter 46.16A RCW, the holder of a personalized license plate shall pay an initial fee of ((~~fifty-two dollars~~)) $52 and ((~~forty-two dollars~~)) $52 for each renewal. The personalized license plate fee must be distributed as provided in RCW 46.68.435.

NEW SECTION. **Sec. 24.** RCW 43.388.040 (Sports mentoring program) and 2022 c 96 s 7 & 2018 c 67 s 3 are each repealed.

NEW SECTION. **Sec. 25.** Sections 3 through 24 of this act take effect November 1, 2025.

NEW SECTION. **Sec. 26.** This act is known as Bill's bill act.

Passed by the Senate April 25, 2025.
Passed by the House April 24, 2025.
Approved by the Governor May 20, 2025.
Filed in Office of Secretary of State May 21, 2025.

CHAPTER 386

[Engrossed Senate Bill 5471]

MIDDLE HOUSING—COUNTIES—GROWTH MANAGEMENT ACT

AN ACT Relating to authorizing middle housing in unincorporated urban growth areas, certain limited areas of more intensive rural development, and fully contained communities; reenacting and amending RCW 43.21C.495 and 36.70A.280; and adding a new section to chapter 36.70A RCW.

Be it enacted by the Legislature of the State of Washington:

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

Any county that is required or chooses to plan under RCW 36.70A.040 may provide by ordinance and incorporate into its development regulations, zoning regulations, and other official controls, authorization for the following:

(1)(a) Middle housing types on each parcel that permits single-family residences in limited areas of more intensive rural development designated according to the requirements in RCW 36.70A.070(5)(d)(i);

(b) If a county takes action authorized by this subsection, it may not authorize more than 4 residential units per lot in limited areas of more intensive rural development designated according to RCW 36.70A.070(5)(d)(i), and its development regulations must:

(i) Not require any standards for middle housing that are more restrictive than those required for detached single-family residences, but may apply any objective development regulations that are required for detached single-family residences, including, but not limited to, setback, lot coverage, stormwater, clearing, and tree canopy and retention requirements;

(ii) Apply to middle housing the same development permit and environmental review processes that apply to detached single-family residences, unless otherwise required by state law, including, but not limited to, shoreline regulations under chapter 90.58 RCW, building codes under chapter 19.27 RCW,

energy codes under chapter 19.27A RCW, or electrical codes under chapter 19.28 RCW; and

(iii) Require that middle housing in limited areas of more intensive rural development be served by existing sewer service.

(2)(a) Middle housing types on each parcel that permits single-family residences in designated urban growth areas.

(b) If a county takes action authorized by this subsection, it may not authorize more than four residential units per lot within the designated urban growth area and its development regulations must:

(i) Not require any standards for middle housing that are more restrictive than those required for detached single-family residences, but may apply any objective development regulations that are required for detached single-family residences, including, but not limited to, setback, lot coverage, stormwater, clearing, and tree canopy and retention requirements;

(ii) Apply to middle housing the same development permit and environmental review processes that apply to detached single-family residences, unless otherwise required by state law, including, but not limited to, shoreline regulations under chapter 90.58 RCW, building codes under chapter 19.27 RCW, energy codes under chapter 19.27A RCW, or electrical codes under chapter 19.28 RCW; and

(iii) Require that middle housing in designated urban growth areas be served by water and sewer services.

Sec. 2. RCW 43.21C.495 and 2023 c 334 s 6 and 2023 c 332 s 8 are each reenacted and amended to read as follows:

(1) Adoption of ordinances, development regulations and amendments to such regulations, and other nonproject actions taken by a city to implement: The actions specified in section 2, chapter 246, Laws of 2022 unless the adoption of such ordinances, development regulations and amendments to such regulations, or other nonproject actions has a probable significant adverse impact on fish habitat; and the increased residential building capacity actions identified in RCW 36.70A.600(1), with the exception of the action specified in RCW 36.70A.600(1)(f), are not subject to administrative or judicial appeals under this chapter.

(2) Amendments to development regulations and other nonproject actions taken by a city to implement the requirements under RCW 36.70A.635 pursuant to RCW 36.70A.636(3)(b) are not subject to administrative or judicial appeals under this chapter.

(3) Adoption of ordinances, development regulations and amendments to such regulations, and other nonproject actions taken by a city or county consistent with the requirements of RCW 36.70A.680 and 36.70A.681 are not subject to administrative or judicial appeals under this chapter.

(4) Adoption of ordinances, development regulations, amendments to such regulations, and other nonproject actions taken by a county to implement section 1 of this act are not subject to administrative or judicial appeals under this chapter.

Sec. 3. RCW 36.70A.280 and 2023 c 334 s 7, 2023 c 332 s 6, and 2023 c 228 s 7 are each reenacted and amended to read as follows:

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

(a) That, except as provided otherwise by this subsection, a state agency, county, or city planning under this chapter is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption of shoreline master programs or amendments thereto, or chapter 43.21C RCW as it relates to plans, development regulations, or amendments, adopted under RCW 36.70A.040 or chapter 90.58 RCW. Nothing in this subsection authorizes the board to hear petitions alleging noncompliance based on a city or county's actions taken to implement the requirements of RCW 36.70A.680 ((~~and~~)), 36.70A.681, or section 1 of this act within an urban growth area;

(b) That the 20-year growth management planning population projections adopted by the office of financial management pursuant to RCW 43.62.035 should be adjusted;

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

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

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

(f) That the department's final decision to approve or reject a proposed greenhouse gas emissions reduction subelement or amendments by a local government planning under RCW 36.70A.040 was not in compliance with the joint guidance issued by the department pursuant to RCW 70A.45.120; or

(g) That the department's final decision to approve or reject actions by a city implementing RCW 36.70A.635 is clearly erroneous.

(2) A petition may be filed only by: (a) The state, or a county or city that plans under this chapter; (b) a person who has participated orally or in writing before the county or city regarding the matter on which a review is being requested; (c) a person who is certified by the governor within 60 days of filing the request with the board; or (d) a person qualified pursuant to RCW 34.05.530.

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

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

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

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

If adjusted by the board, a county growth management planning population projection shall only be used for the planning purposes set forth in this chapter and shall be known as the "board adjusted population projection." None of these changes shall affect the official state and county population forecasts prepared by the office of financial management, which shall continue to be used for state budget and planning purposes.

Passed by the Senate April 21, 2025.
Passed by the House April 12, 2025.
Approved by the Governor May 20, 2025.
Filed in Office of Secretary of State May 21, 2025.

CHAPTER 387

[Substitute Senate Bill 5503]

PUBLIC EMPLOYEE COLLECTIVE BARGAINING—VARIOUS PROVISIONS

AN ACT Relating to public employee collective bargaining processes; amending RCW 41.56.050, 41.80.200, and 47.64.170; adding new sections to chapter 41.58 RCW; and adding a new section to chapter 49.36 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 41.58 RCW to read as follows:

(1) For any new organizing petition to form a new bargaining unit of currently unrepresented workers or to add unrepresented workers to an existing bargaining unit, regardless of whether the election is by mail ballot or cross-check, the public employment relations commission must require employers and employee organizations to submit an offer of proof on challenged employees, either concurrent with the employer's submission of a list of employees or at a date determined by the commission after a showing of interest.

(2) If an employee organization files a petition to represent a unit of currently unrepresented employees, and the commission determines the petitioned-for unit is inappropriate, but that the bargaining unit would be appropriate if it included employees currently represented by another employee organization, the commission must determine whether the bargaining unit currently represented by the other employee organization is an appropriate bargaining unit and:

(a) If the commission determines the bargaining unit represented by the other employee organization is appropriate, the commission must dismiss the petition; or

(b) If the commission determines the bargaining unit represented by the other employee organization is inappropriate, the commission must determine the new bargaining unit and hold an election.

NEW SECTION. **Sec. 2.** A new section is added to chapter 41.58 RCW to read as follows:

(1) The commission or presiding officer may:

(a) Set a hearing date without consent from the involved parties so long as the involved parties may submit motions to move the hearing date; and

APPENDIX D

WAC 365-196-425 Rural element. Counties must include a rural element in their comprehensive plan. This element shall include lands that are not designated for urban growth, agriculture, forest, or mineral resources. The rural element shall permit land uses that are compatible with the rural character of such lands and provide for a variety of rural densities.

(1) Developing a written record. When developing the rural element, a county may consider local circumstances in establishing patterns of rural densities and uses, but must develop a written record explaining how the rural element harmonizes the planning goals in the act and meets the requirements of the act. This record should document local circumstances the county considered and the historic patterns of development in the rural areas.

(2) Establishing a definition of rural character.

(a) The rural element shall include measures that apply to rural development and protect rural character. Counties must define rural character to guide the development of the rural element and the implementing development regulations.

(b) The act identifies rural character as patterns of land use and development that:

(i) Allow open space, the natural landscape, and vegetation to predominate over the built environment;

(ii) Foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;

(iii) Provide visual landscapes that are traditionally found in rural areas and communities;

(iv) Are compatible with the use of land by wildlife and for fish and wildlife habitat;

(v) Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;

(vi) Generally do not require the extension of urban governmental services; and

(vii) Are consistent with protection of natural surface water flows and ground water and surface water recharge and discharge areas.

(c) Counties should adopt a locally appropriate definition of rural character. Rural areas are diverse in visual character and in density, across the state and across a particular county. Rural development may consist of a variety of densities and uses. It may, for example, include clustered residential development at levels consistent with the preservation of rural character. Counties should define rural development both in terms of its visual character and in terms of the density and intensity of uses. Defining rural development in this way allows the county to use its definition of rural development both in its future land use designations and in its development regulations governing rural development.

(3) Rural densities.

(a) The rural element should provide for a variety of densities that are consistent with the pattern of development established in its definition of rural character. The rural comprehensive plan designations should be shown on the future land use map. Rural densities are a range of densities that:

(i) Are compatible with the primary use of land for natural resource production;

(ii) Do not make intensive use of the land;

(iii) Allow open space, the natural landscape, and vegetation to predominate over the built environment;

(iv) Foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;

(v) Provide visual landscapes that are traditionally found in rural areas and communities;

(vi) Are compatible with the use of the land by wildlife and for fish and wildlife habitat;

(vii) Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;

(viii) Generally do not require the extension of urban governmental services;

(ix) Are consistent with the protection of natural surface water flows and ground water and surface water recharge and discharge areas; and

(x) Do not create urban densities in rural areas or abrogate the county's responsibility to encourage new development in urban areas.

(b) Counties should consider the adverse impact of wildfires when establishing rural densities. Counties may reduce rural densities in areas vulnerable to wildland fires as a mitigation strategy to protect natural resource lands, critical areas, water quality, or rural character.

(c) Counties should perform a periodic analysis of development occurring in rural areas, to determine if patterns of rural development are protecting rural character and encouraging development in urban areas. This analysis should occur along with the urban growth area review required in RCW 36.70A.130 (3)(a). The analysis may include the following:

(i) Patterns of development occurring in rural areas.

(ii) The percentage of new growth occurring in rural versus urban areas.

(iii) Patterns of rural comprehensive plan or zoning amendments.

(iv) Numbers of permits issued in rural areas.

(v) Numbers of new approved wells and septic systems.

(vi) Growth in traffic levels on rural roads.

(vii) Growth in public facilities and public services costs in rural areas.

(viii) Changes in rural land values and rural employment.

(ix) Potential build-out at the allowed rural densities.

(x) The degree to which the growth that is occurring in the rural areas is consistent with patterns of rural land use and development established in the rural element.

(4) Rural governmental services.

(a) Rural governmental services are those public facilities and services historically and typically delivered at intensities usually found in rural areas, and may include the following:

(i) Domestic water system;

(ii) Fire and police protection;

(iii) Transportation and public transportation; and

(iv) Public utilities, such as electrical, telecommunications and natural gas lines.

(b) Rural services do not include storm or sanitary sewers. Urban governmental services that pass through rural areas when connecting urban areas do not constitute an extension of urban services into a rural area provided those public services are not provided in the rural area. Sanitary sewer service may be provided only if it:

(i) Is necessary to protect basic public health and safety and the environment;

(ii) Is financially supportable at rural densities; and

(iii) Does not permit urban development.

(c) When establishing levels of service in the capital facilities and transportation element, each county should establish rural levels of service, for those rural services that are necessary for development, to determine if it is providing adequate public facilities. Counties are not required to use a single level of service for the entire rural area and may establish varying levels of service for public services in different rural areas. Where private purveyors or other public entities provide rural services, counties should coordinate with them to establish and document appropriate levels of service.

(d) Rural areas typically rely on natural systems to adequately manage stormwater and typically rely on on-site sewage systems to treat wastewater. Development in rural areas also typically relies on individual wells, exempt wells or small water systems for water. Counties should ensure the densities it establishes in rural areas do not overwhelm the ability of natural systems to provide these services without compromising either public health or the vitality of the surrounding ecosystem.

(e) Rural road systems are not typically designed to handle large traffic volumes. Local conditions may influence varying levels of service for rural road system, and level of service standards for rural arterials should be set accordingly. Generally, level of service standards should reflect the expectation that high levels of local traffic and the associated road improvements are not usually associated with rural areas.

(f) Levels of public services decrease, and corresponding costs increase when demand is spread over a large area. This is especially true for public safety services and both school and public transportation services. Counties should provide clear expectations to the public about the availability of rural public services. Counties should ensure the densities it establishes in rural areas do not overwhelm the capacity of rural public services.

(5) Innovative zoning techniques.

(a) Innovative zoning techniques allow greater flexibility in rural development regulations to create forms of development that are more consistent with rural character than forms of development generated by conventional large-lot zoning. Innovative zoning techniques may allow forms of rural development that:

(i) Result in rural development that is more visually compatible with the surrounding rural areas;

(ii) Maximize the availability of rural land for either resource use or wildlife habitat;

(iii) Increase the operational compatibility of the rural development with use of the land for resource production;

(iv) Decrease the impact of the rural development on the surrounding ecosystem;

(v) Does not allow urban growth; and

(vi) Does not require the extension of urban governmental services.

(b) Rural clusters. One common form of innovative zoning technique is the rural cluster. A rural cluster can create smaller individual lots than would normally be allowed in exchange for open space that preserves a significant portion of the original parcel.

(i) When calculating the density of development for zoning purposes, counties should calculate density based on the number of dwelling units over the entire development parcel, rather than the size of the individual lots created.

(ii) The open space portion of the original parcel should be held by an easement, parcel or tract for open space or resource use. This should be held in perpetuity, without an expiration date.

(iii) If a county allows bonus densities in a rural cluster, the resulting density after applying the bonus must be a rural density.

(iv) Rural clusters may not create a pattern of development that relies on or requires urban governmental services. Counties should establish a limit on the size of the residential cluster so that a cluster does not constitute urban growth in a rural area. A very large project may create multiple smaller clusters that are separated from each other and use a different access point to avoid creating a pattern of development that would constitute urban growth.

(v) Development regulations governing rural clusters should include design criteria that preserve rural visual character.

(6) Limited areas of more intense rural development. The act allows counties to plan for isolated pockets of more intense development in the rural area. These are referred to in the act as limited areas of more intense rural development or LAMIRDs.

(a) LAMIRDs serve the following purposes:

(i) To recognize existing areas of more intense rural development and to minimize and contain these areas to prevent low density sprawl;

(ii) To allow for small-scale commercial uses that rely on a rural location;

(iii) To allow for small-scale economic development and employment consistent with rural character; and

(iv) To allow for redevelopment of existing industrial areas within rural areas.

(b) An existing area or existing use is one that was in existence on the date the county became subject to all of the provisions of the act:

(i) For a county initially required to fully plan under the act, on July 1, 1990.

(ii) For a county that chooses to fully plan under the act, on the date the county adopted the resolution under RCW 36.70A.040(2).

(iii) For a county that becomes subject to all of the requirements of the act under RCW 36.70A.040(5), on the date the office of financial management certifies the county's population.

(c) Counties may allow for more intensive uses in a LAMIRD than would otherwise be allowed in rural areas and may allow public facilities and services that are appropriate and necessary to serve LAMIRDs subject to the following requirements:

(i) Type 1 LAMIRDs - Isolated areas of existing more intense development. Within these areas, rural development consists of infill, development, or redevelopment of existing areas. These areas may include a variety of uses including commercial, industrial, residential, or mixed-use areas. These may be also characterized as shoreline development, villages, hamlets, rural activity centers, or crossroads developments.

(A) Development or redevelopment in LAMIRDs may be both allowed and encouraged provided it is consistent with the character of the existing LAMIRD in terms of building size, scale, use, and intensity. Counties may allow new uses of property within a LAMIRD, including development of vacant land.

(B) When establishing a Type I LAMIRD, counties must establish a logical outer boundary. The purpose of the logical outer boundary is to minimize and contain the areas of more intensive rural development to the existing areas. Uses, densities or intensities not normally al-

lowed in a rural area may be allowed inside the logical outer boundary consistent with the existing character of the LAMIRD. Appropriate and necessary levels of public facilities and services not otherwise provided in rural areas may be provided inside the logical outer boundary.

(C) The logical outer boundary must be delineated primarily by the built environment as it existed on the date the county became subject to the planning requirements of the act.

(I) Some vacant land may be included within the logical outer boundary provided it is limited and does not create a significant amount of new development within the LAMIRD.

(II) Construction that defines the built environment may include above or below ground improvements. The built environment does not include patterns of vesting or preexisting zoning, nor does it include roads, clearing, grading, or the inclusion within a sewer or water service area if no physical improvements are in place. Although vested lots and structures built after the county became subject to the act's requirements should not be considered when identifying the built environment, they may be included within the logical outer boundary as infill.

(III) The logical outer boundary is not required to strictly follow parcel boundaries. If a large parcel contains an existing structure, a county may include part of the parcel in the LAMIRD boundary without including the entire parcel, to avoid a significant increase in the amount of development allowed within the LAMIRD.

(D) The fundamental purpose of the logical outer boundary is to minimize and contain the LAMIRD. Counties should favor the configuration that best minimizes and contains the LAMIRD to the area of existing development as of the date the county became subject to the planning requirements of the act. When evaluating alternative configurations of the logical outer boundary, counties should determine how much new growth will occur at build out and determine if this level of new growth is consistent with rural character and can be accommodated with the appropriate level of public facilities and public services. Counties should use the following criteria to evaluate various configurations when establishing the logical outer boundary:

(I) The need to preserve the character of existing natural neighborhoods and communities;

(II) Physical boundaries such as bodies of water, streets and highways, and land forms and contours;

(III) The prevention of abnormally irregular boundaries; and

(IV) The ability to provide public facilities and public services in a manner that does not permit low-density sprawl.

(E) Once a logical outer boundary has been adopted, counties may consider changes to the boundary in subsequent amendments. When doing so, the county must use the same criteria used when originally designating the boundary. Counties should avoid adding new undeveloped parcels as infill, especially if doing so would add to the capacity of the LAMIRD.

(ii) Type 2 LAMIRDs - Small-scale recreational uses. Counties may allow small-scale tourist or recreational uses in rural areas. Small-scale recreational or tourist uses rely on a rural location and setting and need not be principally designed to serve the existing and projected rural population.

(A) Counties may allow small-scale tourist or recreational uses through redevelopment of an existing site, intensification of an existing site, or new development on a previously undeveloped site, but

not new residential development. Counties may allow public services and facilities that are limited to those necessary to serve the recreation or tourist uses and that do not permit low-density sprawl. Small-scale recreational or tourist uses may be added as accessory uses for resource-based industry. For accessory uses on agricultural lands of long-term commercial significance, see WAC 365-196-815.

(B) Counties are not required to designate Type 2 LAMIRDs on the future land use map and may allow them as a conditional use. If using a conditional use process, counties should include in their development regulations conditions that address all the statutory criteria for the location of a Type 2 LAMIRD. Conditions must assure that Type 2 LAMIRDs:

(I) Are isolated, both from urban areas and from each other. Conditions should include spacing criteria to avoid creating a pattern of strip development;

(II) Are small in scale;

(III) Are consistent with rural character;

(IV) Rely on a rural location or a natural setting;

(V) Do not include new residential development;

(VI) Do not require services and facilities beyond what is available in the rural area; and

(VII) Are operationally compatible with surrounding resource-based industries.

(iii) Type 3 LAMIRDs - Small-scale businesses and cottage industries. Counties may allow isolated small-scale businesses and cottage industries that are not principally designed to serve the existing and projected rural population and nonresidential uses, but do provide job opportunities for rural residents, through the intensification of development on existing lots or on undeveloped sites.

(A) Counties may allow the expansion of small-scale businesses in rural areas as long as those small-scale businesses are consistent with the rural character of the area as defined by the county in the rural element. Counties may also allow new small-scale businesses to use a site previously occupied by an existing business as long as the new small-scale business conforms to the rural character of the area. Any public services and public facilities provided to the cottage industry or small-scale business must be limited to those necessary to serve the isolated nonresidential use and shall be provided in a manner that does not permit low-density sprawl.

(B) Counties are not required to designate Type 3 LAMIRDs on the future land use map and may allow them as a conditional use. If using a conditional use process, counties should include in their development regulations conditions that address all the statutory criteria for the location of a Type 3 LAMIRD. Conditions must assure that Type 3 LAMIRDs:

(I) Are isolated, both from urban areas and from each other. Conditions should include spacing criteria to avoid creating a pattern of strip development;

(II) Are small in scale;

(III) Are consistent with rural character;

(IV) Do not include new residential development;

(V) Do not require public services and facilities beyond what is available in the rural area; and

(VI) Are operationally compatible with surrounding resource-based industries.

(d) Major industrial developments and master planned resorts governed by other requirements. Counties may not use the provisions of

RCW 36.70A.070 (5)(d)(iii) to permit a major industrial development or a master planned resort. These types of development must comply with the requirements of RCW 36.70A.360 through 36.70A.368. For more information about major industrial developments, see WAC 365-196-465. For more information about master planned resorts, see WAC 365-196-460.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 23-08-037, § 365-196-425, filed 3/29/23, effective 4/29/23; WSR 15-04-039, § 365-196-425, filed 1/27/15, effective 2/27/15; WSR 10-22-103, § 365-196-425, filed 11/2/10, effective 12/3/10; WSR 10-03-085, § 365-196-425, filed 1/19/10, effective 2/19/10.]

APPENDIX E

KCC 19A.08.060 Review for conformity with other codes, plans and policies.
Applications for approvals under this title shall be reviewed in accordance with the applicable procedures of any combination of this title and K.C.C. chapters 20.20 and 20.22. Furthermore, applications for subdivisions, short subdivisions and binding site plans may be approved, approved with conditions or denied in accordance with the following adopted county and state rules, regulations, plans and policies including, but not limited to:

A. Chapter 43.21C RCW (SEPA);

B. Chapter 58.17 RCW (Subdivisions);

C. Chapters 36.70A and 36.70B RCW (Growth Management and Project Review);

D. K.C.C. Title 9 (Surface Water Management);

E. K.C.C. Title 13 (Sewer and Water);

F. K.C.C. Title 14 (Roads and Bridges);

G. K.C.C. Title 17 (Fire Code);

H. K.C.C. chapter 20.44 (SEPA);

I. K.C.C. Title 21A (Zoning);

J. K.C.C. Title 23 (Code Enforcement);

K. Administrative rules adopted under K.C.C. chapter 2.98;

L. King County board of health rules and regulations;

M. King County approved utility comprehensive plans;

N. King County Comprehensive Plan;

O. Countywide Planning Policies; and

P. This title.

(Ord. 18230 § 107, 2016: Ord. 17539 § 10, 2013: Ord. 13694 § 41, 1999).

KCC 20.08.070 Comprehensive plan. "Comprehensive plan" means the principles, goals, objectives, policies and criteria approved by the council to meet the requirements of the Washington State Growth Management Act, and,

A. as a beginning step in planning for the development of the county;

B. as the means for coordinating county programs and services;

C. as policy direction for official regulations and controls; and

D. as a means for establishing an urban/rural boundary;

E. as a means of promoting the general welfare. (Ord. 11653 § 4, 1995: Ord. 263 Art. 1 § 7, 1969).

KCC 20.12.010 Comprehensive Plan adopted. Under the King County Charter, the state Constitution, and the Growth Management Act, chapter 36.70A RCW, King County adopted the 1994 King County Comprehensive Plan via Ordinance 11575 and declared it to be the Comprehensive Plan for King County until amended, repealed, or superseded. The Comprehensive Plan has been reviewed and amended multiple times since its adoption in 1994. Amendments to the 1994 Comprehensive Plan to-date are currently reflected in the 2024 King County Comprehensive Plan, as adopted in Ordinance 19881. The Comprehensive Plan shall be the principal planning document for the orderly physical development of the county and shall be used to guide subarea plans, functional plans, provision of public facilities and services, review of proposed incorporations and annexations, development regulations, and land development decisions. (Ord. 19881 § 43, 2024: Ord. 19555 § 3, 2022: Ord. 19146 § 5, 2020: Ord. 19034 § 4, 2019: Ord. 18810 § 7, 2018: Ord. 18623 § 3, 2017: Ord. 16985 § 2, 2010: Ord. 16949 § 2, 2010: Ord. 16263 § 2, 2008: Ord. 15772 § 1, 2007: Ord. 15607 § 1, 2006: Ord. 15326 § 1, 2005: Ord. 15244 § 1, 2005: Ord. 15077 § 1, 2004: Ord. 15028 § 2, 2004: Ord. 14775 § 2, 2003: Ord. 14448 § 1, 2002: Ord. 14286 § 2, 2002: Ord. 14241 § 1, 2001: Ord. 14185 § 3, 2001: Ord. 14156 § 1, 2001: Ord. 14117 § 1, 2001: Ord. 14044 § 1, 2001: Ord. 14010 § 1, 2000: Ord. 13987 § 4, 2000: Ord. 13962 § 2, 2000: Ord. 13875 § 1, 2000: Ord. 13674 § 1, 1999: Ord. 13672 § 1, 1999: Ord. 13339 § 1, 1998: Ord. 13273 § 1, 1998: Ord. 12931 § 2, 1997: Ord. 12927 § 1, 1997: Ord. 12824 § 1, 1997: Ord. 12536 § 2, 1996: Ord. 12535 § 3, 1996: Ord. 12533 § 1, 1996: Ord. 12531 § 1, 1996: Ord. 12501 § 2, 1996: Ord. 12395 § 2, 1996: Ord. 12170 § 1, 1995: Ord. 12061 § 1, 1995: Ord. 11575 § 1, 1994: Ord. 10237, 1992: Ord. 9490, 1990: Ord. 7178 § 1, 1985: Ord. 5319 §§ 2-4, 1981: Ord. 4686 § 2, 1980: Ord. 4305 § 1, 1979: Ord. 263 Art. 2 § 1, 1969. Decodified by 17485 § 5, 2017. Recodified as K.C.C. 20.12.010 by 18623 § 2, 2017).

KCC 20.20.020 Classifications of land use decision processes.

A. Land use decisions are classified into four types, based on who makes the decision, whether public notice is required, whether a public hearing is required before a decision is made, and whether administrative appeals are provided. The types of land use decisions are listed in subsection D. of this section.

1. Type 1 decisions are made by the manager of the department of local services, permitting division ("the division "). Type 1 decisions are administrative decisions. An administrative appeal is not provided.

2. Type 2 decisions require public notice and are made by the manager. Type 2 decisions are discretionary decisions that are subject to administrative appeal to the hearing examiner.

3. Type 3 decisions require public notice and are quasi-judicial decisions made by the hearing examiner following an open record hearing. An administrative appeal is not provided.

4. Type 4 decisions require public notice and are site-specific quasi-judicial decisions made by the council based on the record established by the hearing examiner, after a recommendation by the division.

B. Except as provided in K.C.C. 20.44.120.A.7., or unless otherwise agreed to by the applicant, all Type 2, 3, and 4 decisions included in consolidated permit applications that would require more than one type of land use decision process may be processed and decided together, including any administrative appeals, using the highest-numbered land use decision type applicable to the project application.

C. Certain development proposals are subject to additional procedural requirements beyond the standard procedures established in this chapter.

D. Land use decision types are classified as follows:

TYPE 1		Temporary use permit for a homeless encampment or temporary microshelter village under K.C.C. chapter 21A.45, except as required by K.C.C. 21A.45.100 Building permit, commercial site development permit, or clearing and grading permit that is not subject to SEPA, that is categorically exempt from SEPA as provided in K.C.C. 20.20.040, or for which

		the division has issued a determination of nonsignificance or mitigated determination of nonsignificance Boundary line adjustment Right-of-way permit Variance from K.C.C. chapter 9.04 Shoreline exemption Decisions to require studies or to approve, condition or deny a development proposal based on K.C.C. chapter 21A.24, except for decisions to approve, condition, or deny alteration exceptions Decisions to approve, condition, or deny nonresidential elevation and dry floodproofing variances for agricultural buildings that do not equal or exceed a maximum assessed value of sixty-five thousand dollars under K.C.C. chapter 21A.24 Approval of a conversion-option harvest plan Binding site plan for a condominium that is based on a building permit, an as-built site plan for developed sites, a commercial site development permit for the entire site Approvals for agricultural activities and agricultural support services authorized under K.C.C. 21A.42.300 In the urban area: microsubdivision, microsubdivision revision, microsubdivision alteration, or microsubdivision vacation Final short plat Final plat Critical area determination

TYPE 2[1,2]		Except those classified as microsubdivisions in the urban area, short subdivision short subdivision revision, short subdivision alteration, or short subdivision vacation Zoning variance Conditional use permit Temporary use permit under K.C.C. chapter 21A.32 Temporary use permit for a homeless encampment or temporary microshelter village under K.C.C. 21A.45.100 Shoreline substantial development permit[3] Building permit, commercial site development permit, or clearing and grading permit for which the division has issued a determination of significance Reuse of public schools Reasonable use exceptions under K.C.C. 21A.24.070.B Decisions to approve, condition, or deny alteration exceptions or variances to floodplain development regulations under K.C.C. chapter 21A.24 Extractive operations under K.C.C. 21A.22.050 Binding site plan Waivers from the moratorium provisions of K.C.C. 16.82.140 based upon a finding of special circumstances Sea level rise risk area variance adopted in K.C.C. chapter 21A.23
TYPE 3[1]		Preliminary subdivision

		Plat alterations Preliminary subdivision revisions Plat vacations; special use
TYPE 4[1,4]		Site-specific zone reclassifications Site-specific shoreline environment redesignation Site-specific amendment or deletion of P suffix conditions Site-specific deletion of special district overlay

[1] See K.C.C. 20.44.120.C. for provisions governing procedural and substantive SEPA appeals and appeals of Type 2, 3, and 4 decisions.

[2] When an application for a Type 2 decision is combined with other permits requiring Type 3 or 4 land use decisions under this chapter, the examiner, not the manager, makes the decision.

[3] A shoreline permit, including a shoreline variance or conditional use, is appealable to the state Shorelines Hearings Board and not to the hearing examiner.

[4] Approvals that are consistent with the Comprehensive Plan may be considered by the council at any time. Zone reclassifications that are not consistent with the Comprehensive Plan require a site-specific land use map amendment and the council's hearing and consideration shall be scheduled with the amendment to the Comprehensive Plan under K.C.C. 20.18.040 and 20.18.060.

E. The definitions in K.C.C. 21A.45.020 apply to this section. (Ord. 19881 § 61, 2024: Ord. 19872 § 15, 2024: Ord. 19648 § 9, 2023: Ord. 19291 § 3, 2021 (expired May 25, 2022): Ord. 19146 § 13, 2020: Ord. 19128 § 3, 2020: Ord. 18791 § 150, 2018: Ord. 18710 § 3, 2018: Ord. 18683 § 36, 2018: Ord. 18626 § 16, 2017: Ord. 17420 § 87, 2012: Ord. 17420 § 85, 2012 (Expired 12/31/2012): Ord. 17029 § 5, 2011 (Expired 12/31/2012): Ord. 16263 § 7, 2008: Ord. 15606 § 2, 2006: Ord. 15170 § 2, 2005: Ord. 14449 § 2, 2002: Ord. 14190 § 23, 2001: Ord. 14047 § 11, 2001: Ord. 13694 § 84, 1999: Ord. 13147 § 33, 1998: Ord. 13131 § 1, 1998: Ord. 12878 § 2, 1997: Ord. 12196 § 9, 1996).

KCC 20.22.030 Examiner - powers, duties.

A. The examiner shall receive and examine available information, conduct open record hearings, and prepare records and reports, including findings and conclusions, and, based on the issues and evidence:

1. Make decisions, as set forth in K.C.C. 20.22.040;

2. Make recommendations to the council, as set forth in K.C.C. 20.22.060;

3. Take other actions as prescribed by this chapter; and

4. Take other actions as directed by ordinance or council motion.

B. The examiner's determination may grant, remand, or deny the application or appeal, and may include any conditions, modifications, and restrictions necessary to carry out applicable laws, regulations, and adopted policies.

C. For the purposes of proceedings identified in K.C.C. 20.22.060, the public hearing by the examiner shall constitute the hearing required by the King County Charter by the council.

D. The examiner shall have the power to issue a summons and subpoena to compel the appearance of witnesses and production of documents and materials, to order discovery, to administer oaths, and to preserve order.

E. To avoid unnecessary delay and to promote hearing process efficiency, the examiner shall limit testimony, including cross-examination, to that which is relevant to the matter being heard, in light of adopted county policies and regulations, and shall exclude evidence and cross-examination that is irrelevant, cumulative or unduly repetitious. The examiner may establish reasonable time limits for presenting direct testimony, cross examination, and argument.

F. Written submittals may only be admitted when authorized by the examiner.

G. The examiner shall use reasonable case management techniques, including:

1. Limiting testimony and argument to relevant issues and to matters identified in the prehearing order or appeal

2. Prehearing identification and submission of exhibits, if applicable;

3. Stipulated testimony or facts;

4. Prehearing dispositive motions, if applicable;

5. Prehearing conferences;

6. Voluntary mediation; and

7. Other methods to promote efficiency and to avoid delay. (Ord. 19648 § 13, 2023: Ord. 18230 § 8, 2016).

KCC 20.22.040 Decisions by examiner. The examiner make decisions on:

A. Appeals of orders of the ombuds under the lobbyist disclosure code under K.C.C. chapter 1.07;

B. Appeals of sanctions of the finance and business operations division in the department of executive services under K.C.C. chapter 2.97;

C. Appeals of career service review committee conversion decisions for part-time and temporary employees under K.C.C. chapter 3.12A;

D. Appeals of electric vehicle recharging station penalties by the Metro transit department under K.C.C. 4A.700.700;

E. Appeals of notice and orders of the manager of records and licensing services or the department of local services permitting division manager under K.C.C. chapter 6.01;

F. Appeals of adult entertainment license denials, suspensions, and revocations under K.C.C. chapter 6.09;

G. Appeals of the fire marshal's decisions on fireworks permits under K.C.C. chapter 17.11;

H. Appeals of cable franchise nonrenewals under K.C.C. 6.27A.060 and notices and orders under K.C.C. 6.27A.240;

I. Appeals of notice and orders of the department of natural resources and parks under K.C.C. chapter 7.09;

J. Appeals of decisions of the director of the department of natural resources and parks on surface water drainage enforcement under K.C.C. chapter 9.04;

K. Appeals of decisions of the director of the department of natural resources and parks on requests for rate adjustments to surface and storm water management rates and charges under K.C.C. chapter 9.08;

L. Appeals of decisions on water quality enforcement under K.C.C. chapter 9.12;

M. Appeals of notice and orders of the manager of regional animal services under K.C.C. chapter 11.04;

N. Certifications by the finance and business operations division of the department of executive services under K.C.C. chapter 12.16;

O. Appeals of orders of the office of equity and racial and social justice under K.C.C. chapter 12.17, K.C.C. chapter 12.18, K.C.C chapter 12.20, and K.C.C. chapter 12.22;

P. Appeals of noise-related orders and citations of the department of local services, permitting division, under K.C.C. chapter 12.86;

Q. A decision on a request for exemption under K.C.C. 12.25.020.F.;

R. Appeals of utilities technical review committee determinations on water service availability under K.C.C. 13.24.090;

S. Appeals of decisions regarding mitigation payment system, commute trip reduction, and intersection standards under K.C.C. Title 14;

T. Appeals of changes to speed limits under K.C.C. chapter 14.06;

U. Appeals related to road designations and redesignations under K.C.C. chapter 16.08;

V. Appeals of suspensions, revocations or limitations of plumbing permits under K.C.C. chapter 16.32;

W. Appeals from denials of C-PACER applications under K.C.C. chapter 18.19;

X. Appeals of all Type 2 decisions under K.C.C. chapter 20.20, with the exception of appeals of shoreline permits, including shoreline substantial development permits, shoreline variances, and shoreline conditional uses, which are appealable to the state Shoreline Hearings Board;

Y. Type 3 decisions under K.C.C. chapter 20.20;

Z. Appeals of SEPA decisions under K.C.C. 20.44.120 and public rules adopted under K.C.C. 20.44.075;

AA. Appeals of completed farm management plans under K.C.C. 21A.30.045;

BB. Appeals of decisions of the interagency review committee created under K.C.C. 21A.37.070 regarding sending site applications for certification under K.C.C. chapter 21A.37;

CC. Appeals of citations, notices and orders, notices of noncompliance, and stop work orders issued under K.C.C. Title 23 or chapter 1.08 of the code of the King County board of health;

DD. Appeals of notices and certifications of junk vehicles to be removed as a public nuisance under K.C.C. Title 21A and K.C.C. chapter 23.10;

EE. Appeals of decisions not to issue a citation or a notice and order under K.C.C. 23.36.010;

FF. Appeals of fee waiver decisions by the department of local services, permitting division under K.C.C. 27.02.040;

GG. Appeals from decisions of the department of natural resources and parks related to permits, discharge authorizations, violations, and penalties under K.C.C. 28.84.050 and 28.84.060, civil infractions and penalties under K.C.C. 7.12.650, and suspensions of park privileges under K.C.C. 7.12.700.B.;

HH. Appeals of transit rider suspensions under K.C.C. 28.96.430;

II. Appeals of department of public safety seizures and intended forfeitures, when properly designated by the chief law enforcement officer of the department of public safety under RCW 69.50.505; and

JJ. Other applications or appeals prescribed by ordinance. (Ord. 19771 § 41, 2024: Ord. 19648 § 14, 2023: Ord. 19541 § 43, 2022: Ord. 19485 § 206, 2022: Ord. 19360 § 9, 2021: Ord. 19360 § 7, 2021: Ord. 19276 § 10, 2021: Ord. 19047 § 58, 2019 [did not take effect]: Ord. 18822 § 43, 2018: Ord. 18791 § 153, 2018: Ord. 18777 § 34, 2018: Ord. 18709 § 2, 2018: Ord. 18683 § 38, 2018: Ord. 18230 § 10, 2016: Ord. 15969 § 8, 2007: Ord. 14449 § 3, 2002: Ord. 14199 § 227, 2001: Ord. 14190 § 24, 2001: Ord. 13625 § 18, 1999: Ord. 13277 § 1, 1998: Ord. 13263 § 58, 1998: Ord. 12962 § 1, 1998: Ord. 12196 § 26, 1996: Ord. 11620 § 6, 1994: Ord. 11502 § 3, 1994: Ord. 11016 § 15, 1993: Ord. 9614 § 122, 1990: Ord. 8804 § 2, 1989: Ord. 7990 § 34, 1987: Ord. 7846 § 12, 1986: Ord. 7714 § 11, 1986: Ord. 7590 § 10, 1986: Ord. 7543 § 1, 1986: Ord. 7246 § 3, 1985: Ord. 6949 § 17, 1984: Ord. 5570 § 6, 1981: Ord. 5002 § 16, 1980: Ord. 4461 § 2, 1979. Formerly K.C.C. 20.24.080).

BRICKLIN & NEWMAN, LLP

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